RESOLUTION NO. 2021-003

A RESOLUTION RECOMMENDING ADOPTION OF THE GALLATIN CITY-COUNTY HEALTH CODE BY THE CITY OF BOZEMAN AND GALLATIN COUNTY COMMISSIONS

WHEREAS, the Gallatin City-County Board of Health ("Board") was created by interlocal agreement between Gallatin County and the City of Bozeman;

WHEREAS, the Board has adopted the Gallatin City-County Health Code, which consists of Chapter 1 – General Provisions; 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 Chapter 3 - Regulations for Wastewater Treatment Systems;

WHEREAS, Appendix 2 to Chapter 1 also includes a fee schedule for implementation of the Health Code, such as permitting and licensing review fees;

WHEREAS, the Board adopted the Health Code pursuant to its authority at § 50-2-116, MCA (2019), to adopt regulations 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;

WHEREAS, the Montana Legislature recently passed, and Governor Greg Gianforte signed into law, House Bill 121 ("HB 121");

WHEREAS, HB 121 became immediately effective and rescinds the authority for local health boards to adopt regulations; instead, local boards must now propose regulations to the local governing body for adoption;

WHEREAS, HB121 also requires local health boards to now propose for adoption to the local governing body necessary fees to administer the regulations;

WHEREAS, the Legislature also recently passed House Bill 257 ("HB 257"), which supersedes portions of HB121, but includes the same requirement that boards of health now propose regulations and fees for adoption to a local governing body;

WHEREAS, it is anticipated that Governor Gianforte will sign HB 257 into law;

WHEREAS, Section 1 of HB 121 defines “local governing body” as
(a) the board of county commissioners that oversees a county local board of health;
(b) the elected governing body of a city that oversees a city local board of health;
or
(c) the entity identified as the governing body as established in the bylaws, interlocal agreement, or memorandum of understanding creating a city-county local board of health or a local district board of health.

WHEREAS, neither HB 121 nor HB257 describe how the new regulatory adoption process must be performed for local health boards that are jointly overseen by a city and county;

WHEREAS, pursuant to HB 121 and HB 257, the Board is now limited to recommending the “local governing body” adopt regulations and fees as authorized by § 50-2-116, MCA;

WHEREAS, both Gallatin County and the City of Bozeman qualify as a “local governing body” under HB 121;

WHEREAS, it is necessary for public health and safety, preservation of the environment, and continuity of daily operations by the Gallatin City-County Health Department that the Health Code, including the fee schedule, remain in effect and enforceable;

WHEREAS, the Board followed the requirements in § 50-2-130, MCA, and made written findings, after a public hearing and public comment, before adopting wastewater rules that are more stringent than state rules or guidelines, as described in the Health Code, Chapter 3, Section 3; and

WHEREAS, § 7-5-108(1), MCA, allows a local government to adopt a code by reference, and § 7-5-108(2), MCA, allows a local government to adopt a code by reference through an emergency ordinance and without notice.

NOW, THEREFORE, BE IT RESOLVED, that the Board recommends Gallatin County and the City of Bozeman adopt by reference the Health Code and the associated fees by an emergency ordinance, followed by a regular ordinance, to ensure the continued protection of the public health and environment.

DATED this 5th day of May, 2021.

Becky Franks, Chair
Gallatin City-County Board of Health

ATTEST:

Eric Semerad, Clerk & Recorder