

ENVIRONMENTAL QUALITY

CHAPTER 36

SUBDIVISIONS/ON-SITE
SUBSURFACE WASTEWATER TREATMENT

Subchapter 1

Subdivision Application and Review

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|------|-----------|---|
| Rule | 17.36.101 | Definitions |
| | 17.36.102 | Application--General |
| | 17.36.103 | Application--Contents |
| | 17.36.104 | Application--Lot Layout Document |
| | 17.36.105 | Subdivision and Platting Act Exclusions Subject to Department Review (REPEALED) |
| | 17.36.106 | Review Procedures--Applicable Rules |
| | | Rule 17.36.107 reserved |
| | 17.36.108 | Compliance with Local Requirements |
| | | Rule 17.36.109 reserved |
| | 17.36.110 | Certificate of Approval |
| | 17.36.111 | Mobile Homes and Recreational Camping Vehicles (REPEALED) |
| | | Rules 17.36.112 through 17.36.115 reserved |
| | 17.36.116 | Certification of Local Department or Board of Health |

Subchapter 1

Subdivision Application and Review

17.36.101 DEFINITIONS For purposes of subchapters 1, 3, 6, and 8, the following definitions apply:

(1) "Bedrock" means material that cannot be readily excavated by hand tools, or material that does not allow water to pass through or that has insufficient quantities of fines to provide for the adequate treatment and disposal of wastewater.

(2) "Bedroom" means any room that is or may be used for sleeping. An unfinished basement is considered as an additional bedroom.

(3) "Campground" is defined in 50-52-101, MCA.

(4) "Certificate of survey" is defined in 76-3-103, MCA.

(5) "Cesspool" means a seepage pit without a septic tank to pretreat the wastewater.

(6) "Condominium" is defined in 70-23-101, MCA.

(7) "Connection" means a water or wastewater line that connects a single building or living unit to a shared, multiple user or public water or wastewater system.

(8) "Department" means the Montana Department of Environmental Quality.

(9) "Deviation" means a department-approved departure from a requirement contained in a department circular.

(10) "Drainageway" means a course or channel along which storm water moves in draining an area.

(11) "Dry well" means a storm water detention structure that collects surface runoff and discharges the water below the natural ground surface.

(12) "Dwelling" or "residence" means any structure, building, or portion thereof, which is intended or designed for human occupancy and supplied with water by a piped water system.

(13) "Escarpment" means any slope greater than 50% that extends vertically six feet or more as measured from toe to top.

(14) "Experimental system" means a wastewater treatment system for which specific design standards are not provided in Department Circular DEQ-4 or DEQ-2.

(15) "Floodplain" means the area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency except for sheetflood areas that receive less than one foot of water per occurrence and are considered zone b areas by the federal Emergency Management Agency. The floodplain consists of the floodway and the floodfringe, as defined in ARM 36.15.101.

(16) "Gray water" means wastewater that is collected separately from sewage flow and that does not contain industrial chemicals, hazardous wastes, or wastewater from toilets.

(17) "Ground water monitoring" means measuring the depth from the natural ground surface to the seasonally high ground water for a long enough period of time to detect a peak and then a sustained decline in the ground water level.

(18) "Holding tank" means a watertight receptacle that receives wastewater for retention and does not as part of its normal operation dispose of or treat the wastewater. The term does not include surge tanks used in a gray water irrigation system if the system meets the requirements of ARM 17.36.319.

(19) "Impervious layer" means any layer of material in the soil profile that has a percolation rate slower than 120 minutes per inch.

(20) "Individual water system" means any water system that serves one living unit or commercial structure. The total number of people served may not exceed 24.

(21) "Individual wastewater system" means a wastewater system that serves one living unit or commercial structure. The total number of people served may not exceed 24.

(22) "Limiting layer" means bedrock, an impervious layer, or seasonally high ground water.

(23) "Living unit" means the area under one roof occupied by a family. For example, a duplex is considered two living units.

(24) "Local health officer" means health officer as defined in 50-2-101, MCA, or the health officer's designee.

(25) "Lot" is synonymous with "tract" or "parcel" for purposes of this chapter.

(26) "Mixing zone" is defined in 75-5-103, MCA.

(27) "Mobile home" means a trailer equipped with necessary service connections that is designed for use as a long-term residence.

(28) "Multiple user wastewater system" means a non-public wastewater system that serves or is intended to serve three through 14 living units or three through 14 commercial structures. The total number of people served may not exceed 24. In estimating the population served, the reviewing authority shall multiply the number of living units times the county average of persons per living unit based on the most recent census data.

(29) "Multiple user water supply system" means a non-public water supply system designed to provide water for human consumption to serve three through 14 living units or three through 14 commercial structures. The total number of people served may not exceed 24. In estimating the population served, the reviewing authority shall multiply the number of living units times the county average of persons per living unit based on the most recent census data.

(30) "Municipal" means pertaining to an incorporated city or town.

(31) "Natural soil" means soil that has developed through natural processes and to which no fill material has been added.

(32) "Parcel" means a part of land which is created by a division of land or a space in an area used for recreational camping vehicles or mobile homes.

(33) "Percolation test" means a standardized test used to assess the infiltration rate in soils.

(34) "Piped water system" means a plumbing system that conveys water into a structure from any source including, but not limited to, wells, cisterns, springs, or surface water.

(35) "Plat" is defined in 76-3-103, MCA.

(36) "Preliminary plat" is defined in 76-3-103, MCA.

(37) "Public wastewater system" means a system for collection, transportation, treatment, or disposal of wastewater that serves 15 or more families or 25 or more persons daily for a period of at least 60 days in a calendar year. In estimating the population served, the department shall multiply the number of living units times the county average of persons per living unit based on the most recent census data.

(38) "Public water supply system" means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

(39) "Recreational camping vehicle" means a vehicle that is used for non-permanent residence and is moved frequently.

(40) "Redoximorphic features" or "mottling" means soil properties associated with wetness that results from the reduction and oxidation of iron and manganese compounds in the soil after saturation and desaturation with water.

(41) "Reviewing authority" is defined in 76-4-102, MCA.

(42) "Sealed pit privy" means an enclosed receptacle designed to receive non-water-carried toilet wastes into a watertight vault.

(43) "Seasonally high ground water" means depth from the natural ground surface to the upper surface of the zone of saturation, as measured in an unlined hole or perforated monitoring well during the time of the year when the water table is the highest. The term includes the upper surface of a perched water table.

(44) "Seepage pit" means a covered underground receptacle that receives wastewater after primary treatment and allows the wastewater to seep into the surrounding soil.

(45) "Septic tank" means a storage settling tank in which settled sludge is in immediate contact with the wastewater flowing through the tank while the organic solids are decomposed by anaerobic action.

(46) "Sewage" is synonymous with "wastewater" for purposes of this chapter.

(47) "Shared wastewater system" means a wastewater system that serves or is intended to serve two living units or commercial structures. The total number of people served may not exceed 24.

(48) "Shared water system" means a water system that serves or is intended to serve two living units or commercial structures. The total number of people served may not exceed 24. In estimating the population served, the reviewing authority shall multiply the number of living units times the county average of persons per living unit based on the most recent census data.

(49) "Site evaluation" means an evaluation to determine if a site is suitable for the installation of a subsurface wastewater treatment system.

(50) "Slope" means the rate that a ground surface declines in feet per 100 feet. It is expressed as percent of grade.

(51) "Soil consistence" means the attributes of soil material as expressed in degree of cohesion and adhesion or in resistance to deformation or rupture. See Appendix B of Department Circular DEQ-4.

(52) "Soil profile" means a description of the soil strata to a depth of eight feet using the USDA soil classification system.

(53) "Soil structure" means the combination or arrangement of primary soil particles into secondary units or peds. See Appendix B of Department Circular DEQ-4.

(54) "Soil texture" means the amount of sand, silt or clay measured separately in a soil mixture. See appendix B of Department Circular DEQ-4.

(55) "Spring" means natural opening in the earth's surface from which water issues or seeps.

(56) "Septic tank" means a storage settling tank in which settled sludge is in immediate contact with the sewage flowing through the tank while the organic solids are decomposed by anaerobic bacterial action.

(57) "State waters" is defined in 75-5-103, MCA.

(58) "Subsurface wastewater treatment system" means the process of wastewater treatment in which the effluent is applied below the soil surface or into a mound by an approved distribution system.

(59) "Surface water" means any water on the earth's surface including, but not limited to, streams, lakes, ponds, reservoirs, and irrigation ditches, whether fresh or saline.

(60) "Unstable land forms" means areas showing evidence of mass down-slope movement such as hummock hill slopes, debris flows, landslides, and rock falls. Unstable land forms may be evidenced by slip surfaces roughly parallel to the hillside; landslide scars and carving debris ridges; fences, trees, or telephone poles which appear tilted; or tree trunks which bend uniformly as they enter the ground.

(61) "Waiver" means a department-approved departure from a requirement contained in department rules. Granting of waivers must be in accordance with ARM 17.36.601.

(62) "Wastewater" means water-carried waste that is discharged from a dwelling, building, or other facility, including:

(a) household, commercial, or industrial wastes;

(b) chemicals;

(c) human excreta; or

(d) animal and vegetable matter in suspension or solution.

(63) "Wastewater treatment system" or "wastewater disposal system" means a system that receives wastewater for purposes of treatment, storage, or disposal. The term includes, but is not limited to, pit privies and experimental systems.

(64) "Well" means an artificial excavation that derives water from the interstices of rocks or soil which it penetrates.

(65) "Zone of saturation" means the area beneath the ground in which all open spaces are filled with ground water.

(History: 76-4-104, MCA; IMP, 76-4-104, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; AMD, 1984 MAR p. 1568, Eff. 10/26/84; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 967, Eff. 4/14/00; AMD, 2000 MAR p. 3371, Eff. 12/8/00; AMD, 2002 MAR p. 1981, Eff. 5/17/02; AMD, 2003 MAR p. 221, Eff. 2/14/03; AMD, 2009 MAR p. 1786, Eff. 10/16/09.)

17.36.102 APPLICATION--GENERAL (1) To initiate review of a subdivision under 76-4-125, MCA, a person must submit a complete application, signed by the owner of the subdivision or an authorized representative, to the department. If the department has certified a local department or board of health to review subdivisions pursuant to 76-4-104, MCA, the application must be submitted to the local reviewing authority.

(2) A subdivision application must be on a form approved by the department. Copies of the application form may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901, <http://www.deq.mt.gov>, or from the local reviewing authority.

(3) A copy of the complete application, including all supporting information supplied to the reviewing authority, and all resubmittals of the application, must be submitted concurrently to the local health officer having jurisdiction for purposes of reviewing compliance with local laws and regulations, as provided in ARM 17.36.108.

(4) To resume review of an application that has been inactive for more than one year after the issuance of a denial letter by the reviewing authority, the applicant shall reapply and submit fees as required by subchapter 8, unless the file is inactive due to ground water monitoring or other requirements imposed by the reviewing authority.

(5) In addition to meeting the requirements of this chapter, subdivisions designed for the placement of mobile homes or recreational camping vehicles may be subject to the requirements of Title 37, chapter 111, subchapter 2.

(6) If a proposed subdivision includes facilities for subsurface wastewater disposal, including gray water irrigation, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The designated agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements. (History: 76-4-104, MCA; IMP, 76-4-104, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1981 MAR p. 254, Eff. 3/27/81; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 967, Eff. 4/14/00; AMD, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2009 MAR p. 1786, Eff. 10/16/09.)

- 17.36.103 APPLICATION--CONTENTS (1) In addition to the completed application form required by ARM 17.36.102, the following information must be submitted to the reviewing authority as part of a subdivision application:
- (a) payment of subdivision review fees as required in subchapter 8;
 - (b) plans and specifications for water supply, wastewater treatment, and storm water systems;
 - (c) if public or multiple user water supply or wastewater systems are proposed, three copies of final plans and specifications;
 - (d) a lot layout document as required by ARM 17.36.104;
 - (e) if nonmunicipal water supply or wastewater systems are proposed, a vicinity map or plan showing the locations of the following features within the area impacted by mixing zones or within 100 feet (whichever is greater) of the proposed water supply or wastewater system:
 - (i) lakes, streams, irrigation ditches, wetlands, and springs;
 - (ii) existing, previously approved, and proposed wells, wastewater treatment systems, and mixing zones;
 - (f) evidence that the water source for the proposed subdivision is sufficient in terms of quality, quantity, and dependability, as required by ARM 17.36.331 and 17.36.332;
 - (g) if water is to be supplied by means other than individual on-site wells, information about water right ownership and water use agreements;
 - (h) if subsurface wastewater treatment systems are proposed:
 - (i) soil profile descriptions, percolation tests if required, and other pertinent soil information for each proposed drainfield;
 - (ii) seasonal high ground water information;
 - (iii) direction and percentage of slope across the treatment area (or a contour map with a minimum contour interval of two feet); and
 - (iv) any other evidence to show whether the wastewater treatment systems are sufficient in terms of capacity and dependability;
 - (i) if gray water irrigation systems are proposed:
 - (i) descriptions of the soils within 25 feet of proposed gray water irrigation areas. Soils must be described in accordance with Appendix B of Department Circular DEQ-4. Each test hold must be keyed by a number on a copy of the lot layout or map with the information provided in the report; and
 - (ii) the location and design of the proposed systems;
 - (j) a copy of the nondegradation analysis and calculations as required by ARM 17.30.715;
 - (k) a storm drainage map and plan as required by ARM 17.36.310;
 - (l) the name of the solid waste disposal site that will serve the subdivision;
 - (m) a copy of any environmental assessment required for the subdivision under Title 76, chapter 3, MCA;
 - (n) a copy of the plat, certificate of survey, deed, or other document that is consistent with the document that will be, or has been, filed with the county clerk and recorder for the proposed subdivision;

(o) a copy of applicable letters of approval or denial from local government officials;

(p) a copy of applicable supporting legal documents, including documents relating to easements, covenants, water rights, water user agreements, and establishment of homeowners' associations and local districts;

(q) if an application involves a change to the plans and specifications for a subdivision previously approved by the reviewing authority, a copy of the certificate of subdivision approval and a copy of the approved lot layout document; and

(r) all additional information that is required under this chapter or that the reviewing authority determines is reasonably necessary for the review of the proposed subdivision. (History: 76-4-104, MCA; IMP, 76-4-104, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2009 MAR p. 1786, Eff. 10/16/09.)

17.36.104 APPLICATION--LOT LAYOUT DOCUMENT (1) The applicant shall provide four copies of a lot layout document for the proposed subdivision. The lot layout document must be on a sheet no larger than 11" x 17". Multiple lots should be shown on one sheet, at a scale no smaller than 1" = 200'. Multiple sheets may be used for large developments.

(2) The following information must be provided on the lot layout document. Other information (e.g., percolation test results, soil profile descriptions) may be included on the lot layout document only if the document remains legible:

(a) the name of the subdivision, and the county, section, township and range (e.g., "Sec. 12 T27N R6E") in which the proposed subdivision is located;

(b) a north arrow and scale;

(c) the boundaries, dimensions, and total area of each lot;

(d) an identifier or number for each lot (e.g., "Lot 1, Lot 2," "Tract 1, Tract 2," or "Parcel 1, Parcel 2");

(e) locations of existing and proposed easements;

(f) locations of existing and proposed roads;

(g) locations and sizes of existing and proposed storm water structures (culverts, ponds, dry wells, etc.);

(h) locations of drainageways;

(i) name and affiliation of the person who prepared the lot layout;

(j) information as set out in Table 1 for the specific water supply and wastewater systems in the subdivision. All systems must be labeled as "existing" or "proposed."

SUBDIVISIONS/ON-SITE
SUBSURFACE WASTEWATER TREATMENT

17.36.104

TABLE 1
REQUIREMENTS FOR LOT LAYOUTS

	Subdivisions served by nonmunicipal wells	Subdivisions served by nonmunicipal wastewater systems	Subdivisions served by municipal water	Subdivisions served by municipal wastewater systems
Existing and proposed wells and 100-ft setback	X	X	X	X
Water lines (suction and pressure)			X	X
Water lines (extension and connections)		X	X	
Existing and proposed wastewater systems (drainfield, replacement area, and existing septic tanks)	X	X		
Existing and proposed gray water irrigation systems	X	X	X	X
Percent and direction of slope across the drainfield	X	X		
Sewer lines (extensions and connections)	X	X	X	X
Lakes, springs, irrigation ditches, wetlands and streams	X	X		
Percolation test locations, if provided, keyed to result form		X		

	Subdivisions served by nonmunicipal wells	Subdivisions served by nonmunicipal wastewater systems	Subdivisions served by municipal water	Subdivisions served by municipal wastewater systems
Soil pit locations keyed to soil profile descriptions		X		
Ground water monitoring wells keyed to monitoring results form		X		
Floodplain boundaries	X	X	X	X
Cisterns		X		
Existing building locations		X		
Driveways		X		
Road cuts and escarpments or slopes > 25%		X		
Mixing zone boundaries and direction of ground water flow	X	X		

(History: 76-4-104, MCA; IMP, 76-4-104, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2009 MAR p. 1786, Eff. 10/16/09.)

17.36.105 SUBDIVISION AND PLATTING ACT EXCLUSIONS SUBJECT TO DEPARTMENT REVIEW (REPEALED) (History: 76-4-104, MCA; IMP, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; TRANS, from DHES, 1996 MAR p. 1499; REP, 2002 MAR p. 1465, Eff. 5/17/02.)

17.36.106 REVIEW PROCEDURES--APPLICABLE RULES (1) The procedures for review of subdivision applications by the reviewing authority are as follows:

(a) Upon receipt of a subdivision application, a resubmittal, or additional information provided by the applicant, the department will have 60 days to deny, approve, or conditionally approve the subdivision application. If an environmental impact statement is required, action must be taken within 120 days.

(b) If a local department or board of health has been certified as the reviewing authority pursuant to 76-4-104, MCA, the local reviewing authority shall, within 50 days after receipt of a subdivision application, review the application and forward the application to the department together with a recommended action for approval, conditional approval, or denial. The department shall take final action on the application within the time remaining in the 60-day or 120- period set out in (1)(a).

(i) If the local reviewing authority recommends denial of an application, the recommendation must be in the form of a denial letter sent to the applicant within 50 days after receipt of the application. The local reviewing authority shall send a copy of the application and denial letter to the department. A denial letter issued by the local reviewing authority shall constitute the department's final action regarding the denial unless the department finds, pursuant to ARM 17.36.116, that the recommended denial was in error.

(c) If an application is incomplete, the reviewing authority shall deny the application, setting forth, in writing, the deficiencies to the applicant or the applicant's representative. When the additional information is submitted, the reviewing authority shall review such additional information within the timeframes specified in (1)(a) or (b) as applicable.

(2) Subdivision lots recorded with sanitary restrictions prior to July 1, 1973, shall be reviewed in accordance with requirements set forth in this chapter. In cases where any requirements of this chapter would preclude the use for which each lot was originally intended, then the applicable requirements (including the absence thereof) in effect at the time such lot was recorded shall govern except that sanitary restrictions in no case shall be lifted from any such undeveloped lot which cannot satisfy any of the following requirements:

- (a) if a subsurface wastewater treatment system is utilized, there must be at least four feet from the natural ground surface to a limiting layer;
- (b) the site for any subsurface wastewater treatment system may not exceed 25% in slope;
- (c) no part of the lot utilized for the subsurface wastewater treatment system may be located in a 100-year floodplain;
- (d) if a subsurface wastewater treatment system is utilized, soil conditions must provide for safe treatment and disposal of wastewater effluent; and
- (e) the proposed water supply must comply with the requirements of this chapter. (History: 76-4-104, MCA; IMP, 76-4-104, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2002 MAR p. 1465, Eff. 5/17/02.)

Rule 17.36.107 reserved

17.36.108 COMPLIANCE WITH LOCAL REQUIREMENTS (1) The applicant shall provide the department with evidence, as set out in (2), as to whether facilities for the supply of water, disposal of wastewater, disposal of solid waste, and drainage of storm water are in compliance with applicable laws and regulations of local government. A facility that has an MPDES surface water discharge permit issued pursuant to ARM Title 17, chapter 30, subchapter 13 is exempt from the requirements of this rule.

(2) The evidence required by (1) must show whether the facilities are in compliance with the laws and regulations of local government relating to water quality, water supply, wastewater disposal, solid waste disposal, and storm water drainage, which are in effect at the time of the submittal of the application to the reviewing authority pursuant to this chapter. The evidence must be in one of the following forms:

(a) a certificate of compliance or a denial letter, in a format approved by the department, signed by the local health officer having jurisdiction. A certificate of compliance may contain conditions of approval;

(b) if the proposed subdivision is reviewed by the local health officer under authority delegated by the department under Title 76, chapter 4, MCA, a signed certificate of subdivision approval; or

(c) a written demonstration by the applicant, in a format approved by the department, that the applicant has requested a certificate of compliance from the local health officer having jurisdiction and the health officer has not issued a denial letter or a certificate of compliance within 50 days of receiving a copy of the application. The department shall presume in such cases that the facilities in the proposed subdivision application are in compliance with the applicable laws and regulations of local government.

(3) The department shall identify, in its certificate of subdivision approval, all conditions of approval imposed by the local health officer in its review pursuant to this rule. Requirements of the local health officer may not be less stringent than state standards for the control and disposal of sewage promulgated pursuant to 75-5-305(2), MCA.

(4) As provided in ARM 17.36.110, the department may not issue a certificate of subdivision approval if non-public facilities for water supply or for the disposal of wastewater are proposed, unless the applicant has submitted evidence, in accordance with this rule, that the design for the non-public water supply and wastewater disposal facilities complies with applicable laws and regulations of local government. (History: 76-4-104, MCA; IMP, 76-4-104, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1981 MAR p. 254, Eff. 3/27/81; AMD, 1984 MAR p. 1027, Eff. 7/13/84; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 967, Eff. 4/14/00; AMD, 2002 MAR p. 1465, Eff. 5/17/02.)

Rule 17.36.109 reserved

17.36.110 CERTIFICATE OF APPROVAL (1) Subject to the local certification requirements set out in (2) and (3), the reviewing authority shall issue a certificate of subdivision approval if:

- (a) an applicant has submitted all of the information required by this chapter;
- (b) the requirements of this chapter and of the Montana Environmental Policy Act have been met; and
- (c) the reviewing authority determines that:
 - (i) wastewater will not pollute or degrade state waters or endanger public health;
 - (ii) all wastewater disposal facilities are sufficient in terms of capacity and dependability;
 - (iii) the water supply will be sufficient in terms of quality, quantity, and dependability;
 - (iv) solid waste disposal will be in accordance with applicable state laws and rules; and
 - (v) storm drainage will have proper drainageways and the drainage will not pollute state waters.

(2) The reviewing authority may not issue a certificate of subdivision approval if non-public facilities for water supply or for the disposal of wastewater are proposed, unless the applicant has submitted evidence, in accordance with ARM 17.36.108, that the design for the non-public water supply and wastewater disposal facilities complies with applicable laws and regulations of local government.

(3) The reviewing authority shall identify, in its certificate of subdivision approval, all conditions of approval imposed by the local health officer in its review pursuant to ARM 17.36.108. Requirements of the local health officer may not be less stringent than state standards for the control and disposal of sewage promulgated pursuant to 75-5-305(2), MCA.

(4) Pursuant to a contract between the department and a local reviewing authority, minor changes to a certificate of subdivision approval may be made through an approval by the local reviewing authority of an "as-built" lot layout document. Amendment of the certificate of approval shall be effective upon filing of the approved "as-built" lot layout document with the clerk and recorder's office, with a copy sent to the department. Only the following changes may be made through the "as-built" procedure:

(a) relocation of structures, water systems, or sewer systems, provided that the changes comply with Title 76, chapter 4, part 1, MCA, this chapter, and all related rules and regulations; and

(b) changes to structures, water, or wastewater systems that do not significantly affect the approval statement of the subdivision. (History: 76-4-104, MCA; IMP, 76-4-104, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 967, Eff. 4/14/00; AMD, 2002 MAR p. 1465, Eff. 5/17/02.)

17.36.111 MOBILE HOMES AND RECREATIONAL CAMPING VEHICLES
(REPEALED) (History: 76-4-104, MCA; IMP, 76-4-104, 76-4-125, MCA; NEW,
1984 MAR p. 1027, Eff. 7/13/84; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS,
from DHES, 1996 MAR p. 1499; REP, 2002 MAR p. 1465, Eff. 5/17/02.)

Rules 17.36.112 through 17.36.115 reserved

17.36.116 CERTIFICATION OF LOCAL DEPARTMENT OR BOARD OF HEALTH (1) A local department or board of health, if it requests certification, must be certified as the reviewing authority if the following requirements are met and the sanitarian or engineer is qualified as described in (2):

(a) the local department or board of health employs a registered sanitarian or a registered professional engineer responsible to perform the actual review. Those local governments employing more than one registered sanitarian or registered professional engineer shall designate one such person to be responsible for the review program; and

(b) the local department or board of health is required, pursuant to a written contract, to review subdivision applications according to:

- (i) the provisions of Title 76, chapter 4, MCA;
- (ii) this chapter;
- (iii) applicable department circulars;
- (iv) Title 75, chapter 5, MCA;
- (v) ARM Title 17, chapter 30, subchapters 5 and 7; and
- (vi) other applicable laws and regulations.

(2) A registered sanitarian or registered professional engineer, prior to performing subdivision review, shall:

(a) pass, with a score of at least 90%, a written examination administered by the department that demonstrates knowledge of:

- (i) Title 76, chapter 4, MCA;
- (ii) this chapter;
- (iii) applicable department circulars;
- (iv) Title 75, chapter 5, MCA;
- (v) ARM Title 17, chapter 30, subchapters 5 and 7; and
- (vi) other applicable laws and regulations; and

(b) have a minimum of one year's experience performing subdivision review under the direct supervision of the department or of a department-approved registered sanitarian or registered professional engineer.

(3) The department's oversight of a certified local reviewing authority's review of subdivision applications shall be limited to the following:

(a) within the 60-day review period, the department shall determine, by reference to the local reviewing authority's review checklist or by other means, whether the local reviewer has conducted a completeness review of the application and whether the local reviewer has completed a compliance review of all systems designated by the contract between the department and the local reviewing authority. If the department determines that either of these tasks was not completed, the department may return the application to the local reviewing authority for further review or may itself complete the review;

(b) within the 60-day review period, the department may check the accuracy of the local reviewing authority's review of subdivision applications. The department's accuracy checks must be limited to 10% of the applications submitted to the department by the local reviewing authority, except that the department may also review an application:

(i) upon the request of the local reviewing authority; or

(ii) when the department has reason to question the local reviewing authority's determination for a particular application;

(c) if the department identifies possible errors or discrepancies in the local reviewer's determination regarding an application, the department shall consult with the local reviewer. If, after consultation, the department does not agree with the local reviewer's determination regarding an application's compliance with applicable state laws, rules, and circulars, the department may, prior to the expiration of the review period for the application, modify the local determination regarding the state requirements;

(d) in addition to, or instead of, examining locally reviewed applications during the 60-day review period, the department may conduct an annual audit of a representative sample of locally reviewed applications.

(4) The department retains the right to suspend or revoke the certification of the local department or board of health if the department determines that the local reviewing authority is not complying with the sanitation in subdivisions act or other applicable statutes or rules. (History: 76-4-104, MCA; IMP, 76-4-104, 76-4-105, MCA; NEW, 1986 MAR p. 1509, Eff. 9/12/86; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2002 MAR p. 1465, Eff. 5/17/02.)

Subchapter 2 reserved

