

VOLUME NO. 44

OPINION NO. 39

LICENSES, PROFESSIONAL AND OCCUPATIONAL - License required for persons working in "field of plumbing";
MONTANA CODE ANNOTATED - Sections 37-69-101(3), (4), (7), 37-69-301;
OPINIONS OF THE ATTORNEY GENERAL - 44 Op. Att'y Gen. No. 12 (1991) (clarified).

HELD: The City of Billings may not allow public utility contractors to install water service lines which extend from the public water main to a point either within the boundaries of the private property or within 20 feet from any foundation wall of the premises, whichever distance is shorter as measured from the foundation wall, or wastewater service lines which extend from the public sewer main to a point within 2 feet from any foundation wall of the premises, unless the public utility contractor also has a plumber's license issued by the state.

August 27, 1992

Jim Nugent
Missoula City Attorney
435 Ryman
Missoula MT 59802-4297

Dear Mr. Nugent:

On behalf of the City of Missoula you have asked for an opinion clarifying the first holding in 44 Op. Att'y Gen. No. 12 (1991) which reads as follows:

The City of Billings may not allow public utility contractors to install water and wastewater service lines which extend from the public water or sewer main to a point within the boundaries of the private property or within 20 feet from any foundation wall of the private residence, unless the public utility contractor also has a plumber's license issued by the state.

Your request for clarification centers on the fact that the above holding does not acknowledge the difference between the statutory distance restriction for work on plumbing systems and the statutory distance restriction for work on drainage systems. The holding referenced above addressed only the statutory distance restriction for plumbing systems. Your concern is well-taken. Therefore, this opinion is issued for the purpose of clarifying the first holding of 44 Op. Att'y Gen. No. 12.

The holding, as written, addresses those particular instances when public utility contractors, licensed by the City of Billings, must have a state-issued plumber's

license. Montana law provides that

[a]ny person working at the field of plumbing in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state, either as a master plumber or as a journeyman plumber, or who while working at the field of plumbing shall connect plumbing to or disconnect plumbing from a public water supply or public sewer system shall first secure a state license as hereinafter provided.

§ 37-69-301, MCA. Of importance to this opinion is the licensure requirement for those persons "who *while working at the field of plumbing* shall connect plumbing to or disconnect plumbing from a public water supply or public sewer system." (Emphasis added.) Work in the "field of plumbing" includes any work having to do with the installation, removal, alteration, or repair of plumbing and drainage systems. § 37-69-101(4), MCA. These two specific systems are defined as follows:

(3) "Drainage system" means all the piping inside the walls of a building that conveys sewage or other liquid wastes outside the building to the building sewer but that does not extend more than 2 feet outside the building way [sic].

....

(7)(a) Except as provided in subsection (7)(b), "plumbing system" means all potable water supply and distribution pipes, plumbing fixtures and traps, drainage and vent pipes, and building drains, including their respective joints and connections, devices, receptacles, and appurtenances within the property lines of any premises, up to 20 feet beyond the building foundation line, and includes potable water piping, water heaters, and vents for the premises.

(b) As defined in subsection (7)(a), "plumbing system" does not include water services installed and maintained by water districts or water user associations in which water service is installed by any qualified person appointed or hired by the administrative authority of the water system.

§ 37-69-101(3), (7), MCA. The distance requirements for these two systems are critical to a determination of whether a plumber's license is required for the particular work being performed. Work done on a public water supply or public sewer system which does not include work falling within the statutory distances for plumbing or drainage systems does not require a state-issued plumber's license.

THEREFORE, IT IS MY OPINION that holding No. 1 of 44 Op. Att'y Gen. No. 12 should be clarified as follows:

The City of Billings may not allow public utility contractors to install water service lines which extend from the public water main to a point either within the boundaries of the private property or within 20 feet from any foundation wall of the premises, whichever distance is shorter as measured from the foundation wall, or wastewater service lines which extend from the public sewer main to a point within 2 feet from any foundation wall of the premises, unless the public utility contractor also has a plumber's license issued by the state.

Sincerely,

MARC RACICOT
Attorney General