



MEMO

TO: Interested Public
FROM: Shannon Therriault, RS, Environmental Health Director
DATE: June 2, 2023
RE: Readoption of the Missoula City-County Health Code and Fees by Reference by the Missoula County Commissioners

On June 15, 2023, the Missoula City-County Health Board will hold a public hearing on proposed changes to the solid waste regulations in the Missoula City-County Health Code. The proposed changes (which follow this memo) include a requirement to use bear-resistant containers in an expanded bear buffer zone, in addition to some clean up changes to the rest of the regulation.

The public is invited to comment on the proposal in the following ways:

Public Hearing

**Missoula City-County Health Board meeting
Thursday, June 15, 2023**

12:30 pm or soon thereafter

In person at the Health Department:

301 West Alder, Missoula, MT 59802, Conference Room 210

Remote attendance option available

Find link here: <https://www.missoulacounty.us/government/health/health-department/boards-councils/boards-agendas-minutes>.

Written Comments

Submitted by Wednesday, June 14, 2023 to
envhealth@missoulacounty.us or

Missoula City-County Health Board, 301 W Alder, Missoula, MT 59802

Missoula County Voice

Submitted by Wednesday, June 14, 2023 to
<https://missoulacountyvoice.com/>

Background: The Missoula City-County Health Department has been working as part of the Bear Smart Working Group to address bear human interactions in the Missoula area. The group, which consists of bear experts, agency representatives, and concerned citizens, first put together a Bear Hazard Assessment, and then followed it with a Bear Conflict Mitigation plan in 2022. The mitigation plan notes that from 2018 to 2021, 49% of the recorded bear-human interactions centered around bears and garbage.

In 2022, the Missoula City Council and the Missoula Board of County Commissioners adopted a joint resolution committing Missoula to addressing the root causes of human-bear conflicts, in part through local rules. The goals are to reduce the risks to human safety and private property, as well as the number of bears that have to be killed or relocated.

The issue of bears in Missoula is becoming more critical. In addition to increased interactions with black bears in 2022, grizzly bears are now part of the picture. Grizzly bears tore up structures in the north hills in quest for food and were sighted in the Bonner and Lolo areas in 2022. This spring is shaping up to be another active bear season.

The resolution, hazard assessment and conflict management plan are available on Missoula County voice (<https://missoulacountyvoice.com/bear-smart-missoula>).

For more information, please contact the Environmental Health Division at (406) 258-4755 or envhealth@missoulacounty.us.

Regulation 3: Solid Waste Management

DRAFT 5-18-23

This document shows the proposed changes in red text. Underlined text is proposed to be added and red text that has been struck through is proposed to be deleted.

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- 1. Purpose.** The purpose of this rule is to establish standards for proper storage, handling and disposal of solid waste to protect public health, safety and the environment.

- 2. Authority.** Authority for this regulations ~~promulgated in this rule~~ is provided ~~for~~ in 50-2-116, MCA, under which a local health board may propose rules for adoption by the local governing body ~~adopt rules~~ that do not conflict with 50-50-126, MCA or rules adopted by the Montana Department of Public Health and Human Services ~~Environmental Sciences~~ for the removal of filth that might cause disease or adversely affect public health and to implement public health laws.

- 3. Definitions.** The following definitions shall apply in the interpretation and enforcement of this rule.
 - (A) "Bear resistant container" means a fully enclosed container with a lid and latching mechanism with sufficient design and strength to deter access of the contents by bears, as certified by the Interagency Grizzly Bear Committee (IGBC) or approved by a Montana Fish, Wildlife and Parks bear management team biologist.

 - (B) "Bear resistant enclosure" means a fully enclosed structure or rack capable of reliably excluding a bear or a roofless enclosure that has a minimum of one hot wire and one ground wire that are electrified with an electric fence energizer with an output of 0.7 joules or better.

 - (C) "Class II landfill" means a facility licensed by the ~~State of Montana~~ Department of Environmental Quality (DEQ) to accept group II and group III wastes.

 - (~~BD~~) "Class III landfill" means a facility licensed by ~~the state of Montana~~ DEQ to accept group III wastes only.

(~~CE~~) "Clean fill" means uncontaminated soil, dirt, rock, sand, gravel, and portland cement concrete free of reinforcing steel.

(~~DF~~) "~~Group I wastes~~Hazardous waste" means ~~hazardous~~ waste as defined by ~~40 CFR 261 and ARM 16.14.503~~ 75-10-403, MCA.

(~~G~~) "Garbage" has the same meaning as "Group II wastes."

(~~EH~~) "Group II wastes" means decomposable household and commercial wastes, or mixed solid wastes, excluding hazardous wastes. Examples include but are not limited to the following:

(a) Municipal and domestic waste such as garbage, and putrescible organic materials, paper, cardboard, cloth, glass, metal, plastics, street sweepings, yard and garden wastes, digested sewage treatment sludges, water treatment sludges, ashes, dead animals, offal, discarded appliances, vehicle parts, and properly sterilized medical wastes; and,

(b) commercial and industrial wastes such as packaging materials, containers, and any liquid or solid industrial wastes which are chemically or biologically decomposable and which are not classified or identified as hazardous waste in 40 CFR 250.1, crop residues, manure, and food waste.

(~~FI~~) "Group III wastes" means untreated wood wastes and non-water soluble solids, such as brick, rock, and portland cement concrete.

(~~GJ~~) "Litter" means any quantity of paper, cardboard, metal, plastic, glass, or other miscellaneous solid waste which is not disposed of in a garbage container.

(~~HK~~) "Person" means any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other state, federal, or private entity, whether organized for profit or not.

(~~IL~~) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials.

4. Storage and Collection.

(A) Any person owning, controlling, or in possession of property from which any group II waste is generated shall maintain at all times in a place ~~easily accessible to the garbage collector, and~~ where it will not be offensive or a public nuisance, one or more residential or commercial garbage containers as defined in this rule.

(1) The capacity of the containers ~~shall~~ must be adequate to hold all refuse generated between collections.

(~~2~~) All group II waste and litter accumulated on the premises ~~shall~~ must be placed in the garbage containers.

~~(2)~~ All group II wastes must be either collected once a week by ~~and delivered by~~ a commercial garbage collection company or taken weekly by the generator to a Class II landfill or transfer station ~~after an accumulation period of not more than seven days.~~

~~(34)~~ ~~Effective August 15, 1994, in~~ In all areas of Missoula County that have available commercial garbage collection services, the owner of any rental dwelling, including apartments, rental manufactured homes, duplexes, or single family rental units, shall subscribe to commercial garbage collection, transport, and disposal of all group II waste generated on the premises. Garbage collection shall must occur on an interval of not more than seven days.

~~(45)~~ Residential containers:

(a) shall must be designed and manufactured as garbage containers;

~~(b)~~ unless designed for automated garbage collection, and must have a capacity of not less than ten or more than thirty-two gallons or not weigh more than 50 pounds;

~~(c)~~ ~~No containers shall may not~~ be used to hold hot ashes, or liquids; ~~No containers shall be left out for collection which weigh more than seventy pounds; and~~

~~(b)(d)~~ shall must have tight fitting lids and be kept covered; ~~and~~

~~(e)(c)~~ shall must be placed in an area easily accessed by the garbage collection service for collection. at the rear property line adjacent to the alley or on the front curb where no adequate alley exists; in some cases, if approved by the Department, another location may be designated. Residential containers may not be placed on a ~~public~~ street or road more than 12 hours before or eight hours after the time of collection; ~~and,~~

~~(d)(f)~~ ~~shall be equipped with racks, stakes or holders to securely hold garbage containers when they are placed outdoors so the containers cannot be spilled, tipped or overturned by animals or wind. They must be designed and installed to facilitate cleaning around them; and~~

~~(e)(g)~~ shall may not be recessed into the ground; ~~and~~

~~(f)(h)~~ may consist of plastic bags when filled with solely grass clippings or leaves, provided that each bag is closed with a tie ~~and,~~ does not exceed fifteen pounds, and the garbage collection service is able to pick it up on that route; ~~and~~

~~(56)~~ Commercial containers:

(a) shall must be constructed to be mechanically dumped by the garbage collector; ~~and~~

(b) shall must have no restrictions as to size of the container or weight of the material placed therein; ~~and~~

(c) shall must be kept covered at all times; ~~and~~

(d) shall must be placed on a hard level surface for emptying; and

(e) ~~must have enough capacity to adequately hold all waste between collection. shall be required of all of the following: trailer courts with three or more units, hotels, motels, retirement homes, nursing homes, hospitals, schools, establishments selling food or drink for consumption on or off the premises, and apartments or apartment complexes having three or more living units or any other establishment which in the judgement of the Department generates sufficient solid waste to warrant a commercial container.~~

(67) ~~No e~~Commercial ~~and/or~~ residential containers ~~shall may not~~ be stored or set out for collection in the public right-of-way so as to impede or block public access or use or constitute a hazard or nuisance.

(78) ~~Any~~ solid waste container which is not watertight, has sharp or ragged edges, ~~which~~ does not conform to prescribed standards or ~~which~~ has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally, ~~shall must~~ be replaced promptly by the owner or user of the container.

(89) ~~It is the duty of the~~The owner, agent, occupant, or lessee of property ~~shall to~~ keep garbage containers ~~maintained by them~~ reasonably clean and free of offensive odors.

(B) ~~It is unlawful for the~~The owner, agent or contractor in charge of any construction or demolition site ~~may not to~~ cause, maintain, permit or allow to be caused, maintained or permitted the accumulation of any litter or other solid waste on site before, during or after completion of the construction or demolition project.

(1) ~~It is the duty of the~~The owner, agent, or contractor in charge of ~~any a~~ demolition or construction project ~~shall~~:

(a) ~~to~~ have adequate containers for the disposal of litter and other solid waste generated on site; ~~and~~

(b) ~~to~~ provide for disposal at a properly licensed solid waste facility; and

(c) ~~to~~ remove any litter and other solid waste which has not been containerized at the end of each working day, including litter that has blown off site.

(C) ~~No person shall~~A person ~~may not~~ store or allow to be stored ~~any~~ solid waste ~~on public or private land within the county~~ where it will create a public nuisance, ~~or~~ be to any degree offensive or ~~if the Department determines it may~~where it may constitute a public health, environmental health or safety hazard.

(D) ~~It is the duty of the~~The owner, agent, occupant, or lessee of property ~~to shall~~ keep premises free of litter and other solid waste.

(E) ~~It is unlawful to~~A person ~~may not~~ sweep or push litter or other solid waste from sidewalks and boulevards into streets.

5. Transportation.

(A) Odorous solid waste ~~shall must~~ be completely containerized during transportation so that it will not be offensive.

(B) Solid waste must be covered, containerized, or tied to the vehicle during transportation.

(C) Solid waste ~~shall~~must be loaded and transported in such a manner that none of it ~~shall~~falls, ~~drops~~or spills upon the ~~roadway~~or ground.

6. Burning Solid Waste.

~~No~~A person ~~shall may not~~ burn ~~any~~ solid waste ~~on public or private land within the County~~, unless the burning is permitted in accordance with the Missoula City-County Air Pollution Control Program regulations.

7. Burying Solid Waste.

(A) ~~No~~A person ~~shall may not~~ bury ~~any~~ solid waste ~~on public or private land within the county~~, unless:

(1) the solid waste ~~qualifies as is~~ clean fill and permission has been granted by the property owner ~~or owners~~; or

(2) the solid waste is organic agricultural or silvicultural waste; ~~and the solid waste~~ originated on the property where it is to be buried; ~~and the Department determines that the practice will not be offensive,~~ cause a nuisance, or endanger public or environmental health; or

(3) the site is licensed as a landfill by the DEQ.

8. Illegal Dumping.

(A) ~~A~~No person ~~shall may not~~ dump, store, place or leave or cause to be dumped, placed or left any solid waste upon any public or private property within the county, unless the solid waste is clean fill and permission has been granted by the property owner or owners.

(B) ~~No~~A person ~~shall may not~~ dump, place or leave or cause to be dumped, placed or left any solid waste in residential or commercial containers maintained for the use of other residences or establishments without permission from the owner.

9. Hazardous Waste.

~~No~~A person ~~shall may not~~ transport, store, or dispose of ~~any Group I hazardous~~ waste except as provided ~~for in ARM 16.44-~~ ARM Title 50, Chapter 53.

10. Bear Buffer Zone.

(A) Within the Missoula Bear Buffer Zone, as shown in Appendix A, the following additional requirements apply:

(1) A person may not accumulate, store, or cause to be accumulated or stored garbage in a manner that allows a bear to access it.

(2) On or before April 30, 2024, in Phase 1 shown on Appendix A, all garbage must be stored in bear resistant containers or bear resistant enclosures.

(3) On or before April 30, 2025, in Phase 2 shown on Appendix B, all garbage must be stored in bear resistant containers or bear resistant enclosures.

(4) Until April 30, 2026, in areas where bear-resistant containers are not yet required, non-bear-resistant containers may not be put out for collection until 5 am on the day of

service. Non-bear resistant containers must be restored to a bear resistant place by 9 pm on the day of service.

(5) Effective April 30, 2026, in all areas of the Bear Buffer Zone shown in Appendix A:

(a) All garbage must be stored in bear resistant containers or bear resistant enclosures;

(b) All garbage containers must be bear resistant or be stored within a bear resistant enclosure that can be directly accessed by a commercial garbage collection service; and

(c) All garbage containers provided by commercial garbage collection services must be bear resistant, unless the containers will be stored within a bear resistant enclosure that will be accessed directly by the commercial garbage collection service.

6. Commercial, governmental, and institutional entities may develop a written waste management plan to prevent bears from accessing garbage in lieu of having a bear resistant container or bear resistant enclosure. The waste management plan and any amendments must be approved in writing by a Montana Fish, Wildlife, and Park bear management team biologist and the appropriate waste collection provider.

7. Outdoor trash compactors may be used within the Bear Buffer Zone provided that no waste is exposed and the compactor doors are bear resistant and kept closed except when loading or removing wastes. The area around the compactor must be free of garbage.