

PUBLIC SLEEPING ACCOMMODATIONS

Subchapter 1

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37.111.101 **DEFINITIONS** In addition to those definitions contained in 50-51-102, MCA, the following definitions apply to this subchapter:

- (1) "Bedding" means a mattress, box springs, mattress cover, mattress pad, sheet, pillow slip, pillow, pillow cover, blanket, comforter, quilt, duvet, and bedspread.
- (2) "Building authority" means the building codes bureau, Montana department of labor and industry, or a local government building inspector enforcing a local building code enforcement program certified by the department of labor and industry.
- (3) "Department" means the department of public health and human services.
- (4) "Establishment" means a facility providing sleeping accommodations to the public, such as a hotel, motel, tourist home, or rooming house, including boarding house, hostel, or vacation rental. For the purpose of this subchapter, establishment does not include a "bed and breakfast," "guest ranch," or "outfitting and guide facility."
- (5) "Fire authority" means the state fire marshal or the state fire marshal's authorized agent.
- (6) "Fixture" means a shower, bathtub, toilet, toilet seat, urinal, handwashing sink, kitchen sink, janitor sink, dishwashing sink, and all exposed plumbing integral to them.
- (7) "Guest" means each person using any provided services such as a bed or bathing facility within any unit of an establishment.
- (8) "License" means a written document issued by the department authorizing the operation of an establishment.
- (9) "Local health authority" means a local health officer, sanitarian, or sanitarian-in-training.
- (10) "Sanitarian" means the person who is qualified under Title 37, chapter 40, part 3, MCA, and represents the health officer.
- (11) "Sanitize" means the application of a 100 to 200 ppm solution of household bleach (approximately 5% by weight) for at least 10 seconds.
- (12) "Shock disinfection" means an application of a chemical disinfectant to a water supply in order to kill all microorganisms. The chemical disinfectant is usually chlorine at a concentration much stronger than allowed in potable water, or another method approved by the local health authority.
- (13) "Sleeping accommodation" means the provision of sleeping quarters where the linen service or housekeeping service are provided by management or by the guests under the direct supervision of management. Sleeping accommodation does not include a place of residency subject to the Residential Landlord and Tenant Act of 1977, Title 70, chapter 24, MCA.
- (14) "Wastewater system" means a sewage treatment and disposal system.

37.101.111.102 **NEW RULE I REVIEW OF PLANS AND SPECIFICATIONS**

- (1) Plans and specifications must be submitted to the local health authority for review and approval before any new license is issued.
- (2) Local health authority approval is required before any construction, remodeling, or conversion for a new or existing establishment begins.
- (3) The local health authority must review the plans and respond to the applicant within 30 days with a written approval, disapproval, or request for additional information.

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- (4) If the establishment was previously licensed by the department and no structural modification will be involved, the local health authority may waive the requirement for the submission of plans and specifications.
- (5) If the local health authority is unable to perform the review, plans and specifications must be submitted to the department for review and approval.
- (6) Plans and specifications must include the following:
 - (a) location and detail of storage rooms used for bedding and furnishings;
 - (b) location and detail of janitorial facilities;
 - (c) location and detail of laundry facilities, including a description of equipment, floor and wall finish material;
 - (d) a flow chart indicating the route of laundry through sorting, washing, drying, ironing, folding, and storage;
 - (e) location and description of all food preparation, storage, and service areas, unless already required to license as a retail food service establishment under 50-50-102, MCA;
 - (f) description of dishes, cookware, utensils, and cooking equipment available in guest rooms, including details of cleaning and storage;
 - (g) location and detail of ice production, storage, and dispensing equipment;
 - (h) location of swimming pools, spas, and other recreational water features;
 - (i) name of sanitary landfill licensed by the Department of Environmental Quality (DEQ) which will receive solid waste from the establishment;
 - (j) if the establishment will be served by a new public wastewater system, a copy of an approval letter from DEQ and any applicable local health authority permit;
 - (k) if the establishment will be served by a nonpublic wastewater system, documentation of local health authority permit;
 - (l) if the establishment will be served by a new public water supply, a copy of an approval letter from DEQ;
 - (m) if the establishment will be served by a nonpublic water supply, demonstration of compliance with this subchapter; and
 - (n) any other pertinent information requested by the local health authority.
- (7) Construction must be in accordance with the plans and specifications as approved. Any changes from the approved plans must be reviewed and approved, in writing, by the local health authority.
- (8) Approval is valid for two years. If construction, remodeling, or conversion is not completed within two years, the local health authority may require plans and specifications to be resubmitted for review.

Rule 03 reserved
Rules 04 and 05 repealed

37.111.106 LICENSURE, RENEWAL, AND INSPECTION

- (1) The local health authority must make a precicensing inspection to determine compliance with the requirements of this subchapter before a license is issued by the department or validated by the local health officer.

- (2) The local health authority must inspect each licensed establishment within the jurisdiction of the local board of health to determine compliance with this subchapter at least once each calendar year, unless that schedule is modified by signed agreement with the department.
- (3) The local health authority, after proper identification, must be provided access to the establishment at all reasonable hours for the purpose of conducting inspections and investigations as required under this subchapter.
- (4) Inspection findings must be written to reference any rule violated, state the correction to be made, and specify a reasonable period of time for the correction.
- (5) The written inspection report must be made on a form authorized by the department.
- (6) Inspection findings must be given to the person in charge of the establishment at the conclusion of the inspection.
- (7) A copy of the completed inspection form must be given to the establishment owner or designee within three business days.
- (8) The local health authority must retain all documentation of enforcement of this subchapter including, but not limited to, inspection reports, consumer complaints, illness investigations, plans of correction, and enforcement actions for at least five years.
- (9) The completed inspection report is a public document that must be made available for public review upon request, distribution to any person upon payment of copying costs, or provided to the department upon request.
- (10) Obtaining a license under this subchapter does not relieve the applicant from satisfying other applicable plan review, licensing, and inspection requirements. Other requirements may include, but are not limited to the following:
 - (a) building code permit and inspection;
 - (b) fire and life safety inspection;
 - (c) retail food licensing;
 - (d) public swimming pool, spa, and other water feature licensing; and
 - (e) business licensing.
- (11) Notification of noncompliance from the building or fire authority may prevent a license from being issued by the department or validated by the local health officer.

37.111.107 PHYSICAL REQUIREMENTS

- (1) Sufficient storage space must be provided for extra bedding and furnishings.
- (2) Adequate and convenient janitorial facilities must be provided, including a janitor sink and storage area for equipment and chemicals. A tourist home is not required to have a janitor sink.
- (3) All rooms, hallways, stairways, and public access areas must be provided with at least ten foot-candles of light.
- (4) Floors and walls in toilet and bathing rooms, laundries, janitorial closets, and similar rooms subject to large amounts of moisture must be smooth, durable, nonabsorbent, and easily cleanable.
- (5) Floor and wall-mounted furnishings must be easily moved to allow for cleaning or mounted in such a manner as to allow for cleaning around and under such furnishings.
- (6) Bathing facilities must be provided with anti-slip surfaces or mats.

- (7) Adequate ventilation must be provided to prevent excess moisture and odors.
- (8) Handwashing sinks and bathing facilities must be provided with water at a temperature of at least 100° F (38° C) and not more than 120° F (49° C).
- (9) Establishment property must be maintained to minimize the presence of insects, rodents, and other vermin which may affect public health.
- (10) The local health authority may require licensed pesticide services for persistent pest infestations.

Rules 08 through 09 reserved

37.111.110 NEW RULE II WATER SUPPLY SYSTEM GENERAL REQUIREMENTS

- (1) An establishment must provide an adequate and potable supply of water.
- (2) A public water supply system must be approved by the Montana Department of Environmental Quality (DEQ) and meet the requirements of ARM Title 17, Chapter 38, subchapters 1, 2, 3, and 5.
- (3) A nonpublic water supply system must meet the requirements of Food and Consumer Safety (FCS) Circular 1-2012 when:
 - (a) the water supply is constructed after the effective date of this rule;
 - (b) modifications are made to the water system; or
 - (c) the local health authority determines compliance with FCS Circular 1-2012 is necessary to meet the requirements of this subchapter.
- (4) A nonpotable water source may be used only if:
 - (a) access points are marked "not for human consumption";
 - (b) installation and maintenance prevent any connection to a potable water supply system; and
 - (c) the source is used in a manner that does not expose the public to any health risk.
- (5) The department adopts and incorporates by reference FCS Circular 1-2012 in effect May 11, 2012, which contains potable water construction and maintenance standards for nonpublic water supplies serving licensed establishments. A copy of FCS Circular 1-2012 may be obtained from the Department of Public Health & Human Services, Food & Consumer Safety Section, P.O. Box 202951, Helena, Montana 59620-2951. The FCS Circular 1-2012 is also available on the department's web site at www.fcsmt.gov.

37.111.111 NEW RULE III NONPUBLIC WATER SUPPLY SAMPLING AND TEST REPORTS

- (1) An establishment using a nonpublic water supply system must have water samples analyzed for coliform bacteria as follows:
 - (a) Coliform sampling must be done before licensing and at least in two separate months of each calendar year that the establishment operates.
 - (b) The sampling schedule must include collection when the water source is most likely to be contaminated, such as during April through June and September through October, in the high ground water season, or as directed by the local health authority.

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- (c) The local health authority may require the establishment to sample monthly, in the months the establishment operates, if an inspection, sampling results, or an event indicates the water source is vulnerable to contamination.
 - (d) The local health authority may return the sampling frequency to two in a calendar year if an on-site sanitary inspection of the water source and other pertinent information shows the water source is no longer vulnerable to contamination.
- (2) Following shock disinfection, a coliform sample must be collected at least three to five days after disinfectant is no longer detected in the system.
 - (3) An establishment using a nonpublic water supply system must have a water sample analyzed for total nitrate before initial licensing and at least every three years that the establishment is licensed.
 - (4) Water samples must be analyzed by a laboratory licensed and certified by the state of Montana for drinking water analysis.
 - (5) The establishment must ensure water test results are transmitted to the local health authority from the laboratory in a format acceptable to the local health authority within five working days, except as required in New Rule IV (1)(c) and (3)(d).
 - (6) The establishment must keep test results available for inspection by the local health authority for at least five years.

37.111.112 NEW RULE IV NONPUBLIC WATER SUPPLY CONTAMINATED SAMPLES

- (1) If coliform bacteria is detected in a nonpublic water supply routine sample, the establishment must:
 - (a) collect at least four more repeat samples within 24 hours of notice at the following system points:
 - (i) the location of the original contaminated routine sample;
 - (ii) up-gradient to the contaminated routine sample;
 - (iii) down-gradient to the contaminated routine sample; and
 - (iv) at the source; or
 - (v) as directed by the local health authority.
 - (b) collect at least five routine samples in the month following a detection of coliform in any routine sample; and
 - (c) notify the local health authority within 48 hours of receiving test results.
- (2) If coliform is detected in a repeat sample, the establishment must:
 - (a) take appropriate corrective action; and
 - (b) notify customers and staff by placing an advisory sign approved by the local health authority at each point of use, or as directed by the local health authority.
- (3) If fecal coliform or E. coli is detected in a routine sample or repeat sample, the establishment must:
 - (a) stop using the water source immediately;
 - (b) provide a temporary source of safe water in accordance with {New Rule VI};
 - (c) take appropriate corrective action; and
 - (d) notify the local health authority within 24 hours of receiving test results.

(4) If an establishment fails to take the four repeat or five routine samples following the detection of coliform, or the laboratory fails to test for fecal coliform or E. coli in coliform positive samples, the establishment must follow corrective actions as specified in (3).

37.111.113 NEW RULE V WATER SUPPLY CORRECTIVE ACTIONS

(1) An establishment must take appropriate corrective action, which may include shock disinfection, replacement, or repair of the water supply system within a period specified by the local health authority when:

- (a) a water sample exceeds a maximum contaminant level as specified in ARM Title 17, chapter 38, subchapter 2;
- (b) the supply does not have the capacity to provide enough water for drinking, cooking, personal hygiene, laundry, cleaning, and wastewater disposal;
- (c) the local health authority reports to an establishment that the establishment's water supply system is vulnerable to contamination based on a site visit;
- (d) a pathogenic microorganism is detected; or
- (e) a confirmed disease outbreak is associated with the water supply through investigation.

(2) When a water supply is replaced or repaired, the water supply system must be shock disinfected before the system is placed back into service.

37.111.114 NEW RULE VI WATER SUPPLY RESTRICTED-USE ORDER

(1) The local health authority shall issue a restricted-use order to an establishment when:

- (a) DEQ has issued a boil water order;
- (b) fecal coliform or E. coli is detected in a nonpublic water supply sample;
- (c) the total nitrate level is over 10 mg/L in a nonpublic water supply sample;
- (d) a nonpublic water supply sample exceeds a maximum contaminant level as specified in ARM Title 17, chapter 38, subchapter 2;
- (e) a pathogenic microorganism is detected; or
- (f) a confirmed disease outbreak is associated to the water source by investigation.

(2) An establishment that is subject to a restricted-use order must provide and use a temporary source of potable water as described in (3) for customer and staff drinking, food and drink preparation and service, ice, dishwashing, food contact surface cleaning, and hand washing, or discontinue operations.

(3) With approval from the local health authority, an establishment may provide potable water on a temporary basis using one or more of the following:

- ★ (a) bottled or packaged potable water from a department-licensed water bottler, or other approved water bottler, if the water is dispensed directly from the original container;
- (b) water from a DEQ-approved public water supply that meets the requirements of ARM Title 17, chapter 38, subchapters 1, 2, 3, and 5, stored in a clean, sanitized, and covered potable water container or holding tank;
- (c) water delivered by a department-licensed potable water hauler;

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- (d) if the water is fecal or E. coli contaminated, water that has been boiled for at least one minute, and stored and served from a clean, sanitized, and covered container; or
 - (e) other source approved by the local health authority.
- (4) If the local health authority determines that boiling water will not provide adequate potable water, it may require an establishment to use another approved method for supplying water.
- (5) An establishment subject to a restricted-use order must notify customers and staff of the restricted-use order by placing a sign at each point of use, or as otherwise directed by the local health authority.
- (6) A water supply under a restricted-use order may not be used to make ice.
- (7) An establishment subject to a restricted-use order may wash, rinse, and sanitize dishes, utensils, and equipment using the affected water system if using an approved chemical disinfectant or a commercial dish machine that reaches 180°F (82°C) in the final rinse, or as directed by the local health authority.
- (8) A restricted-use order may be removed by the local health authority after:
- (a) laboratory sampling demonstrates that the water supply is safe;
 - (b) the establishment flushes all pipes, faucets, and drinking fountains by running cold water for at least five minutes; and
 - (c) the establishment flushes, cleans, and sanitizes food and beverage equipment connected to the water supply, such as, but not limited to, post-mix beverage machines, spray misters, coffee makers, tea urns, ice machines, glass washers, and dishwashers in accordance with manufacturer's instructions.

Rule 15 Repealed

37.111.116 WASTEWATER SYSTEM

- (1) An adequate and safe wastewater system must be provided for conveying, treating, and disposing of all sewage from an establishment.
- (2) Immediate measures must be taken to alleviate health and sanitation hazards caused by wastewater at the establishment when they occur.
- (3) All wastewater must be disposed by a public wastewater system approved by DEQ or by a private wastewater system constructed and operated in accordance to applicable state and local regulations.
- (4) A wastewater system has failed and requires replacement or repair if any of the following conditions occur:
 - (a) the system fails to accept, treat, or dispose of wastewater as designed;
 - ★ (b) the system displays surfacing effluent;
 - (c) effluent from the wastewater system contaminates a potable water supply or state waters; or
 - (d) the wastewater system experiences mechanical failure, including electrical outage, or collapse or breakage of a septic tank, lead line, or drainfield line.
- (5) Extension, alteration, replacement, or repair of any wastewater system must be done in accordance with all applicable state and local regulation.

37.111.117 SOLID WASTE

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- (1) Solid waste must be collected, stored, and disposed in a manner that does not create a sanitary nuisance.
- (2) Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility, or at another frequency approved by the local health authority.
- (3) Solid waste may not be burned on the premises.
- (4) Solid waste containers must be rodent-proof, stable, and protected from deterioration.
- (5) Solid waste containers must be sufficiently covered when not in use to prevent the entry of water or flies.

37.111.118 NEW RULE VII ICE

- (1) Ice must be made from the establishment's approved water supply meeting the requirements of this subchapter or obtained from a licensed or approved supplier.
- (2) Ice must be manufactured, stored, handled, transported, and served in a manner that prevents contamination.
- (3) When ice is not stored in an automatic dispenser and is available to multiple guests or groups of guests, then the ice must be served directly by the establishment staff.
 - (a) An ice scoop must be readily available for use by the staff and protected from contamination.

Rules 19 through 20 reserved

37.111.121 LAUNDRY FACILITIES

- (1) All bedding, towels, and other laundered items must be mechanically washed and hot air dried in laundry facilities which meet the following requirements:
 - (a) The wash cycle must run with sufficient detergent and for a time demonstrated to thoroughly remove all visible soil.
 - (b) Laundered items must be thoroughly hot air tumble dried to at least 130°F (54°C) for ten minutes.
- (2) Clean laundry must be protected from contamination from soiled laundry and other sources by the following:
 - (a) using separate labeled carts or containers for transportation;
 - (b) providing sufficient space for sorting, folding, and storage; and
 - (c) washing hands between touching soiled and clean laundry.
- (3) Laundry facilities must have a convenient handwashing sink, hand soap, disposable towels, and trash can.
- (4) If the handsink is used for soaking laundry, it must be accessible for handwashing when needed.

37.111.122 GUEST ROOM CLEANING AND MAINTENANCE

- (1) Guest rooms must be cleaned and supplied with freshly laundered sheets, pillow covers, towels and washcloths before each new guest or group of guests arrive.

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- (2) Clean bed sheets, pillow covers, towels and washcloths must be provided to each guest at least weekly. They may be provided more frequently as requested by a guest or according to establishment policy.
- (3) Shared bathrooms must be cleaned daily.
- (4) All bedding, towels, and washcloths provided by management must be clean and in good repair.
- (5) Each mattress must be covered with a machine-washable pad.
- (6) Sheets must adequately cover the bed and fold over the blanket at least six inches.
- (7) All bedding including quilts and comforters must be machine-washable or covered with machine-washable linen such as a duvet.
- (8) Mops must be air dried between uses.
- (9) A designated janitor sink must be used for washing and rinsing of mops, brooms, brushes, and other cleaning devices. Tourist homes may use an alternative as approved by the local health authority.
- (10) Toilet and urinal cleaning devices must be kept separate from other cleaning supplies and may not be used for any other purpose. Bathtub and shower cleaning devices must be kept separate from other cleaning supplies and may not be used for any other purpose.
- (11) All furnishings, fixtures, floors, walls, and ceilings must be clean and in good repair.
- (12) Management must provide for maintenance as needed.
- (13) Cleaning compounds and pesticides must be stored, used, and disposed of in accordance with the manufacturer's label instructions.
- (14) Ozone air purifiers may not be used within the establishment.
- (15) Glasses, pitchers, ice buckets, coffee pots and other utensils used for food or drink provided for guests must be washed, rinsed, and sanitized or single-service items must be used.
- (16) All utensils used for food or drink provided for guests must be stored, handled, and dispensed in a manner which prevents contamination.

Rule 23 Repealed

37.111.124 FOOD SERVICE REQUIREMENTS

- (1) Where a food service is operated as an integral part of an establishment, compliance with ARM Title 37, chapter 110, subchapter 2, rules for food service establishments is required.
 - (a) If the food service is available only to overnight registered guests of the establishment, licensure as a food service establishment is not required.

Rules 25 through 29 reserved

37.111.130 GUEST REGISTRATION

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- (1) Each establishment must maintain a register of all over-night guests, including name and contact information of the guest and unit to which the guest was assigned.
- (2) Guest registration must be kept available for at least one year for communicable disease investigations or other public health reasons.

Rules 31 through 34 reserved

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