

ORDINANCE NO. 2022-002

ORDINANCE ADOPTING THE GALLATIN CITY-COUNTY HEALTH CODE

Section 1 – Purpose and Legislative Findings

The Governing Body of the Gallatin City-County Board of Health (“Governing Body”) finds as follows:

- A. Gallatin County and the City of Bozeman previously created a city-county board of health through interlocal agreements entered in June 1990 and May 1997.
- B. The former board of health duly enacted the Gallatin City-County Health Code (“Health Code”) pursuant to § 50-2-116, MCA (2019) for the control and disposal of sewage, the control of communicable diseases, for tattooing and body-piercing establishments, and to implement the public health laws.
- C. The Health Code consists of:
 - i. Chapter 1 – General Provisions and fee schedules (effective October 27, 2018);
 - ii. Chapter 2 – Regulations for Licensing and Inspection of Establishments and Facilities Including Retail Food, Wholesale Food, Cottage Food, Hotels, Motels and Rooming Houses, Public Pools, Trailer Courts and Campgrounds, Tattooing and Body Piercing Establishments, and fee schedules (effective August 26, 2017); and
 - iii. Chapter 3 – Regulations for Wastewater Treatment Systems (effective August 23, 2015).
- D. As described in Chapter 3, Section 3 of the Health Code, the former board of health complied with the requirements at § 50-2-130, MCA, by making written findings, after a public hearing and public comment, before adopting wastewater rules that are more stringent than state rules or guidelines.
- E. The 2021 Montana Legislature adopted House Bills 121 and 257, which amended § 50-2-116, MCA, to require the creation of a local governing body to oversee a local board of health.
- F. Section 50-2-116, MCA (2021) further requires a board of health to propose regulations and fees for adoption by the local governing body, rather than unilaterally adopting such regulations and fees as previously allowed under Montana law.
- G. The prior interlocal agreement between Gallatin County and the City of Bozeman terminated on June 30, 2022.

- H. Following the 2020 census, the City of Belgrade was required to form a city board of health per § 50-2-105, MCA, or join a city-county board of health.
- I. In contemplation of the new legislative requirements and to include the City of Belgrade in a city-county board of health, Gallatin County, the City of Bozeman, and the City of Belgrade entered a new interlocal agreement (“Agreement”) creating the Gallatin City-County Board of Health (“Board of Health”), effective June 7, 2022.
- J. Consistent with § 50-2-116, MCA (2021), the Agreement establishes a Governing Body for the board, comprised of the Gallatin County Commission, one Bozeman City Commissioner, and one Belgrade City Council Member.
- K. It is necessary for public health and safety, preservation of the environment, and continuity of daily operations of the County Health Department that the Health Code and associated fees remain in effect and enforceable.
- L. The Board of Health recommended through Resolution No. 2022-001, approved on June 30, 2022, after a public hearing and allowing for public comment, that the Governing Body adopt the Health Code and associated fees.
- M. The Governing Body agreed with the Board of Health’s recommendation and adopted the Health Code by emergency ordinance on June 30, 2022.
- N. Because the emergency ordinance will expire automatically after 90 days and cannot be reenacted, the Governing Body desires to pass this Ordinance to adopt the Health Code in Gallatin County on a permanent basis until amended or modified.

Section 2 – Authority

Title 7, Chapter 5, Part 1, MCA, authorizes a “governing body” to adopt ordinances pursuant to the procedures set forth therein. Section 7-5-108(1), MCA, allows a governing body to adopt an ordinance that incorporates by reference the provisions of any code or portions of any code, properly identified as to date and source, without setting forth the provisions of the code in full.

Section 4 of the Agreement authorizes the Governing Body to adopt regulations authorized by § 50-2-116, MCA. At least two concurring votes of the Board of Gallatin County Commissioners, and at least one concurring vote from the Bozeman City Commission or the Belgrade City Council, is required for the passage of any decision.

Section 50-2-116, MCA (2021), states in relevant part:

- (1) [I]n order to carry out the purposes of the public health system, in collaboration with federal, state, and local partners, each local board of health shall: . . .
- (j) subject to the provisions of 50-2-130, propose for adoption by the local governing body necessary regulations that are not less stringent than state standards

for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4

(2) Local boards of health may:

(b) propose for adoption by the local governing body necessary fees to administer regulations for the control and disposal of sewage from private and public buildings and facilities;

(c) propose for adoption by the local governing body regulations that do not conflict with 50-50-126 or 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, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401;

(iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments; [and] . . .

(vi) to implement the public health laws;

Section 3 – Adoption of Health Code and Associated Fees by Reference

This Ordinance hereby adopts and incorporates by reference the following chapters of the Health Code, excluding only those sections specifically identified below:

A. Chapter 1 – General Provisions and Appendices, excluding:

- i. Section 1 Purpose, Jurisdiction, and Duties;
- ii. Section 4 Adopting, Amending, and Repealing Local Health Rules;
- iii. Section 5 Emergency Local Health Rules; and
- iv. Section 6 Fees.

B. Chapter 2 – Regulations for Licensing and Inspection of Establishments and Facilities Including Retail Food, Wholesale Food, Cottage Food, Hotels, Motels and Rooming Houses, Public Pools, Trailer Courts and Campgrounds, Tattooing and Body Piercing Establishments (adopted in whole).

C. Chapter 3 – Regulations for Wastewater Treatment Systems (adopted in whole).

Section 4 – Penalty & Enforcement

Pursuant to § 7-5-109, MCA, violation of this Ordinance is a misdemeanor and is punishable by a fine not to exceed Five Hundred Dollars (\$500.00), imprisonment of no more than six (6) months in the county jail, or both. This Ordinance may be enforced by any law enforcement officer with jurisdiction.

In addition, this Ordinance may be enforced by all civil remedies available in law and equity, including injunctive relief to enjoin violations hereof.

Section 5 – Severability

Should any provision of this Ordinance be determined to be unenforceable or invalid, all remaining terms and clauses shall remain in force and shall be fully severable.

Section 6 – Absolute Liability Finding

This Ordinance has the legislative purpose to impose absolute liability for any conduct described. Pursuant to § 45-2-104, MCA, any violation of this ordinance is subject to absolute liability. A person may be guilty of the offense without having, as to each element of the offense, one of the mental states of knowingly, negligently, or purposely.

Section 7 – Effective Date

The Gallatin County Clerk and Recorder shall post a copy of this Ordinance and shall make at least one copy available to the public upon the first reading and approval hereof. The Clerk and Recorder also shall make available at least one copy of the Health Code for public use, inspection, and examination. Such copy shall be made available to the public for a period of 30 days prior to the final adoption of this Ordinance.

This Ordinance shall take effect thirty (30) days after its second reading and approval.

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FIRST READING & APPROVAL on the
____ day of _____, 2022.

SECOND READING & APPROVAL on the
____ day of _____, 2022.

*Governing Body of the Gallatin City-County
Board of Health*

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Board of Health*

Joe P. Skinner, Chair

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ATTEST

ATTEST:

Eric Semerad, Clerk and Recorder

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