

LEWIS AND CLARK CITY-COUNTY
BOARD OF HEALTH MEETING
LEWIS AND CLARK PUBLIC HEALTH
CONFERENCE ROOM at 1930 9th Ave or ZOOM
June 27, 2024
1:00-3:00pm

REGULAR BOARD MEETING AGENDA

1:00 **CALL TO ORDER**

1:00 **REVIEW OF AGENDA**
1. Review and revision of agendaPg. 1

1:05 **MINUTES**
2. May 23, 2024Pg. 2

1:10 **ANNOUNCEMENTS**
3. Fairwells to Justin and Jolene.....Pg. 5

1:20 **ACTION ITEM**
4. Appointments for Board of Health Executive PositionsPg. 6
5. Soil Displacement Regulation RevisionPg. 8

2:00 **BOARD DISCUSSION**
6. Chronic Disease Prevention Program Presentation.....Pg. 20
7. Licensed Establishment Fee Increase Update.....Pg. 21
8. Communicable Disease Response Plan.....Pg. 24

2:30 **PUBLIC COMMENT**
9. Public comments on matters not mentioned abovePg. 27

2:40 ***Closed Session:***
10. *Health Officer Annual Appraisal*.....Pg. 28

3:00 **Adjourn**

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

ADA NOTICE

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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

1

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

AGENDA ITEMS: Review of Agenda

PERSONNEL INVOLVED: Board Members

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

HEALTH DIRECTOR’S RECOMMENDATION: Approval

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Payne						
Weber						
Weltz						

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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

2

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

AGENDA ITEMS May 23, 2024 Minutes

PERSONNEL INVOLVED: Board Members

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

HEALTH DIRECTOR’S RECOMMENDATION: Approval

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
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Weltz						

**LEWIS AND CLARK CITY-COUNTY
BOARD OF HEALTH – MINUTES
1930 9th AVE, HELENA, MONTANA 59601
In-Person/Zoom Meeting, 1:00 p.m.
May 23, 2024**

Members Present

Brie MacLaurin, chair
Dr. Mikael Bedell, vice chair
Commissioner Candace Payne
Mayor Wilmot Collins
Justin Murgel

Staff Present

Drenda Niemann
Jolene Helgerson
Beth Norberg
Laurel Riek

Members Absent

Mayor Kelly Harris
Katherine Weber
Lisa Kaufman
Rex Weltz

Guests Present

Brie MacLaurin, chair, called the meeting to order at 1:00 p.m. A quorum was established.

REVIEW OF AGENDA

Drenda Niemann, Public Health Officer, requested adding two additional discussion items to agenda item #6 they are the CASPER survey and Public Health reaccreditation. No public comment was given.

MINUTES

Ms. MacLaurin asked if there were any corrections or additions to the April 25, 2024, minutes. There being no changes, the Board approved the minutes as written. No public comment was given.

ACTION

Recommend FY25 budget to BoCC: Ms. Niemann presented the FY25 budget (on pages 6-19 of the board packet) in which she highlighted the overall budget, revenues, expenses and ending cash for the Mill, Grants, and Water Quality Protection District. In answer to a question by Justin Murgel, Ms. Niemann noted that there was no notable change between the budget that was presented in April to now. There being no further board member discussion, Dr. Mikael Bedell made a motion to recommend the budget to the Board of County Commissioners for approval. Mr. Murgel seconded the motion. Commissioner Candace Payne recused herself from the motion. No public comment was given. The motion carried 4-0.

Approve updates Specimen Transport Plan: Laurel Reik, Environmental Health and Disease Prevention Administrator, presented the updated Specimen Transport Plan (on pages 21-30 of the board packet) in which she highlighted the purpose, situation, and procedure of the plan to the Board for review and approval. In answer to a question from Dr. Bidell, Ms. Riek noted that the test kits that are located throughout Lewis and Clark County are managed by other agencies and replenished when needed. There being no further board member discussion, Mr. Murgel made a motion to approve the Specimen Transport Plan. Dr. Bedell seconded the motion. No public comment was given. The motion carried 5-0.

Soil Displacement Regulation revision presentation and open public comment: Beth Norberg, Environmental Health Program Supervisor, presented the Soil Displacement Regulation (on pages 32-49 of the board packet) in which she highlighted the history of the regulations, timeline, education, board role, and the proposed changes. In answer to a question from Ms. MacLaurin, Ms. Norberg noted that the slag pile remnants that are currently being moved are within the Environmental Protection Agency RCRA site and the current Soil Displacement Regulations is for the area outside of the RCRA site. There being no further board member discussion, Ms. MacLaurin asked for a motion to open the public comment period to begin May 23, 2024 and close at the next Board of Health meeting on June 27, 2024. Dr. Bidell made a motion open the public comment period. Mayor Collins seconded the motion. No public comment was given. The motion carried 5-0.

BOARD MEMBER DISCUSSION

Annual Appraisal: Ms. MacLaurin reminded board members to complete the health officer annual appraisal by June 11, 2024.

CASPER Survey Update: Ms. Niemann reminded board members that volunteers for the CASPER survey are still needed and to share with community groups and agencies that would be willing to assist with the survey. <https://www.lccountymt.gov/Government/Public-Health/Healthy-Together-Steering-Committee/2024-CASPER-Survey>

Public Health Reaccreditation Update: On May 14, the Public Health Accreditation Board (PHAB) reviewed the site visit report and determined that Lewis and Clark Public Health achieved reaccreditation for the next five years.

BOARD TRAINING

The board member training was tabled and will be held at the June meeting.

PUBLIC COMMENT

No public comment was given.

The meeting adjourned at 2:10 p.m.

Brie MacLaurin, Chair

Drenda Niemann, Secretary

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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

3

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

AGENDA ITEMS: Farewell to Board member Justin Murgel and Public Health employee Jolene Helgerson

PERSONNEL INVOLVED: Health Officer

BACKGROUND: Announcement of farewell to Board member Justin Murgel and Public Health employee Jolene Helgerson will be made.

HEALTH DIRECTOR’S RECOMMENDATION:

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
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**LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana**

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

4

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

AGENDA ITEMS Appointment for Board of Health Executive Positions

PERSONNEL INVOLVED: Board of Health members

BACKGROUND Board members will appoint Board of Health Executive Positions.

HEALTH DIRECTOR'S RECOMMENDATION: N/A

ADDITIONAL INFORMATION

BOARD ACTION:

NOTES:

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Attention

Board of Health Members

The following positions are available for the new fiscal year:

- Chair of the board
- Vice-chair of the board
- Hearing Officer
- Representative to the Water Quality Protection District board (every 4th Tuesday of the month at 5:30 p.m. at the City-County Building, except November & December's meeting is combined to the first Tuesday of December)



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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

5

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

AGENDA ITEMS Soil Displacement Regulations Revision

PERSONNEL INVOLVED: Board Members

BACKGROUND Board members will hear and review public comment and vote to recommend approval of the Soil Displacement Regulation Revision to the Board of Health Governing Body.

HEALTH DIRECTOR’S RECOMMENDATION: N/A

ADDITIONAL INFORMATION

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
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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 Lewis and Clark Public Health.

EPA means the United States Environmental Protection Agency.

ESD means the 2024 Explanation of Significant Difference which modified the 2009 EPA Record of Decision for the East Helena Superfund Site Operable Unit 2 by changing the residential soil-lead cleanup level to 400 mg/kg.

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 400 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 EPA's current CERCLA remedy decision (until if/when any future decision, further updating the cleanup for the Site is issued) with lead concentrations at or above 400 mg/kg, or an arsenic average concentration at or above 100 mg/kg .

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 400 mg/kg or to properties in which soils have been cleaned to less than 400 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 400 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 current Soil Sampling Quality Assurance Project Plan and may contact the EPA for additional information.
- (7) The person 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 400 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	≤ 50 mg/kg
Arsenic	≤45 mg/kg

2.6 CLEAN-UP ACTION LEVEL



- (1) Soils from qualified residential yards and vacant lots meet the threshold and qualify for cleanup under the CERCLA statute (until a possible future CERCLA decision document is issued by EPA, at which point, these levels could be updated) if the yard is found to have:
 - a. A soil lead concentration greater than 400 milligrams/kilogram (mg/kg); 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	Yard average greater than 400 mg/kg	Yard average greater than 100 mg/kg
Proposed Residential and Public Use	Frequent or daily	Greater than 400 mg/kg	Greater than 100 mg/kg
Roads, Alleys, and Railroad Rights-of-Way (ROWs)	Adjacent to occupied residential or public use	Greater than 400 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 400 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 400 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

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

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

Brie MacLaurin, Chair
Lewis and Clark City-County Board of Health

Date

Drenda Niemann, Health Officer
Lewis and Clark Public Health

Date

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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

6

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

AGENDA ITEMS Board Member Discussion

PERSONNEL INVOLVED Chronic Disease Prevention Program Staff

BACKGROUND Staff will give an update on the Chronic Disease Prevention Program.

HEALTH DIRECTOR'S RECOMMENDATION: N/A

ADDITIONAL INFORMATION

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
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**LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana**

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

7

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

AGENDA ITEMS Board Member Discussion

PERSONNEL INVOLVED: Laurel Riek, Environmental Health & Disease Prevention Division Administrator

BACKGROUND Ms. Riek and staff will give an update on the Licensed Establishment Program fee increase.

HEALTH DIRECTOR’S RECOMMENDATION: N/A

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
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LICENSED ESTABLISHMENT FEE INCREASES

Counties bear the majority of the cost of Montana's Licensed Establishment Program. License fees are set in state law and have not increased since 2009. Licensed establishment inspections protect the public from foodborne illness, maintain clean environments, and support business operators in selling safe products and services to consumers.

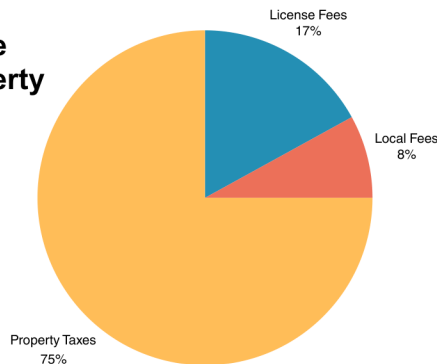


WHY INCREASE FEES?

State-mandated licensed establishment inspection programs cost more than **3.8 million dollars in local tax dollars statewide**.

Licensed establishment inspection program costs are covered by*:

- **75 percent of costs are covered by local property taxes.**
- 17 percent of costs are reimbursed through **license fees**.
- 8 percent of costs are reimbursed by **local fees only used by some counties** (temporary food service permits, plan review).



County costs of this state-mandated program have gone up significantly – an average of 137 percent – among counties that reported information for 2008 and 2023. Since 2009, the cost of living alone has increased by 46 percent**.

*2023 data is based on self-reported data from 24 counties, representing about 78 percent of the population in Montana.

**Consumer Price Index Inflation Calculator, US Bureau of Labor Statistics, https://www.bls.gov/data/inflation_calculator.htm, accessed 2/22/24.

WHO WILL BENEFIT?

Everyone. Licensed establishment inspections benefit local residents and visitors as well as new and longtime business operators. Taxpayers and businesses should more evenly split the cost of this program.

GET INVOLVED

- Stay connected on this topic with your registered sanitarian and/ or public health director.
- Tell us what you think.
- Talk with your State Representatives about why fee increases are needed during this interim.

NEXT STEPS

- **March:** Make sure your county submitted their data (see below).
- **April:** Registered sanitarians will discuss specific policy proposals at the statewide Confluence/ MEHA conference.
- **Summer:** Outreach and conversations with the business community.

See backside for additional information.

Need data from: Anaconda-Deer Lodge, Beaverhead, Blaine, Broadwater, Carter*, Custer, Daniels, Garfield, Glacier, Granite, Hill, Jefferson, Judith Basin, Mineral, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Ravalli, Rosebud, Sanders*, Sheridan, Stillwater, Sweet Grass, Teton, Treasure, Wheatland, and Wibaux. If you govern one of these counties, please encourage your registered sanitarian to respond – we want to be able to show the legislature a complete picture of the issue from across the state. (*Currently working with Sanders and Carter to get the data.)



Increasing Licensed Establishment Fees

Licensed Establishments are those businesses that are required to be licensed through DPHHS and are inspected by Registered Sanitarians.

These include food services (coffee huts, restaurants, grocery stores, etc), public lodging (hotels, motels, B and Bs, tourist homes, etc), pools and spas, and campgrounds and trailer courts.

Annual license fees are low compared to the actual cost to counties. Counties get a percentage of these fees to hire and train sanitarians, inspect the businesses, follow up on issues and investigate complaints.

Establishment Type	Current Fee	State Retains	County Reimbursed
Retail Food Small	\$85	\$8.50	\$76.50
Retail Food Large	\$115	\$11.50	\$103.50
Wholesale Food	\$115	\$11.50	\$103.50
Public Accommodations - Small	\$40	\$6.00	\$34.00
Public Accommodations - Med	\$80	\$12.00	\$68.00
Public Accommodations - Large	\$160	\$24.00	\$136.00
Trailer Court/Campground - Small	\$40	\$6.00	\$34.00
Trailer Court/Campground - Med	\$60	\$9.00	\$51.00
Trailer Court/Campground - Large	\$120	\$18.00	\$102.00
Pools	\$200	\$30.00	\$170.00
Spas	\$75	\$11.25	\$63.75

Montana's Licensed Establishment Program:

- **Prevents foodborne illness.** The Centers for Disease Control and Prevention (CDC) estimates that 1 in 6 people get sick from foodborne illnesses each year. Foodborne illness effects can range from feeling nauseous enough to miss work to hospitalization or even death. Inspections reduce the incidence of foodborne illnesses by providing operators with the information they need to establish and maintain safe food handling practices, and by pointing out where they need to make improvements.
- **Provides invaluable information to business operators.** Plan review, inspections, complaint follow up and training let operators know where they need to shore up practices to keep consumers safe, to meet the state standards, and to protect their bottom line.
- **Protects consumers.** By helping operators understand and comply with regulations ranging from requiring clean sheets between guests to eradicating bed bugs to ensuring clean water and adequate sewer systems, Montana's licensed establishment program helps protect consumer safety in hotels, motels, pools, spas, trailer courts and campgrounds.

Preliminary Policy Ideas

1. Use the existing fee structure and propose a percentage increase for each license type, or
2. Consider ways to improve equity in fee structure, without making it complicated, and/or
3. Propose new categories, which could include:
 - **For larger food establishments:** Currently, there are only two categories, those with two or fewer employees and those with more than two employees. However, some businesses, such as large grocery stores with delis and other departments, and food service complexes with multiple kitchens under one owner, take significantly more time to inspect than a large coffee shop.
 - **For year-round pools and spas:** Year-round pools and spas take more time than seasonal pools and spas because they have to be inspected twice a year.
 - **For public lodging that also serves food:** Currently, food service in hotels, motels, etc. are exempt from food licensing but subject to the food rules and pay the same fee as a lodging facility without any food service.

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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

8

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

AGENDA ITEMS Board Member Discussion

PERSONNEL INVOLVED: Nina Heinzinger, Licensed Establishment Supervisor

BACKGROUND Ms. Heinzinger will present the Communicable Disease Response Plan.

HEALTH DIRECTOR'S RECOMMENDATION: N/A

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Payne						
Weber						
Weltz						

**Communicable Disease Response and Pandemic Flu Plan
Annual Review Report
June 13, 2024**

The Communicable Disease Response Plan is a document that defines procedures for responding to any communicable disease incidence in Lewis and Clark County. This includes procedures for a single case with increasing response for an outbreak and escalation to a communicable disease emergency.

Lewis and Clark Public Health routinely solicits reports from area providers requesting information on disease activity in the community. This is defined as Active Surveillance.

We also have cases of reportable disease that are reported from the health care community for investigation. Complaints are received from the public regarding disease incidence or clusters. This is known as passive surveillance.

The Communicable Disease Response Plan provides direction for investigation of lab confirmed cases as well as unconfirmed illness, and implementation of the necessary but least restrictive disease control measures to prevent secondary transmission. This would include:

1. Education to the case regarding disease process, spread and treatment.
2. Isolation (separation during the period of communicability) when required by communicable disease rules.
3. Exclusion or restriction for those in sensitive occupations as defined in the plan (food handlers, daycare providers and medical providers).
4. Work with congregate settings (such as long-term care, daycare, group homes) by:
 - a. Providing information on effective control measures.
 - b. Use of our Health Alert Network system to provide information to congregate facilities and providers.
 - c. Children will be excluded from daycares when symptomatic and with reportable diseases as defined in the daycare rules.

When investigating reportable diseases that are transmitted person-to-person, contact investigations will be conducted. The risk of exposure will be evaluated, and the individual may be provided with notice of the exposure, education regarding the disease, referral for testing/treatment as needed, or provided quarantine instructions to prevent potential spread.

Investigation response will increase as more cases are identified. We will engage our EPI-team when the scope of the outbreak requires additional staffing or resources. Typically, it would involve the following positions:

1. Environmental Health and Disease Prevention Administrator (EHDP)
2. Program Supervisor and staff
3. Health Officer
4. Staff Epidemiologist

5. Can be expanded as needed to include:
 - a. All Environmental Health and Disease Prevention Division staff
 - b. Medical Director
 - c. PHEP coordinator
 - d. Communications Specialist
 - e. Regional Partners
 - f. Temporary staff

The plan describes 24/7 response capability, and timeliness of reporting. There are descriptions of Non-Pharmaceutical Interventions as well as Mass Prophylaxis to prevent, limit or eliminate the spread of communicable disease. A Pandemic Flu Plan falls under the umbrella of the Communicable Disease Response Plan and the LCPH All-Hazards Annex for responding to emergencies.

In our review of these documents, we updated frequencies of active surveillance, provided small edits to clarify points, added descriptions and specific actions for congregate settings, which have been promulgated into rules, and added links for resources to complete the response.

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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

9

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

AGENDA ITEMS: Public Comment

PERSONNEL INVOLVED: Public and Board Members

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

HEALTH DIRECTOR’S RECOMMENDATION: n/a

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Payne						
Weber						
Weltz						

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

BOARD AGENDA ITEM

Meeting Date

June 27, 2024

Agenda Item No.

10

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

AGENDA ITEMS Closed Session

PERSONNEL INVOLVED: Board of Health

BACKGROUND The Board will enter a closed session regarding the annual appraisal of the health officer.

HEALTH DIRECTOR’S RECOMMENDATION: N/A

ADDITIONAL INFORMATION

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Payne						
Weber						
Weltz						

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

FY 2024

	Jul	Aug	Sept	Oct	Nov/ Dec	Jan	Feb	Mar	Apr	May	Jun
Bedell	X	X	*	O	X	X	X	X	X	X	
Collins	O	X	*	X	X	X	X	X	O	X	
Harris	X	X	*	X	X	X	X	X	O	O	
Kaufman	X	X	*	X	O	X	X	X	X	O	
MacLaurin	O	X	*	X	X	X	O	O	X	X	
Murgel	O	X	*	X	X	X	X	X	X	X	
Payne	---	---	---	---	---	X	X	X	X	X	
Rolfe	X	X	*	X	X	---	---	---	---	---	---
Weber	X	X	*	X	O	X	O	O	X	O	
Weltz	O	X	*	O	X	O	O	O	X	O	

Legend:

X = Present

X_p = Present by phone

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

O = Absent

* = No meeting held

P = Strategic Planning Session

T = Training



Lewis & Clark Public Health

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Fax: 406.457.8990

Candace Payne
County Commissioner
316 N. Park
Helena, Montana 59623
447-8304 (W) 447-8370 (Fax)
E-mail: cpayne@lccountymt.gov

(1)
Pleasure of L & C County Commission

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

(2)
Pleasure of City of Helena Commission

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

(3,a)
Superintendent of Schools

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

(3,b)
Term expires - June 30, 2025

Lisa Kaufman
4322 Paso Fino Lane
Helena, MT 59602
438-1194(H) 444-5313 (W)
E-mail: lkaufman@mt.gov

(3,c)
Term expires - June 30, 2024

Mayor Kelly Harris
P.O. Box 1170
East Helena, MT 59635
438-1031(C)
E-mail: kharris@easthelenamt.us

(3,d)
Pleasure of East Helena City Council

Brie MacLaurin-chair
710 N. Davis St.
Helena, MT 59601
461-0784 (C)
E-mail: briemaclaurin@gmail.com

(3,e)
Term expires - June 30, 2025

Katherine Weber
3135 Bannack Drive
Helena, MT 59602
215-499-0050 (C)
E-mail: Katherine.weber@hotmail.com

(3,f)
Term expires - June 30, 2024

Vacant

(3,g)
Term expires - June 30, 2024

Updated June 2024

*"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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MEMBERS

Katherine Weber	Term expires - June 30, 2024	First Term
Justin Murgel	Term expires - June 30, 2024	Second Term
Mikael Bedell	Term expires - June 30, 2025	Second Term
Brie MacLaurin	Term expires - June 30, 2025	Second Term
Lisa Kaufman	Term expires - June 30, 2024	First Term
Rex Weltz	Superintendent of Schools	
Candace Payne	Pleasure of Lewis & Clark County Commission	
Mayor Wilmot Collins	Pleasure of Helena City Commission	
Mayor Kelly Harris	Pleasure of East Helena City Council	

MEETING DATES FOR FISCAL YEAR 2024

Scheduled for 1:00 p.m. in the Public Health Conference Room of the Murray Building or by Zoom.

July 27, 2023

August 24, 2023

September 28, 2023

October 26, 2023

December 7, 2023

January 25, 2024

February 22, 2024

March 28, 2024

April 25, 2024

May 23, 2024

June 27, 2024

July 2023