

## HOUSE BILL NO. 640

INTRODUCED BY HAINES, WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LOCAL GOVERNMENT BUILDING CODE AUTHORITY; ELIMINATING THE ABILITY OF A COUNTY TO DESIGNATE A PORTION OF A COUNTY OUTSIDE OF A MUNICIPALITY CITY OR TOWN AS THE COUNTY JURISDICTIONAL AREA; ELIMINATING ELECTION REQUIREMENTS RELATED TO BUILDING CODES; REVISING DEFINITIONS AND THE USE OF DEFINED TERMS; PROVIDING A TRANSITION PERIOD CONCERNING JURISDICTION; AMENDING SECTIONS 13-19-106, 50-3-103, 50-60-101, 50-60-310, ~~AND 50-60-311~~, 50-60-102, 50-60-106, 50-60-107, 50-60-109, 50-60-110, 50-60-115, 50-60-118, 50-60-205, 50-60-211, 50-60-212, 50-60-213, 50-60-301, 50-60-302, 50-60-303, 50-60-404, 50-60-506, 50-60-510, 50-60-604, 50-60-605, AND 50-60-607, MCA; REPEALING SECTIONS 50-60-310, 50-60-311, 50-60-312, 50-60-313, AND 50-60-314, MCA; AND PROVIDING ~~AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE~~ DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 13-19-106, MCA, is amended to read:

**"13-19-106. General requirements for mail ballot election --~~exception for county building code jurisdiction election~~.** A mail ballot election must be conducted substantially as follows:

(1) Official ballots must be prepared and all other initial procedures followed as otherwise provided by law, except that mail ballots are not required to have stubs.

(2) ~~(a) Except as provided in subsection (2)(b), an~~ An official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

~~(b) In an election to determine whether to adopt a building code enforcement program within a county jurisdictional area, as defined in 50-60-101 and designated by a board of county commissioners pursuant to 50-60-310, an official ballot must be mailed to every record owner of real property in the county jurisdictional area.~~

(3) Each return/verification envelope must contain a form prescribed by the secretary of state for the elector to verify the accuracy of the elector's address or notify the election administrator of the elector's correct mailing address and to return the corrected address with the voted ballot in the manner provided by 13-19-306.

(4) The elector shall mark the ballot at home and place it in a secrecy envelope.

(5) The elector shall then place the secrecy envelope containing the elector's ballot in a return/verification

envelope and shall return it by mailing it or delivering it in person to a place of deposit designated by the election administrator so that it is received before a specified time on election day.

(6) Once returned, election officials shall first qualify the submitted ballot by examining the return/verification envelope to determine whether it is submitted by a qualified elector who has not previously voted.

(7) If the ballot qualifies and is otherwise valid, officials shall then open the return/verification envelope and remove the secrecy envelope, which is then voted by depositing it unopened in an official ballot box.

(8) After the close of polls on election day, voted ballots must be counted and canvassed as otherwise provided by law."

**SECTION 2. SECTION 50-3-103, MCA, IS AMENDED TO READ:**

**"50-3-103. Rules promulgated by department.** (1) Rules promulgated by the department by authority of 50-3-102 must be reasonable and calculated to effect the purposes of this chapter. The rules must include but are not limited to requirements for:

- (a) design, construction, installation, operation, storage, handling, maintenance, or use of structural requirements for various types of construction;
- (b) building restrictions within congested districts;
- (c) exit facilities from structures;
- (d) fire extinguishers, fire alarm systems, and fire extinguishing systems;
- (e) fire emergency drills;
- (f) flue and chimney construction;
- (g) heating devices;
- (h) electrical wiring and equipment;
- (i) air conditioning, ventilating, and other duct systems;
- (j) refrigeration systems;
- (k) flammable liquids;
- (l) oil and gas wells;
- (m) application of flammable finishes;
- (n) explosives, acetylene, liquefied petroleum gas, and similar products;
- (o) calcium carbide and acetylene generators;
- (p) flammable motion picture film;

- (q) combustible fibers;
- (r) hazardous chemicals or materials;
- (s) rubbish;
- (t) open-flame devices;
- (u) parking of vehicles;
- (v) dust explosions;
- (w) lightning protection;
- (x) storage of smokeless powder and small arms primers; and
- (y) other special fire hazards.

(2) If rules relate to building and equipment standards covered by the state building code or a ~~municipal~~ county, city, or town building code, the rules are effective upon approval of the department of labor and industry and filing with the secretary of state.

(3) Federal or other nationally recognized standards for fire protection may be adopted in whole or in part by reference.

(4) Rules must be adopted as prescribed in the Montana Administrative Procedure Act.

(5) Rules promulgated by the department may not prevent the installation of an aboveground storage tank in a community, city, or town with a population of 1,500 or less if the tank is installed in conformance with all other applicable laws and regulations.

(6) Rules promulgated by the department may not require diked areas or heat-actuated or other shutoff devices for storage tanks containing class I or class II liquids, as defined in the uniform fire code, intended only for private use on farms and ranches.

(7) A person violating any rule made under the provisions of this part is guilty of a misdemeanor."

**Section 3.** Section 50-60-101, MCA, is amended to read:

**"50-60-101. Definitions.** As used in parts 1 through 4 and 7 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Alteration" means any change, addition, or modification in construction or occupancy.

(2) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form a structure and the related facilities for the use or occupancy by persons or property. The term must be construed as though followed by the words "or part or parts of a building".

(3) (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or

special, or compilation of laws, rules, resolutions, regulations, ordinances, or codes enacted or adopted by the state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and installation of equipment in buildings.

(b) The term does not include zoning ordinances.

~~(4)~~ "CITY OR TOWN" MEANS AN INCORPORATED CITY OR TOWN AS PROVIDED FOR IN TITLE 7, CHAPTER 2, PART 41.

~~(4)~~(5) "Code enforcement program" means the plan for enforcement of the building regulations adopted by a municipality or county and includes the local building department and the staff associated with executing any aspect of the program's purposes or functions.

~~(5)~~(6) "Construction" means the original construction and equipment of buildings and requirements or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

~~(6)~~ "County jurisdictional area" means the entire county, or an area or areas within the county, designated by the board of county commissioners as subject to the county building code, excluding any area that is within the limits of an incorporated municipality that has adopted a building code.

(7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(8) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

(9) (a) "Factory-built building" means a factory-assembled structure or structures equipped with the necessary service connections but not made so as to be readily movable as a unit or units and designed to be used with a permanent foundation.

(b) The term does not include manufactured housing constructed after June 15, 1976, under the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.

(10) "Local building department" means the agency or agencies of a ~~municipality~~ COUNTY, CITY, OR TOWN charged with the administration, supervision, or enforcement of building regulations, the approval of plans, the inspection of buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required by state or local building regulations.

(11) "Local legislative body" means the council or commission charged with governing the ~~municipality~~ COUNTY, CITY, OR TOWN.

~~(12)~~ "Municipal jurisdictional area" means the area within the limits of an incorporated municipality.

~~(13)~~ "Municipality" means any incorporated city or town.

~~(14)~~(12) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a building.

~~(15)~~(13) (a) "Primary function area" means an area of a building or facility in which a major activity for which the building or facility is designed is carried out. Primary function areas include but are not limited to a customer service lobby of a savings institution, a cafeteria dining area, and meeting rooms of a conference center.

(b) Areas that are not primary function areas include but are not limited to boiler rooms, storage rooms, employee lounges, janitorial closets, entrances, corridors, and restrooms.

~~(16)~~(14) "Public building" means a building or facility owned or operated by a governmental entity or a private sector building or facility that is open to members of the public.

~~(17)~~(15) "Public sidewalk" means a sidewalk located in a public right-of-way.

~~(18)~~(16) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own mode of power or is mounted on or towed by another vehicle, including but not limited to a:

- (a) travel trailer;
- (b) camping trailer;
- (c) truck camper; or
- (d) motor home.

~~(19)~~(17) "Site" means a parcel of land bounded by property lines or a designated portion of a public right-of-way.

~~(20)~~(18) "State agency" means any state officer, department, board, bureau, commission, or other agency of this state.

~~(24)~~(19) "State building code" means the state building code provided for in 50-60-203 or any portion of the code of limited application and any of its modifications or amendments."

~~Section 3.~~ Section 50-60-310, MCA, is amended to read:

~~"50-60-310. Designation of county jurisdictional area for county building code. (1) To designate a county jurisdictional area for a county building code, the board of county commissioners:~~

~~(a)(1) shall pass a resolution of intent to adopt the county jurisdictional area;~~

~~(b)(2) shall give notice to the public as provided in 7-1-2121. The notice must state:~~

~~(i)(a) the time and place of the public hearing;~~  
~~(ii)(b) the boundaries of the proposed county jurisdictional area;~~  
~~(iii)(c) the procedures and deadlines for filing a written protest; and~~  
~~(iv)(d) that a map and description of the boundaries of the proposed county jurisdictional area and the names and addresses of the owners of real property in the proposed county jurisdictional area are on file for public inspection at the office of the county clerk and recorder.~~  
~~(c)(3) shall hold a public hearing no earlier than 30 days or later than 90 days after passage of the resolution of intent;~~  
~~(d)(4) at the public hearing:~~  
~~(i)(a) shall accept written protests from owners of real property in the proposed county jurisdictional area; and~~  
~~(ii)(b) must receive general protests and comments relating to the designation of the boundaries of the proposed county jurisdictional area; and~~  
~~(e)(5) subject to subsection (2), shall may adopt the county jurisdictional area, effective 60 days after passage of the resolution of the code enforcement program as approved by the department.~~  
~~(2) If a written protest is submitted by owners of real property in the proposed county jurisdictional area representing more than 10% of the owners of real property in the proposed area, the board of county commissioners may not adopt the county jurisdictional area for a county building code without submitting to an election, as provided in 50-60-312, the question of adoption of the code enforcement program as approved by the department of labor and industry."~~

~~**Section 4.** Section 50-60-311, MCA, is amended to read:~~

~~**"50-60-311. Approval by department of labor and industry of code enforcement program.** After completion of the public hearing required by 50-60-310 and receipt of any written protests within the time period provided by the notice required in that section, the board of county commissioners may submit a proposed code enforcement program for that jurisdictional area to the department of labor and industry for approval. The department shall approve the program if it satisfies the criteria provided in 50-60-302. Upon approval by the department of the proposed code enforcement program, the board of county commissioners shall file with the county clerk and recorder a copy of the approved program and a map showing description of the county jurisdictional area as designated by the county commission."~~

**SECTION 4. SECTION 50-60-102, MCA, IS AMENDED TO READ:**

**"50-60-102. Applicability.** (1) Except as provided in subsection (5), the state building code, as defined in 50-60-203(3), does not apply to:

(a) residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building of any size, and any private garage or private storage structure of any size used only for the owner's own use, located within ~~the municipality's or county's jurisdictional area~~ a county, city, or town, unless the local legislative body ~~or board of county commissioners~~ by ordinance or resolution makes the state building code applicable to these structures;

(b) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection under the Federal Mine Safety and Health Act;

(c) petroleum refineries and pulp and paper mills, except a structure classified under chapter 7, section 701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the Uniform Building Code; or

(d) industrial process piping, vessels, and equipment and process-related structures located outside of another structure occupied on a regular basis by employees or the public.

(2) Except as provided in subsection (5), the state may not enforce the state building code under 50-60-205 for the buildings referred to in subsection (1). ~~Local governments~~ A county, city, or town that have has made the state building code applicable to the buildings referred to in subsection (1) may enforce within ~~their jurisdictional areas~~ the area of its jurisdiction the state building code as adopted by the ~~respective local government~~ county, city, or town.

(3) When good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(4) The department may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based on size, population density, special conditions prevailing in the area, or other factors that make differentiation or separate classification or regulation necessary, proper, or desirable.

(5) (a) For purposes of promoting the energy efficiency of home design and operation, the provisions of the state building code relating to energy conservation adopted pursuant to 50-60-203(1) apply to residential

buildings, except:

(i) farm and ranch buildings; and

(ii) any private garage or private storage structure attached to a residential building and used only for the owner's own use.

(b) The provisions of the state building code relating to energy conservation in residential buildings are enforceable:

(i) by the department only for those residential buildings containing five or more dwelling units or otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in 50-60-802 for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code."

**SECTION 5. SECTION 50-60-106, MCA, IS AMENDED TO READ:**

**"50-60-106. Powers and duties of ~~municipalities~~ counties, cities, and towns.** (1) The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the ~~municipal jurisdictional area~~ limits of a city or town are the responsibility of the ~~municipalities~~ city or town of the state. The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the portion of a county that is covered by a county building code are the responsibility of the county.

(2) Each ~~municipality or county~~, city, or town certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building code or ~~municipal~~ county, city, or town building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state building code or ~~municipal~~ county, city, or town building code, subject to the powers of variance or modification granted to the department;

(c) make available to building contractors at a price that is commensurate with reproduction costs a checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to contractors who attach a completed checklist to the plans submitted for examination the relevant building permit or notice



of plan disapproval within 10 working days of the contractor's submission;

(d) during and in the course of construction, order in writing the remedying of any condition found to exist in, on, or about any building that is being constructed in violation of the ~~applicable state~~ building code or ~~municipal county, city, or town~~ building code. Orders may be served upon the owner or the owner's authorized agent personally or by sending by certified mail a copy of the order to the owner or the owner's authorized agent at the address set forth in the application for permission for the construction of the building. A local building department, by action of an authorized officer, may grant in writing time as may be reasonably necessary for achieving compliance with the order. For the purposes of this subsection (2)(d), the phrase "during and in the course of construction" refers to the construction of a building until all necessary building permits have been obtained and the municipality or county has issued formal written approvals or has issued a certificate of occupancy for the building.

(e) issue certificates of occupancy as provided in 50-60-107;

(f) issue permits, licenses, and other required documents in connection with the construction of a building;

(g) ensure that all construction-related fees or charges imposed and collected by the municipality or county are necessary, reasonable, and uniform and are:

(i) except as provided in subsection (2)(g)(iii), used only for building code enforcement, which consists of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building codes, plus indirect costs charged on the same basis as other local government proprietary funds not paying administrative charges as direct charges. If indirect costs are waived for any local government proprietary fund, they must also be waived for the program established in this section. Indirect charges are limited to the charges that are allowed under federal cost accounting principles that are applicable to a local government.

(ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce building codes for 12 months. The excess must be placed in a reserve account and may only be used for building code enforcement. Collection and expenditure of fees and charges must be fully documented.

(iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees or charges collected, for the building codes education program established in 50-60-116.

(3) Each ~~municipality or county~~ county, city, or town with a building code enforcement program that has been certified under 50-60-302 may, within ~~its jurisdiction~~ the area of its jurisdiction:

(a) make, amend, and repeal rules for the administration and enforcement of the provisions of this section and for the collection of fees and charges related to construction;

(b) prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state building code or ~~municipal~~ county, city, or town building code; and

(c) enter into a private contract with the owner or builder of a building that is not or will not be within the jurisdiction of the ~~municipality or~~ county, city, or town under which the ~~municipality or~~ county, city, or town will provide reviews, inspections, orders, and certificates of occupancy for a fee and under conditions agreed upon by the parties. ~~Municipal or county~~ County, city, or town powers of enforcement may not be exercised."

**SECTION 6. SECTION 50-60-107, MCA, IS AMENDED TO READ:**

**"50-60-107. Certificate of occupancy.** (1) A certificate of occupancy for a building constructed in accordance with the provisions of the state building code or ~~municipal~~ county, city, or town building code ~~shall~~ must certify that the building conforms to the requirements of the building regulations applicable to it.

(2) Every certificate of occupancy, unless and until set aside or vacated by a court of competent jurisdiction, is binding and conclusive upon all ~~municipal~~ county, city, or town agencies as to all matters set forth, and ~~no~~ an order, directive, or requirement at variance ~~therewith~~ with the certificate of occupancy may not be made or issued by any other state agency or ~~municipal~~ county, city, or town agency."

**SECTION 7. SECTION 50-60-109, MCA, IS AMENDED TO READ:**

**"50-60-109. Injunctions authorized.** (1) The construction or use of the building in violation of any provision of the state building code or ~~municipal~~ county, city, or town building code or any lawful order of a state building official or a local building department may be enjoined by a judge of the district court in the judicial district in which the building is located.

(2) This section ~~will be~~ is governed by the Montana Rules of Civil Procedure."

**SECTION 8. SECTION 50-60-110, MCA, IS AMENDED TO READ:**

**"50-60-110. Violation a misdemeanor.** Any person served with an order pursuant to the provisions of parts 1 through 4 who fails to comply with the order not later than 30 days after service or within the time fixed by the department or a local building department for compliance, whichever is the greater, or any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, their agents, or any person taking part or assisting in the construction or use of any building who knowingly violates any of the applicable provisions of the state building code or ~~a municipal~~ county, city, or town building code is guilty of a misdemeanor."

**SECTION 9. SECTION 50-60-115, MCA, IS AMENDED TO READ:**

**"50-60-115. Building codes council -- purpose and structure.** (1) There is a building codes council for the purpose of assisting the department with the application, implementation, and interpretation of the state building code and building codes adopted by ~~local governments~~ counties, cities, or towns. The council shall work cooperatively with the department and with representatives of the construction industry, as well as members of the interested public, to harmonize building codes and related rules with both the needs of the construction industry and the public interest in efficiency, cost-effectiveness, and safety.

(2) The council consists of 11 members appointed by the governor, unless otherwise specified, as follows:

- (a) a practicing architect licensed in Montana;
  - (b) a practicing professional engineer licensed in Montana;
  - (c) a representative from the building contractor industry;
  - (d) a ~~municipal~~ county, city, or town building inspector;
  - (e) a representative of the manufactured housing industry;
  - (f) a member of the general public who does not hold public office and who does not represent the same industry or agency as another council member;
  - (g) the director of the department of health and human services or the director's designee;
  - (h) a licensed electrician selected by the board of electricians;
  - (i) a licensed plumber selected by the board of plumbers;
  - (j) the state fire marshal or the fire marshal's designee; and
  - (k) a representative of the home building industry.
- (3) The appointed council members serve at the pleasure of the governor for terms of 3 years.
- (4) The council is allocated to the department for administrative purposes only as provided in 2-15-121.
- (5) The council and its members are entitled to compensation as provided in 2-15-122."

**SECTION 10. SECTION 50-60-118, MCA, IS AMENDED TO READ:**

**"50-60-118. Examination of single-family dwelling plans -- statewide approval for model plans -- fee adjustments -- mandatory checklist.** (1) The department shall accept for examination and approval or disapproval all model construction plans for single-family dwellings submitted to the department.

(2) Once a model construction plan has been approved, the department shall indicate in writing on the approved plan that the plan is acceptable on a statewide basis and that no further examination is warranted

except with respect to:

- (a) zoning;
- (b) footings, foundations, and basements;
- (c) curbs;
- (d) gutters;
- (e) landscaping;
- (f) utility connections;
- (g) street requirements;
- (h) sidewalks; and
- (i) other requirements specifically related to the exterior of the building.

(3) Local building departments shall reduce plan examination fees commensurate with the reduced time and effort expended resulting from the department's examination provided for in subsection (1).

(4) This section may not be construed to reduce the requirements for obtaining permits for onsite inspection of the residence under construction pursuant to 50-60-106.

(5) (a) The department shall devise a checklist for the examination of single-family dwelling construction plans by the department and by the building code enforcement officials of ~~municipalities and counties, cities, and towns.~~ municipalities and counties, cities, and towns.

(b) The checklist must be based upon the most recently adopted edition of the council of American building officials One and Two Family Dwelling Code, as amended.

(c) The checklist is subject to review and amendment by the building codes council provided for in 50-60-115.

(d) The checklist must be made available to building contractors at a price that is commensurate with reproduction costs, and a building contractor who uses the checklist and attaches it to the plans that the contractor submits to the department or a ~~municipality or county, city, or town~~ municipality or county, city, or town for examination is entitled to receive the relevant building permit or notice of disapproval within 10 days of submission of the completed checklist."

**SECTION 11. SECTION 50-60-205, MCA, IS AMENDED TO READ:**

**"50-60-205. When state building code applies -- health care facility and public health center doors.**

(1) If a ~~municipality or county, city, or town~~ municipality or county, city, or town does not adopt a building code as provided in 50-60-301, the state building code applies within the ~~municipal or county, city, or town jurisdictional area~~ municipality or county, city, or town jurisdictional area and the state will enforce the code in these areas.

(2) Any provision of a building code requiring the installation or maintenance of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities as defined in 50-5-101 or to a public health center as defined in 7-34-2102."

**SECTION 12. SECTION 50-60-211, MCA, IS AMENDED TO READ:**

**"50-60-211. Inspections.** (1) The construction of a public building or alteration to a primary function area of a public building must be inspected for physical accessibility to persons with disabilities.

(2) The inspection must include the building site, including applicable exterior features, such as parking areas, passenger loading zones, private sidewalks, and the accessibility from adjacent public sidewalks, public streets, and public transportation stops.

(3) (a) The inspections must be completed by state building inspectors in areas not covered by a ~~municipal or county, city, or town~~ building code.

(b) (i) ~~Municipalities and counties~~ Counties, cities, and towns that have adopted a building code may assign appropriately trained personnel to perform site inspections conducted pursuant to this part.

(ii) ~~Municipalities and counties~~ Counties, cities, and towns conducting inspections pursuant to this section must have an enforcement mechanism in place to ensure compliance with the accessibility provisions of this part, including but not limited to denying building permits or certificates of occupancy, injunctions, or other civil enforcement procedures allowed by law.

(4) Existing public buildings that are not undergoing an alteration to a primary function area are not subject to the inspection provisions of this section."

**SECTION 13. SECTION 50-60-212, MCA, IS AMENDED TO READ:**

**"50-60-212. Disclaimer.** A building permit or certificate of occupancy issued by the state or by a ~~municipality or county, city, or town~~ must contain a statement that reads: "Compliance with the requirements of the state building code for physical accessibility to persons with disabilities does not necessarily guarantee compliance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, Title 49, chapter 2, commonly known as the Montana Human Rights Act, or other similar federal, state, or local laws that mandate accessibility to commercial construction or multifamily housing.""

**SECTION 14. SECTION 50-60-213, MCA, IS AMENDED TO READ:**

**"50-60-213. Accessible exterior routes -- exceptions.** (1) Except as provided in subsection (6), for

a public building, an accessible exterior route must be provided from public transportation stops located within the boundary of the building site, from accessible parking and accessible passenger loading zones within the boundaries of the building site, and from public sidewalks that are immediately adjacent to the building site, if sidewalks exist, to the building's accessible entrance served by the transportation stops, parking and loading zones, or sidewalks.

(2) (a) When more than one public building is located on a site, at least one accessible exterior route must connect accessible elements, facilities, and buildings that are on the site.

(b) For the purposes of 50-60-214 and this section, "element" means an architectural or mechanical component of a public building, facility, space, or site and includes but is not limited to telephones, curb ramps, doors, drinking fountains, seating, and water closets.

(3) An accessible exterior route between accessible public parking and an accessible building entrance must be the most practical direct route.

(4) (a) A person or entity constructing a public building is not required to fully comply with the provisions of this section if the person can demonstrate that due to characteristics of the terrain, it is structurally impractical to fully comply.

(b) Full compliance may be considered structurally impractical only in those rare circumstances when the unique characteristics of the terrain prevent the incorporation of accessibility features.

(c) The person or entity shall comply with the provisions of this section to the extent that compliance is not structurally impractical.

(d) The department shall adopt rules to assist all interested parties involved in the design, construction, and inspection processes in determining structural impracticality.

(5) (a) If a paved parking lot is not planned or present for a public building, a person or entity constructing the public building is not required to pave the entire lot, unless otherwise required by law, ordinance, or applicable building code, but shall provide pavement or a similarly firm, stable, and slip-resistant surface for parking spaces designated for persons with disabilities.

(b) An accessible exterior route with a suitably firm, stable, and slip-resistant surface must be provided from the designated parking spaces to an accessible building or facility entrance.

(c) The total number of designated accessible parking spaces in a parking lot or area must be the number provided for in the applicable state building code or ~~local government~~ county, city, or town building code.

(6) An accessible route is not required in cases where there is not a pedestrian route for the general public.

(7) The state, ~~municipalities, and counties,~~ cities, and towns shall use the same accessibility standards."

**SECTION 15.** SECTION 50-60-301, MCA, IS AMENDED TO READ:

**"50-60-301. ~~Municipal and county~~ County, city, and town building codes authorized -- health care facility and public health center doors -- fee adjustment for model plans.** (1) The local legislative body of a ~~municipality or county,~~ city, or town may adopt a building code to apply to the ~~municipal or county,~~ city, or town ~~jurisdictional area~~ by an ordinance or resolution, as appropriate:

(a) adopting a building code; or

(b) authorizing the adoption of a building code by administrative action.

(2) A ~~municipal or county,~~ city, or town building code may include only codes adopted by the department.

(3) Any provision of a building code requiring the installation or maintenance of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities, as defined in 50-5-101, or to a public health center, as defined in 7-34-2102.

(4) (a) When the same single-family dwelling plan is constructed at more than one site, the ~~municipality or county,~~ city, or town shall, after the first examination of the plan, adjust the required plan fee to reflect only the cost of reviewing requirements pertaining to the review of:

(i) zoning;

(ii) footings, foundations, and basements;

(iii) curbs;

(iv) gutters;

(v) landscaping;

(vi) utility connections;

(vii) street requirements;

(viii) sidewalks; and

(ix) other requirements related specifically to the exterior of the building.

(b) If a building contractor alters the single-family dwelling plan referred to in subsection (4)(a) in a fashion that substantially affects the building code requirements, the ~~municipality or county,~~ city, or town may impose the full examination fee permitted under 50-60-106."

**SECTION 16.** SECTION 50-60-302, MCA, IS AMENDED TO READ:

**"50-60-302. Certification of ~~municipal and county,~~ city, or town building codes.** (1) A county, ~~or~~

~~municipality~~ city, or town may not enforce a building code unless:

(a) the code enforcement program has been certified by the department as in compliance with applicable statutes and department certification rules;

(b) the current adopted code, a current list of fees to be imposed, and a current plan for enforcement of the code have been filed with and approved by the department; and

(c) all inspectors inspecting or approving any installations, which if accomplished commercially require state licensure, must themselves be properly and currently state-licensed as journeymen in that craft or occupation or be certified by a nationally recognized entity for testing and certification of inspectors that is approved by the department before being permitted to inspect or approve any installations.

(2) The department shall adopt additional rules and standards governing the certification of ~~municipal and county,~~ city, and town building code enforcement programs that must include provisions for prompt revocation of certification for refusal or failure to comply with any applicable statute or rule. The department may allow a county, ~~or municipality~~ city, or town a reasonable amount of time, not to exceed 6 months, to correct identified code enforcement program deficiencies, unless the deficiencies constitute an immediate threat to the public health, safety, or welfare, in which case the department may require immediate correction. Failure to correct deficiencies within the time set by the department constitutes a basis for immediate decertification of the code enforcement program. Continued operation of a county, ~~or municipal~~ city, or town code enforcement program in violation of a department order to correct deficiencies may be enjoined or subject to a writ of mandamus by a judge of the district court in the jurisdiction in which the county, ~~or municipality~~ city, or town is located. The rules and standards must include provisions for the department to ensure that all code enforcement program functions are being properly performed.

(3) If the certification of any local government code enforcement program is revoked for any violation or deficiency, the state resumes its original jurisdiction for state building code enforcement within the ~~municipal or county,~~ city, or town area and the local government retains the responsibility for completion of inspections and issuance of certificates of occupancy on any incomplete construction projects previously permitted by the ~~local government~~ county, city, or town, unless the reason for the decertification is directly related to the protection of health, safety, and welfare of the public.

(4) If a ~~local government~~ county, city, or town voluntarily decertifies its code enforcement program, the department must be given written notification of the intended decertification at least 90 days prior to the date of decertification. The ~~local government~~ county, city, or town retains the responsibility for completion of inspections and issuance of certificates of occupancy on any incomplete construction projects permitted by the ~~local~~



government county, city, or town prior to decertifying its code enforcement program."

**SECTION 17. SECTION 50-60-303, MCA, IS AMENDED TO READ:**

**"50-60-303. ~~Municipal and county~~ County, city, or town appeal procedure.** (1) If a ~~municipality or county, city, or town~~ adopts a building code, it shall also establish an appeal procedure by ordinance or resolution, as appropriate, that is acceptable to the department.

(2) If a ~~municipality or county, city, or town~~ does not adopt a code, appeals on the application of the state building code within the ~~municipal or county, city, or town jurisdictional area~~ must be made to the department."

**SECTION 18. SECTION 50-60-404, MCA, IS AMENDED TO READ:**

**"50-60-404. Enforcement of building construction standards for modular homes.** (1) The provisions of this chapter apply to factory-built modular or prebuilt homes or buildings.

(2) A ~~municipality~~ county, city, or town may regulate the construction of factory-built modular or prebuilt homes or buildings as provided in 50-60-106 if:

- (a) the homes or buildings are constructed inside the jurisdiction of the ~~municipality~~ county, city, or town;
- (b) the homes or buildings are sold primarily to persons in the county in which the factory is located;
- (c) the factory does not manufacture more than 100 homes or buildings a year; and
- (d) the ~~municipality~~ county, city, or town has an agency or officer assigned to inspect and enforce building construction standards.

(3) Inspection and enforcement approval given by a ~~municipality~~ county, city, or town under this section may be recognized and accepted by any other ~~municipality~~ county, city, or town of the state to which the factory-built home or building is transported for final installation. Additional inspections need not be conducted."

**SECTION 19. SECTION 50-60-506, MCA, IS AMENDED TO READ:**

**"50-60-506. Exceptions to permit requirement.** (1) ~~No~~ A permit is not required for any minor replacement or repair work, the performance of which does not have a significant potential for creating a condition hazardous to public health and safety.

(2) ~~No~~ A permit is not required where the installation is exempt under the provisions of 37-69-102 or 50-60-503.

(3) ~~No~~ A state permit is NOT required whenever the installation occurs in an area governed by a ~~municipality~~ county, city, or town and where there is in effect a ~~municipal~~ county, city, or town building code ~~which~~

that covers plumbing installations and ~~which~~ that provides inspection procedures.

(4) ~~Nothing contained in this~~ This part shall ~~does not~~ prohibit the owner of residential property from making an installation for all sanitary plumbing and potable water supply piping without a permit ~~providing he~~ if the owner personally does the work ~~himself~~.

(5) The provisions of this part do not apply to regularly employed maintenance personnel doing maintenance work on the business premises of their employer unless the work is subject to the permit provisions of this part."

**SECTION 20. SECTION 50-60-510, MCA, IS AMENDED TO READ:**

**"50-60-510. Inspections to ensure compliance.** All plumbing and drainage systems may be inspected by the department of labor and industry or an authorized representative or by a municipality or county, city, or town certified to perform an inspection pursuant to 50-60-302 in order to ensure compliance with the requirements of the state plumbing code. As part of any inspection, the inspector shall request proof of licensure from any person who is required to be licensed who is involved with or, in the inspector's judgment, appears to be involved with plumbing activities if the person is on the site. The inspector shall report any instance of license violation to the inspector's employing agency, and the employing agency shall in turn report the violation to the board of plumbers."

**SECTION 21. SECTION 50-60-604, MCA, IS AMENDED TO READ:**

**"50-60-604. Inspections -- electrical permits -- fees.** The department of labor and industry or an authorized representative or a ~~municipality or county,~~ city, or town certified to perform an inspection pursuant to 50-60-302 shall inspect electrical installations, issue electrical permits for these installations, and establish and charge a reasonable and uniform fee for the inspections. The fee must be commensurate with the expense of providing the inspection and with appropriations for other purposes. As part of any inspection, the inspector shall require proof of licensure from any person who is required to be licensed who is involved with or, in the inspector's judgment, appears to be involved with electrical installations if the person is on the site. The inspector shall report any instance of license violation to the inspector's employing agency, and the employing agency shall in turn report the violation to the board of electricians."

**SECTION 22. SECTION 50-60-605, MCA, IS AMENDED TO READ:**

**"50-60-605. Power supplier not to energize installation without electrical permit.** Individuals, firms,

cooperatives, corporations, or municipalities selling electricity are power suppliers. Except for temporary connections that the department of labor and industry may authorize by rule for a period not exceeding 14 days without a preconnection inspection, power suppliers may not connect with or energize an electrical installation under this part unless the owner or a licensed electrical contractor has delivered to the power supplier an electrical permit covering the installation, issued by the department of labor and industry or a ~~municipality or county, city, or town~~ certified to enforce the electrical code pursuant to 50-60-302."

**SECTION 23.** SECTION 50-60-607, MCA, IS AMENDED TO READ:

**"50-60-607. Energizing electrical installation without permit -- misdemeanor.** Any person, partnership, company, firm, association, or corporation, other than a power supplier, that energizes an electrical installation under this part for which an electrical permit has not been issued by the department of labor and industry or a ~~municipality or county, city, or town~~ certified to enforce the electrical code pursuant to 50-60-302 is guilty of a misdemeanor."

**NEW SECTION. SECTION 24. AREA OF APPLICABILITY OF COUNTY, CITY, OR TOWN BUILDING CODE -- ENFORCEMENT.** (1) A CITY OR TOWN THAT ADOPTS A BUILDING CODE UNDER THIS CHAPTER MAY ENFORCE ITS BUILDING CODE ONLY WITHIN THE INCORPORATED LIMITS OF THE CITY OR TOWN.

(2) A COUNTY MAY ADOPT A BUILDING CODE UNDER THIS CHAPTER ON A COUNTYWIDE BASIS UNLESS A CITY OR TOWN WITHIN THE COUNTY HAS ADOPTED A BUILDING CODE. IF A CITY OR TOWN WITHIN THE COUNTY HAS ADOPTED A BUILDING CODE, THEN THE COUNTY MAY NOT ENFORCE THE COUNTY BUILDING CODE IN THAT CITY OR TOWN.

(3) A COUNTY, CITY, OR TOWN MAY CONTRACT FOR THE ENFORCEMENT OF ITS BUILDING CODE.

**NEW SECTION. SECTION 25. TRANSITION.** (1) A MUNICIPALITY IS RESPONSIBLE FOR COMPLETING INSPECTIONS THAT ARE REQUIRED FOR THOSE BUILDING, ELECTRICAL, PLUMBING, AND MECHANICAL PERMITS ISSUED BY THE MUNICIPALITY IN AN EXTENDED JURISDICTIONAL AREA PRIOR TO OCTOBER 1, 2003.

(2) A PROJECT IN AN EXTENDED JURISDICTIONAL AREA THAT REQUIRED A BUILDING PERMIT PRIOR TO OCTOBER 1, 2003, IS SUBJECT TO CITY OR TOWN JURISDICTION UNTIL THE PROJECT IS COMPLETED. A MUNICIPALITY MAY NOT APPLY ITS BUILDING CODE TO A NEW PROJECT AFTER OCTOBER 1, 2003.

(3) A COUNTY THAT HAS NOT ADOPTED A BUILDING CODE PRIOR TO [THE EFFECTIVE DATE OF THIS SECTION] MAY ADOPT A BUILDING CODE, BUT THE BUILDING CODE MAY NOT BE EFFECTIVE BEFORE OCTOBER 1, 2003.

NEW SECTION. Section 26. Repealer. Sections 50-60-310, 50-60-311, 50-60-312, 50-60-313, and 50-60-314, MCA, are repealed.

NEW SECTION. SECTION 27. CODIFICATION INSTRUCTION. [SECTION 24] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 50, CHAPTER 60, PART 3, AND THE PROVISIONS OF TITLE 50, CHAPTER 60, PART 3, APPLY TO [SECTION 24].

NEW SECTION. Section 28. Effective date DATES. ~~[This act] is~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] IS EFFECTIVE OCTOBER 1, 2003.

(2) [SECTION 25 AND THIS SECTION] ARE effective on passage and approval.

~~NEW SECTION. Section 7. Retroactive applicability. [Section 5] applies retroactively, within the meaning of 1-2-109, to May 1, 2001.~~

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