

Montana Index of Environmental Permits
Montana Environmental Quality Council, 2008

When land is subdivided, that division of land is subject to the requirements of both chapter 3 and chapter 4 of Title 76, Montana Code Annotated. An explanation of chapter 4 follows.

SANITATION IN SUBDIVISIONS

The Montana Department of Environmental Quality (DEQ) sets standards for the review and approval of water systems for subdivisions to protect the quality and potability of water for public uses. These standards apply to public and private water supplies (including individual wells), sewage disposal facilities, storm water drainage ways and solid waste disposal. Review of certain subdivisions and enforcement of these requirements may be delegated to a local department or board of health.

1. Types of Activities Regulated

Condominiums, mobile home parks, recreational vehicle parks and divisions of land that create a parcel of less than 20 acres are subject to sanitary review. A person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the subdivision has been reviewed and approved by the Montana Department of Environmental Quality (DEQ) or by the local reviewing authority if the DEQ has certified a local department or board of health. Subdivisions within the jurisdictional areas that have growth policies that meet the requirements described in statute (76-1-601, MCA), or within a first-class or second-class municipality, and for which municipal water, sewage disposal, solid waste and storm drainage will be provided are not subject to review, but will be required to provide a notice of certification of adequate municipal facilities (municipal facilities checklist).

Statute: 76-4-101, *et seq.*, MCA (Sanitation in Subdivisions Act)

Rule: ARM 17.36.101, *et seq.*, local regulations

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Public Water Supply and Subdivisions Bureau

LOCAL GOVERNMENT
Health Department

2. Application Requirements

An applicant planning to subdivide land must submit a completed subdivision application form, supporting information (see ARM 17.36.103) and public comment collected by the governing body regarding water and sanitation information, to the DEQ. If the DEQ has certified a local department or board of health to review subdivisions, the application must be submitted to the local reviewing authority.

Statute: 76-3-504 (1)(g)(iii)(B), 76-3-604, 76-3-622, 76-4-104 and 76-4-125, MCA

Rule: ARM 17.36.101-17.36.104

3. Review Procedures

- A. On receipt of a subdivision application or resubmittal or additional information provided by the applicant, the DEQ has 60 days for final action. If an Environmental Impact Statement is required, final action must be taken within 120 days.
- B. If a local government or board of health has been certified as the reviewing authority, it has 50 days to recommend action on the application to the DEQ. The DEQ then has 10 days to take final action. If the application is denied, the statutory time limits begin again once a response has been received.

Rule: ARM 17.36.106 and 17.36.108

4. Criteria

The DEQ's rules set standards and procedures relating to size of lots, topography, geology, hydrology, type of facilities proposed and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be adequate water supply, drainage, sewage and solid waste disposal systems. The DEQ will issue a certificate of subdivision approval when it is satisfied that adverse impacts to state waters will not occur and the water supply is of adequate quantity, quality and dependability; the sewage disposal facility is sufficient in terms of capacity and dependability; and the solid waste disposal and storm drainage plans and designs are in accordance with state and local laws and regulations.

Rule: ARM 17.36.101, *et seq.*

5. **Fees**

A schedule of fees is set out in the rules. Contact the DEQ, see the fee schedules in the rules or the fee checklist with the application materials.

Statute: 76-4-105, MCA

Rule: ARM 17.36.801, *et seq.*

6. **Additional Information**

If there is a denial of approval of the subdivision that relates to environmental health facilities, the aggrieved developer may request a hearing before the Board of Environmental Review.

Statute: 76-4-126, MCA