

HOUSE BILL 44

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Natural Resources.
January 15, 1979	Committee recommend bill, do pass.
January 16, 1979	Printed and placed on members' desks.
January 17, 1979	Second reading, do pass.
January 18, 1979	Considered correctly engrossed.
January 19, 1979	Third reading, passed.

IN THE SENATE

January 20, 1979	Introduced and referred to Committee on Local Government.
January 29, 1979	Committee recommend bill, not concurred.

IN THE HOUSE

January 30, 1979	Returned from senate, not concurred.
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1                    HOUSE    BILL NO. 44  
2    INTRODUCED BY    SHELDEN  
3    BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS  
+  
5    A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND TITLE 50,  
6    CHAPTER 60, PARTS 1 AND 3, TO CONFORM WITH PREVIOUSLY  
7    ENACTED AUTHORITY FOR COUNTIES TO ADOPT BUILDING CODES."  
8  
9    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
10      Section 1. Section 50-60-101, MCA, is amended to read:  
11        "50-60-101. Definitions. As used in parts 1 through 4  
12    of this chapter, unless the context requires otherwise, the  
13    following definitions apply:  
14        (1) "Building" means a combination of any materials,  
15    whether mobile, portable, or fixed, to form a structure and  
16    the related facilities for the use or occupancy by persons  
17    or property. The word "building" shall be construed as  
18    though followed by the words "or part or parts thereof".  
19        (2) "Building regulations" means any law, rule,  
20    resolution, regulation, ordinance, or code, general or  
21    special, or compilation thereof enacted or adopted by the  
22    state or any county or municipality, including departments,  
23    boards, bureaus, commissions, or other agencies of the  
24    state, county or a municipality relating to the design,  
25    construction, reconstruction, alteration, conversion,

1    repair, inspection, or use of buildings and installation of  
2    equipment in buildings. The term does not include zoning  
3    ordinances.  
4        (3) "Construction" means the original construction and  
5    equipment of buildings and requirements or standards  
6    relating to or affecting materials used, including  
7    provisions for safety and sanitary conditions.  
8        (4) "Department" means the department of  
9    administration provided for in Title 2, chapter 15, part 10.  
10       (5) "Equipment" means plumbing, heating, electrical,  
11    ventilating, air conditioning, and refrigerating equipment,  
12    elevators, dumbwaiters, escalators, and other mechanical  
13    additions or installations.  
14       (6) "Local building department" means the agency or  
15    agencies of any county or municipality charged with the  
16    administration, supervision, or enforcement of building  
17    regulations, approval of plans, inspection of buildings, or  
18    the issuance of permits, licenses, certificates, and similar  
19    documents prescribed or required by state or local building  
20    regulations.  
21       (7) "Local legislative body" means the council or  
22    commission charged with governing the county or  
23    municipality.  
24       (8) "Municipality" means any incorporated city or town  
25    and its jurisdictional area as defined by subsection (9) of

1 this section.

2 (9) (a) "Municipal jurisdictional area" means the area  
3 within the limits of an incorporated municipality unless the  
4 area is extended at the written request of a municipality.

5 (b) Upon request, the council may approve extension of  
6 the jurisdictional area to include:

7 (i) all or part of the area within 4 1/2 miles of the  
8 corporate limits of a municipality;

9 (ii) all of any platted subdivision which is partially  
10 within 4 1/2 miles of the corporate limits of a  
11 municipality; and

12 (iii) all of any zoning district adopted pursuant to  
13 Title 76, chapter 2, part 1 or 2, which is partially within  
14 4 1/2 miles of the corporate limits of a municipality.

15 (c) Distances shall be measured in a straight line in  
16 a horizontal plane.

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

21 (11) "Public place" means any place which a ~~county~~, a  
22 municipality, or the state maintains for the use of the  
23 public or a place where the public has the right to go and  
24 be.

25 (12) "Recreational vehicle" means anything defined as a

1 recreational vehicle in the edition of NFPA No. 501C or ANSI  
2 A119.2 most recently adopted by the state in accordance with  
3 50-60-401.

4 (13) "State agency" means any state officer,  
5 department, board, bureau, commission, or other agency of  
6 this state.

7 (14) "State building code" means the state building  
8 code provided for in 50-60-203 or any portion of the code of  
9 limited application and any of its modifications or  
10 amendments."

11 Section 2. Section 50-60-102, MCA, is amended to read:  
12 "50-60-102. Applicability. (1) Outside municipalities  
13 and their jurisdictional area, as defined by 50-60-101(9),  
14 and in counties that have not adopted a county building  
15 codes parts 1 through 4 apply to "public places", as defined  
16 in 50-60-101(11)."

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

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

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

1 desirable;

2 (b) specified areas of the state based upon size,  
 3 population density, special conditions prevailing therein,  
 4 or other factors which make differentiation or separate  
 5 classification or regulation necessary, proper, or  
 6 desirable."

7 Section 3. Section 50-60-106, MCA, is amended to read:

8 "50-60-106. Powers and duties of ~~municipalities~~ local  
 9 governments. (1) The examination, approval, or disapproval  
 10 of plans and specifications, the issuance and revocation of  
 11 building permits, licenses, certificates, and similar  
 12 documents, the inspection of buildings, and the  
 13 administration and enforcement of building regulations  
 14 within the municipal jurisdictional area shall be the  
 15 responsibility of the municipalities of the state, and  
 16 ~~outside the municipal jurisdictional areas, the counties have~~  
 17 that responsibility.

18 (2) Each county or municipality may:

19 (a) examine, approve, or disapprove plans and  
 20 specifications for the construction of any building, the  
 21 construction of which is pursuant or purports to be pursuant  
 22 to the provisions of the state, county, or municipal  
 23 building code, and direct the inspection of the buildings  
 24 during and in the course of construction;

25 (b) require that construction of buildings be in

1 accordance with the applicable provisions of the state,  
 2 county, or municipal building code, subject to the powers of  
 3 variance or modification granted to the department;

4 (c) order in writing the remedying of any condition  
 5 found to exist in, on, or about any building in violation of  
 6 the state, county, or municipal building code; orders may be  
 7 served upon the owner or his authorized agent personally or  
 8 by sending by registered or certified mail a copy of the  
 9 order to the owner or his authorized agent at the address  
 10 set forth in the application for permission for the  
 11 construction of the building; any local building department,  
 12 by action of an authorized officer, may grant in writing  
 13 such time as may be reasonably necessary for achieving  
 14 compliance with the order;

15 (d) issue certificates of occupancy, permits,  
 16 licenses, and such other documents in connection with the  
 17 construction of the buildings as required;

18 (e) make, amend, and repeal rules for the  
 19 administration and enforcement of the provisions of this  
 20 section and for the collection of reasonable fees, which  
 21 shall be comparable to fees imposed or prescribed by  
 22 existing local building regulations;

23 (f) prohibit the commencement of construction until a  
 24 permit has been issued by the local building department  
 25 after a showing of compliance with the requirements of the

1 applicable provisions of the state, ~~county~~, or municipal  
 2 building code."

3 Section 4. Section 50-60-107, MCA, is amended to read:

4 "50-60-107. Certificate of occupancy. (1) A  
 5 certificate of occupancy for a building constructed in  
 6 accordance with the provisions of the state, ~~county~~, or  
 7 municipal building code shall certify that the building  
 8 conforms to the requirements of the building regulations  
 9 applicable to it.

10 (2) Every certificate of occupancy, unless and until  
 11 set aside or vacated by a court of competent jurisdiction,  
 12 is binding and conclusive upon all ~~municipal~~ local  
 13 governmental agencies as to all matters set forth, and no  
 14 order, directive, or requirement at variance therewith may  
 15 be made or issued by any other state or ~~municipal~~ local  
 16 governmental agency."

17 Section 5. Section 50-60-109, MCA, is amended to read:

18 "50-60-109. Injunctions authorized. (1) The  
 19 construction or use of the building in violation of any  
 20 provision of the state, ~~county~~, or municipal building code  
 21 or any lawful order of a state building official or a local  
 22 building department may be enjoined by a judge of the  
 23 district court in the judicial district in which the  
 24 building is located.

25 (2) This section will be governed by the Montana Rules

1 of Civil Procedure."

2 Section 6. Section 50-60-110, MCA, is amended to read:  
 3 "50-60-110. Violation a misdemeanor. Any person served  
 4 with an order pursuant to the provisions of parts 1 through  
 5 4 who fails to comply with the order not later than 30 days  
 6 after service or within the time fixed by the department or  
 7 a local building department for compliance, whichever is the  
 8 greater, or any owner, builder, architect, tenant,  
 9 contractor, subcontractor, construction superintendent,  
 10 their agents, or any person taking part or assisting in the  
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 13 a ~~county~~ building code, or a municipal building code is  
 14 guilty of a misdemeanor."

15 Section 7. Section 50-60-303, MCA, is amended to read:

16 "50-60-303. Municipal and ~~county~~ appeal procedure. (1)  
 17 If a ~~municipality or a county~~ adopts a ~~municipal or county~~  
 18 building code, it shall also establish an appeal procedure  
 19 by ~~municipal~~ ordinance or by ~~county~~ resolution which is  
 20 acceptable to the department.

21 (2) If a ~~municipality or a county~~ does not adopt a  
 22 code, appeals on the application of the state building code  
 23 within the ~~municipal or county~~ jurisdictional area shall be  
 24 made to the department."

-End-

-8-

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 9      order to the owner or his authorized agent at the address  
 10     set forth in the application for permission for the  
 11     construction of the building; any local building department,  
 12     by action of an authorized officer, may grant in writing  
 13     such time as may be reasonably necessary for achieving  
 14     compliance with the order;

15            (d) issue certificates of occupancy, permits,  
 16     licenses, and such other documents in connection with the  
 17     construction of the buildings as required;

18            (e) make, amend, and repeal rules for the  
 19     administration and enforcement of the provisions of this  
 20     section and for the collection of reasonable fees, which  
 21     shall be comparable to fees imposed or prescribed by  
 22     existing local building regulations;

23            (f) prohibit the commencement of construction until a  
 24     permit has been issued by the local building department  
 25     after a showing of compliance with the requirements of the

1 applicable provisions of the stateor county or municipal  
 2 building code."

3 Section 4. Section 50-60-107, MCA, is amended to read:  
 4 "50-60-107. Certificate of occupancy. (1) A  
 5 certificate of occupancy for a building constructed in  
 6 accordance with the provisions of the stateor county or  
 7 municipal building code shall certify that the building  
 8 conforms to the requirements of the building regulations  
 9 applicable to it.

10 (2) Every certificate of occupancy, unless and until  
 11 set aside or vacated by a court of competent jurisdiction,  
 12 is binding and conclusive upon all municipal local  
 13 governmental agencies as to all matters set forth, and no  
 14 order, directive, or requirement at variance therewith may  
 15 be made or issued by any other state or municipal local  
 16 governmental agency."

17 Section 5. Section 50-60-109, MCA, is amended to read:  
 18 "50-60-109. Injunctions authorized. (1) The  
 19 construction or use of the building in violation of any  
 20 provision of the stateor county or municipal building code  
 21 or any lawful order of a state building official or a local  
 22 building department may be enjoined by a judge of the  
 23 district court in the judicial district in which the  
 24 building is located.

25 (2) This section will be governed by the Montana Rules

1 of Civil Procedure."

2 Section 6. Section 50-60-110, MCA, is amended to read:  
 3 "50-60-110. Violation a misdemeanor. Any person served  
 4 with an order pursuant to the provisions of parts 1 through  
 5 4 who fails to comply with the order not later than 30 days  
 6 after service or within the time fixed by the department or  
 7 a local building department for compliance, whichever is the  
 8 greater, or any owner, builder, architect, tenant,  
 9 contractor, subcontractor, construction superintendent,  
 10 their agents, or any person taking part or assisting in the  
 11 construction or use of any building who knowingly violates  
 12 any of the applicable provisions of the state building codeor  
 13 a county building codeor a municipal building code is  
 14 guilty of a misdemeanor."

15 Section 7. Section 50-60-303, MCA, is amended to read:  
 16 "50-60-303. Municipal and county appeal procedure. (1)  
 17 If a municipality or a county adopts a municipal or county  
 18 building code, it shall also establish an appeal procedure  
 19 by municipal ordinance or by county resolution which is  
 20 acceptable to the department.

21 (2) If a municipality or a county does not adopt a  
 22 code, appeals on the application of the state building code  
 23 within the municipal or county jurisdictional area shall be  
 24 made to the department."

-End-