



**City of Missoula, Montana
City Council Committee Agenda item**

Committee: Public Safety, Health and Operations

Item: Ordinance adopting the City-County Health Code by reference in accordance with 50-2-116, MCA and the Interlocal Agreement on the Joint Provision of Public Health Services.

Date: November 1, 2022

Sponsor(s): Amber Sherrill

Prepared by: Shannon Therriault, Environmental Health, City-County Health Department

Ward(s) Affected:

<input type="checkbox"/> Ward 1	<input type="checkbox"/> Ward 4
<input type="checkbox"/> Ward 2	<input type="checkbox"/> Ward 5
<input type="checkbox"/> Ward 3	<input type="checkbox"/> Ward 6
<input type="checkbox"/> All Wards	<input checked="" type="checkbox"/> N/A

Action Required:

Hold a public hearing and consider an ordinance

Timeline and Recommended Motions:

Committee discussion: November 9, 2022

Council sets public hearing: November 14, 2022

Recommended motion: [First reading and preliminary adoption] Set a public hearing on November 28, 2022 and preliminarily adopt an ordinance establishing Chapter 8.02 Missoula Municipal Code entitled "Missoula City-County Health Code Adopted by Reference," which will adopt the existing health code as approved by the Missoula City-County Health Board in order to comply with § 50-2-116, MCA as amended by the 2021 Montana Legislature (HB 121) and the June 9, 2022 City and County interlocal agreement for the joint provision of public health services.

Public Hearing: December 5, 2022

Final Consideration: December 19, 2022

Recommended motion: [Second and final reading] Adopt/Deny an ordinance establishing Chapter 8.02 Missoula Municipal Code entitled "Missoula City-County Health Code Adopted by Reference," which will adopt the existing health code as approved by the City-County Health Board in order to comply § 50-2-116, MCA as amended by the 2021 Montana Legislature (HB 121) and the June 9, 2022 City and County interlocal agreement for the joint provision of public health services.

Deadline: December 31, 2022

Background and Alternatives Explored:

Before the 2021 legislature modified local health boards' authority, the local health boards were required to adopt wastewater regulations and were allowed to adopt other regulations of public health importance. Based on that authority, the Missoula City-County Health Board first adopted wastewater regulations in 1966, and then created the Health Code in 1994. The Health Code

now includes an administrative section, and Regulations 1-8, which address wastewater treatment and disposal, large group function permits, solid waste management, food service establishments, water well protection, drop-in day cares, rabies control, and trailer courts and campgrounds.

The 2021 legislature changed local health boards' authority, through HB 121, to require the local health board recommend regulations approved pursuant to 50-2-116, MCA for adoption by the local governing body. The bill required that the local governing body for a city-county board of health be identified in the interlocal agreement, or other document creating the joint board. Until a new interlocal agreement could be approved by the city and county, Missoula County and the City of Missoula agreed that in the interim, the Missoula Board of County Commissioners would be the local governing body.

When HB 121 passed, it had an immediate effective date. To ensure that the Health Code remained in effect and enforceable, the Health Board recommended that the County Commissioners adopt the Health Code, even though no changes were being made at that time. The Commissioners adopted the existing Health Code by reference, first by emergency ordinance on April 22, 2021, and then by regular ordinance on June 4, 2021. After that, the Health Board approved revisions to Health Code-related fees, and County Commissioners adopted those on March 10, 2022.

The ordinance that was adopted by the Commissioners on March 10, 2022, anticipated that a new interlocal agreement would soon be approved, and so it included an expiration date of 90 days after the interlocal agreement was approved. The City and County of Missoula approved a new interlocal agreement for the provision of public health services on June 9, 2022. That interlocal agreement establishes both the County Commissioners and the Missoula City Council as the local governing body.

On October 20, 2022, the Health Board passed a resolution recommending that both the County Commissioners and the City Council adopt the existing Health Code and associated fees. For ease of adoption, implementation, and enforcement, we recommend that the code be adopted by reference. Local governments are given the authority to adopt published codes, including health codes, by reference in 7-5-108(2), MCA. Adopting something by reference means that instead of restating all the rules in the city's municipal code, the municipal code includes a statement that says the Health Code (as written on a specific date) is adopted. This method of incorporating rules is commonplace – the most well know example is when a jurisdiction adopts the Uniform or International Building Code by referring to it in the local codes.

Financial Implications:

The Health Department collects Health Code-related fees for variance applications; wastewater treatment and disposal system permits and inspections, certified installers, approve site evaluators, site evaluations and groundwater monitoring; large group function permits; food service establishment plan review, permits and re-inspections; well permits and inspections; drop-in daycares; and trailer court and campground plan reviews and re-inspections. These fees are an important part of the Health Department budget, and this action by City Council ensures that they are lawfully adopted

Links to external websites:

The Missoula City-County Health Code:

<https://www.missoulacounty.us/government/health/health-department/administration/regulations-ordinances/environmental-health-dept>