

House Bill 28

In The House

January 6, 1981	Introduced and referred to Committee on Local Government.
	On motion by Chief Sponser Representatives Sivertsen and Switzer were added as authors to the pre-filed bill.
January 9, 1981	Committee recommend bill do pass as amended.
January 10, 1981	Bill printed and placed on members' desks.
January 12, 1981	Motion pass consideration.
January 13, 1981	Motion pass consideration.
January 14, 1981	Motion pass consideration.
	Referred to Committee on Local Government.
January 24, 1981	Committee recommend bill do pass as amended.
January 27, 1981	Second reading do not pass.

1 HOUSE BILL NO. 28
2 INTRODUCED BY KEYSER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY AND EXPAND
5 THE AUTHORITY OF MUNICIPALITIES AND COUNTIES IN ADOPTING AND
6 ENFORCING LOCAL BUILDING CODES AND ELIMINATING THE
7 CERTIFICATION REQUIREMENT FOR THE ADOPTION OF LOCAL CODES;
8 AMENDING SECTIONS 50-60-101, 50-60-104, 50-60-106,
9 50-60-107, 50-60-109, 50-60-110, 50-60-301, 50-60-302,
10 50-60-303, AND 50-60-404, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 50-60-101, MCA, is amended to read:
14 "50-60-101. Definitions. As used in parts 1 through 4
15 and part 7 of this chapter, unless the context requires
16 otherwise, the following definitions apply:

17 (1) "Building" means a combination of any materials,
18 whether mobile, portable, or fixed, to form a structure and
19 the related facilities for the use or occupancy by persons
20 or property. The word "building" shall be construed as
21 though followed by the words "or part or parts thereof".

22 (2) "Building regulations" means any law, rule,
23 resolution, regulation, ordinance, or code, general or
24 special, or compilation thereof enacted or adopted by the
25 state or any municipality or county, including departments,

1 boards, bureaus, commissions, or other agencies of the
2 state, or a municipality, or a county relating to the
3 design, construction, reconstruction, alteration,
4 conversion, repair, inspection, or use of buildings and
5 installation of equipment in buildings. The term does not
6 include zoning ordinances.

7 (3) "Construction" means the original construction and
8 equipment of buildings and requirements or standards
9 relating to or affecting materials used, including
10 provisions for safety and sanitary conditions.

11 (4) "Department" means the department of administration
12 provided for in title 2, chapter 15, part 10.

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

17 (6) "Local building department" means the agency or
18 agencies of any municipality or county charged with the
19 administration, supervision, or enforcement of building
20 regulations, approval of plans, inspection of buildings, or
21 the issuance of permits, licenses, certificates, and similar
22 documents prescribed or required by state or local building
23 regulations.

24 (7) "Local legislative body" means the council or
25 commission charged with governing the municipality or

1 county.

2 (8) "Municipality" means any incorporated city or town
3 and its jurisdictional area as defined by subsection (9) of
4 this section.

5 (9) (a) "Municipal jurisdictional area" means the area
6 within the limits of an incorporated municipality unless the
7 area is extended at the written request of a municipality.

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

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

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

15 (iii) all of any zoning district adopted pursuant to
16 Title 76, chapter 2, part 1 or 2, which is partially within
17 4 1/2 miles of the corporate limits of a municipality.

18 (c) Distances shall be measured in a straight line in a
19 horizontal plane.

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

24 (11) "Public place" means any place which a
25 municipality, a county, or the state maintains for the use

1 of the public or a place where the public has the right to
2 go and be.

3 (12) "Recreational vehicle" means anything defined as a
4 recreational vehicle in the edition of NFPA No. 501C or ANSI
5 A119.2 most recently adopted by the state in accordance with
6 50-60-401.

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

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

13 Section 2. Section 50-60-104, MCA, is amended to read:

14 "50-60-104. Inspection fees. Whenever the state
15 building code applies, the the department shall establish a
16 schedule of fees and may collect fees for the inspection of
17 plans and specifications and for the inspection of
18 buildings, factory-built buildings, recreational vehicles,
19 tramways, or any other facility or structure. Whenever a
20 city or county building code applies, the city or county
21 shall establish a schedule of fees and may collect fees for
22 the inspection of plans and specifications and for the
23 inspection of buildings and factory-built buildings."

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

25 "50-60-106. Powers and duties of municipalities and

1 ~~counties.~~ (1) If a municipality or county adopts a building
 2 code as provided in 50-60-301, the the examination,
 3 approval, or disapproval of plans and specifications, the
 4 issuance and revocation of building permits, licenses,
 5 certificates, and similar documents, the inspection of
 6 buildings, and the administration and enforcement of
 7 building regulations within the municipal or county
 8 jurisdictional area shall be the responsibility of the
 9 ~~municipalities-of-the-state~~ municipality or county.

10 (2) Each municipality or county may:

11 (a) examine, approve, or disapprove plans and
 12 specifications for the construction of any building, the
 13 construction of which is pursuant or purports to be pursuant
 14 to the provisions of the ~~state--or~~ municipal or county
 15 building code, and direct the inspection of the buildings
 16 during and in the course of construction;

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

21 (c) order in writing the remedying of any condition
 22 found to exist in, on, or about any building in violation of
 23 the ~~state--or~~ municipal or county building code; orders may
 24 be served upon the owner or his authorized agent personally
 25 or by sending by registered or certified mail a copy of the

1 order to the owner or his authorized agent at the address
 2 set forth in the application for permission for the
 3 construction of the building; any local building department,
 4 by action of an authorized officer, may grant in writing
 5 such time as may be reasonably necessary for achieving
 6 compliance with the order;

7 (d) issue certificates of occupancy, permits, licenses,
 8 and such other documents in connection with the construction
 9 of the buildings as required;

10 (e) make, amend, and repeal rules for the
 11 administration and enforcement of the provisions of this
 12 section and for the collection of reasonable fees, which
 13 shall be comparable to fees imposed or prescribed by
 14 existing local building regulations;

15 (f) prohibit the commencement of construction until a
 16 permit has been issued by the local building department
 17 after a showing of compliance with the requirements of the
 18 applicable provisions of the ~~state-or~~ municipal or county
 19 building code;

20 (g) request assistance from the department to execute
 21 the provisions of this section."

22 Section 4. Section 50-60-107, MCA, is amended to read:
 23 "50-60-107. Certificate of occupancy. (1) A certificate
 24 of occupancy for a building constructed in accordance with
 25 the provisions of the ~~state, or municipal, or county~~

1 building code shall certify that the building conforms to
2 the requirements of the building regulations applicable to
3 it.

4 (2) Every certificate of occupancy, unless and until
5 set aside or vacated by a court of competent jurisdiction,
6 is binding and conclusive upon all municipal or county
7 agencies as to all matters set forth, and no order,
8 directive, or requirement at variance therewith may be made
9 or issued by any other state, or municipal, or county
10 agency."

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

12 "50-60-109. Injunctions authorized. (1) The
13 construction or use of the building in violation of any
14 provision of the state, or municipal, or county building
15 code or any lawful order of a state building official or a
16 local building department may be enjoined by a judge of the
17 district court in the judicial district in which the
18 building is located.

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

21 Section 6. Section 50-60-110, MCA, is amended to read:

22 "50-60-110. Violation a misdemeanor. Any person served
23 with an order pursuant to the provisions of parts 1 through
24 4 who fails to comply with the order not later than 30 days
25 after service or within the time fixed by the department or

1 a local building department for compliance, whichever is the
2 greater, or any owner, builder, architect, tenant,
3 contractor, subcontractor, construction superintendent,
4 their agents, or any person taking part or assisting in the
5 construction or use of any building who knowingly violates
6 any of the applicable provisions of the state, building code
7 or a municipal, or a county building code is guilty of a
8 misdemeanor."

9 Section 7. Section 50-60-301, MCA, is amended to read:

10 "50-60-301. Municipal and county building codes and
11 enforcement authorized. (1) The local legislative body of a
12 municipality or county may adopt a building code by
13 ordinance to apply to the municipal or county jurisdictional
14 area.

15 (2) As a minimum standard, a A municipal or county
16 building code may must include only codes adopted by the
17 department. A municipality or county may, however, adopt
18 building regulations more stringent than those of the state
19 building code.

20 (3) If a building code is adopted, the municipality or
21 county shall enforce the code within the municipal or county
22 jurisdictional area."

23 Section 8. Section 50-60-302, MCA, is amended to read:

24 "50-60-302. ~~Certification of filing~~ municipal and
25 county building codes with department. ~~††~~ A county or

1 municipality ~~may not enforce a~~ shall file any building code
 2 ~~unless the code adopted~~ that it adopts and a plan for
 3 enforcement of the code ~~have been filed~~ with the department.

4 ~~{2}--The department shall set forth rules and standards~~
 5 ~~governing the certification of municipal and county building~~
 6 ~~code programs as required in subsection (1)."~~

7 Section 9. Section 50-60-303, MCA, is amended to read:

8 "50-60-303. Municipal and county appeal procedure. (1)
 9 if a municipality or county adopts a municipal or county
 10 building code, it shall also establish an appeal procedure
 11 by ordinance ~~which is acceptable to the department.~~

12 (2) If a municipality or county does not adopt a code,
 13 appeals on the application of the state building code within
 14 the municipal or county jurisdictional area shall be made to
 15 the department."

16 Section 10. Section 50-60-404, MCA, is amended to read:

17 "50-60-404. Enforcement of building construction
 18 standards for modular homes. (1) The provisions of this
 19 chapter apply to factory-built modular or prebuilt homes or
 20 buildings.

21 (2) A municipality or county may regulate the
 22 construction of factory-built modular or prebuilt homes or
 23 buildings as provided in 50-60-106 if:

24 (a) the homes or buildings are constructed inside the
 25 jurisdiction of the municipality or county;

1 (b) the homes or buildings are sold primarily to
 2 persons in the county in which the factory is located;

3 (c) the factory does not manufacture more than 100
 4 homes or buildings a year; and

5 (d) the municipality or county has an agency or officer
 6 assigned to inspect and enforce building construction
 7 standards.

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

-End-

#B 28

Approved by Comm.
on Local Government

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 2 INTRODUCED BY KEYSER
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY AND EXPAND
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 6 ENFORCING LOCAL BUILDING CODES AND ELIMINATING THE
 7 CERTIFICATION REQUIREMENT FOR THE ADOPTION OF LOCAL CODES;
 8 AMENDING SECTIONS 50-60-101, 50-60-104, 50-60-106,
 9 50-60-107, 50-60-109, 50-60-110, 50-60-301, 50-60-302,
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 50-60-101, MCA, is amended to read:
 13 "50-60-101. Definitions. As used in parts 1 through 4
 14 and part 7 of this chapter, unless the context requires
 15 otherwise, the following definitions apply:
 16

17 (1) "Building" means a combination of any materials,
 18 whether mobile, portable, or fixed, to form a structure and
 19 the related facilities for the use or occupancy by persons
 20 or property. The word "building" shall be construed as
 21 though followed by the words "or part or parts thereof".

22 (2) "Building regulations" means any law, rule,
 23 resolution, regulation, ordinance, or code, general or
 24 special, or compilation thereof enacted or adopted by the
 25 state or any municipality or county, including departments,

1 boards, bureaus, commissions, or other agencies of the
 2 state, ~~or a municipality, or a county~~ relating to the
 3 design, construction, reconstruction, alteration,
 4 conversion, repair, inspection, or use of buildings and
 5 installation of equipment in buildings. The term does not
 6 include zoning ordinances.

7 (3) "Construction" means the original construction and
 8 equipment of buildings and requirements or standards
 9 relating to or affecting materials used, including
 10 provisions for safety and sanitary conditions.

11 (4) "Department" means the department of
 12 administration provided for in Title 2, chapter 15, part 10.

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

17 (6) "Local building department" means the agency or
 18 agencies of any municipality or county charged with the
 19 administration, supervision, or enforcement of building
 20 regulations, approval of plans, inspection of buildings, or
 21 the issuance of permits, licenses, certificates, and similar
 22 documents prescribed or required by state or local building
 23 regulations.

24 (7) "Local legislative body" means the council or
 25 commission charged with governing the municipality or

1 county.

2 (8) "Municipality" means any incorporated city or town
3 and its jurisdictional area as defined by subsection (9) of
4 this section.

5 (9) (a) "Municipal jurisdictional area" means the area
6 within the limits of an incorporated municipality unless the
7 area is extended at the written request of a municipality.

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

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

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

15 (iii) all of any zoning district adopted pursuant to
16 Title 76, chapter 2, part 1 or 2, which is partially within
17 4 1/2 miles of the corporate limits of a municipality.

18 (c) Distances shall be measured in a straight line in
19 a horizontal plane.

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

24 (11) "Public place" means any place which a
25 municipality, a county, or the state maintains for the use

1 of the public or a place where the public has the right to
2 go and be.

3 (12) "Recreational vehicle" means anything defined as a
4 recreational vehicle in the edition of NFPA No. 5010 or ANSI
5 A119.2 most recently adopted by the state in accordance with
6 50-60-401.

7 (13) "State agency" means any state officer,
8 department, board, bureau, commission, or other agency of
9 this state.

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

14 Section 2. Section 50-60-104, MCA, is amended to read:
15 "50-60-104. Inspection fees. ~~Whenever the state~~
16 ~~building code applies, the~~ The department shall establish a
17 schedule of fees and may collect fees for the inspection of
18 plans and specifications and for the inspection of
19 buildings, factory-built buildings, recreational vehicles,
20 tramways, or any other facility or structure. ~~Whenever a~~
21 ~~city or county building code applies, the city or county~~
22 ~~shall establish a schedule of fees and may collect fees for~~
23 ~~the inspection of plans and specifications and for the~~
24 ~~inspection of buildings and factory-built buildings."~~

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

1 "50-60-106. Powers and duties of municipalities ~~and~~
 2 ~~counties.~~ (1) ~~If a municipality or county adopts a building~~
 3 ~~code as provided in 50-60-301,~~ ~~the~~ the examination,
 4 approval, or disapproval of plans and specifications, the
 5 issuance and revocation of building permits, licenses,
 6 certificates, and similar documents, the inspection of
 7 buildings, and the administration and enforcement of
 8 building regulations within the municipal or county
 9 jurisdictional area shall be the responsibility of the
 10 ~~municipalities-of-the-state~~ municipality or county.

11 (2) Each municipality or county may:

12 (a) examine, approve, or disapprove plans and
 13 specifications for the construction of any building, the
 14 construction of which is pursuant or purports to be pursuant
 15 to the provisions of the ~~state--or~~ municipal or county
 16 building code, and direct the inspection of the buildings
 17 during and in the course of construction;

18 (b) require that construction of buildings be in
 19 accordance with the applicable provisions of the ~~state--or~~
 20 municipal or county building code; ~~subject-to-the-powers-of~~
 21 ~~variances-or-modification-granted-to-the-department;~~

22 (c) order in writing the remedying of any condition
 23 found to exist in, on, or about any building in violation of
 24 the ~~state--or~~ municipal or county building code; orders may
 25 be served upon the owner or his authorized agent personally

1 or by sending by registered or certified mail a copy of the
 2 order to the owner or his authorized agent at the address
 3 set forth in the application for permission for the
 4 construction of the building; any local building department,
 5 by action of an authorized officer, may grant in writing
 6 such time as may be reasonably necessary for achieving
 7 compliance with the order;

8 (d) issue certificates of occupancy, permits,
 9 licenses, and such other documents in connection with the
 10 construction of the buildings as required;

11 (e) make, amend, and repeal rules for the
 12 administration and enforcement of the provisions of this
 13 section and for the collection of reasonable fees, which
 14 shall be comparable to fees imposed or prescribed by
 15 existing local building regulations;

16 (f) prohibit the commencement of construction until a
 17 permit has been issued by the local building department
 18 after a showing of compliance with the requirements of the
 19 applicable provisions of the ~~state-or~~ municipal or county
 20 building code;

21 ~~(g) request assistance from the department to execute~~
 22 ~~the provisions of this section."~~

23 Section 4. Section 50-60-107, MCA, is amended to read:
 24 "50-60-107. Certificate of occupancy. (1) A
 25 certificate of occupancy for a building constructed in

1 accordance with the provisions of the state, or municipal,
2 or county building code shall certify that the building
3 conforms to the requirements of the building regulations
4 applicable to it.

5 (2) Every certificate of occupancy, unless and until
6 set aside or vacated by a court of competent jurisdiction,
7 is binding and conclusive upon all municipal or county
8 agencies as to all matters set forth, and no order,
9 directive, or requirement at variance therewith may be made
10 or issued by any other state, or municipal, or county
11 agency."

12 Section 5. Section 50-60-109, MCA, is amended to read:
13 "50-60-109. Injunctions authorized. (1) The
14 construction or use of the building in violation of any
15 provision of the state, or municipal, or county building
16 code or any lawful order of a state building official or a
17 local building department may be enjoined by a judge of the
18 district court in the judicial district in which the
19 building is located.

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

22 Section 6. Section 50-60-110, MCA, is amended to read:
23 "50-60-110. Violation a misdemeanor. Any person served
24 with an order pursuant to the provisions of parts 1 through
25 4 who fails to comply with the order not later than 30 days

1 after service or within the time fixed by the department or
2 a local building department for compliance, whichever is the
3 greater, or any owner, builder, architect, tenant,
4 contractor, subcontractor, construction superintendent,
5 their agents, or any person taking part or assisting in the
6 construction or use of any building who knowingly violates
7 any of the applicable provisions of the state, building code
8 or a municipal, or a county building code is guilty of a
9 misdemeanor."

10 Section 7. Section 50-60-301, MCA, is amended to read:

11 "50-60-301. Municipal and county building codes and
12 enforcement authorized. (1) The local legislative body of a
13 municipality or county may adopt a building code by
14 ordinance to apply to the municipal or county jurisdictional
15 area.

16 (2) ~~As a minimum standard, a~~ A municipal or county
17 building code ~~may must~~ include ~~only~~ codes adopted by the
18 department. ~~A municipality or county may, however, adopt~~
19 ~~building regulations more stringent than those of the state~~
20 ~~building code.~~

21 ~~(3) If a building code is adopted, the municipality or~~
22 ~~county shall enforce the code within the municipal or county~~
23 ~~jurisdictional area."~~

24 Section 8. Section 50-60-302, MCA, is amended to read:

25 "50-60-302. ~~Certification~~ of Filing municipal and

1 county building codes ~~with department.~~ (1) A county or
 2 municipality ~~may not enforce a~~ shall file any building code
 3 ~~unless the code adopted that it adopts~~ and a plan for
 4 enforcement of the code ~~have been filed~~ with the department.
 5 ~~IF THE ADOPTED BUILDING CODE AND PLAN FOR ENFORCEMENT ARE~~
 6 ~~NOT FILED WITH THE DEPARTMENT BY THE MUNICIPALITY OR COUNTY,~~
 7 ~~THE DEPARTMENT SHALL ENFORCE THE STATE BUILDING CODE WITHIN~~
 8 ~~THE MUNICIPALITY'S OR COUNTY'S JURISDICTIONAL AREA AS~~
 9 ~~PROVIDED IN 50-60-205.~~

10 ~~(2) The department shall set forth rules and standards~~
 11 ~~governing the certification of municipal and county building~~
 12 ~~code programs as required in subsection (1)."~~

13 Section 9. Section 50-60-303, MCA, is amended to read:

14 "50-60-303. Municipal ~~and county~~ appeal procedure. (1)
 15 If a municipality ~~or county~~ adopts a municipal ~~or county~~
 16 building code, it shall also establish an appeal procedure
 17 by ordinance ~~which is acceptable to the department.~~

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

22 Section 10. Section 50-60-404, MCA, is amended to
 23 read:

24 "50-60-404. Enforcement of building construction
 25 standards for modular homes. (1) The provisions of this

1 chapter apply to factory-built modular or prebuilt homes or
 2 buildings.

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

6 (a) the homes or buildings are constructed inside the
 7 jurisdiction of the municipality ~~or county~~;

8 (b) the homes or buildings are sold primarily to
 9 persons in the county in which the factory is located;

10 (c) the factory does not manufacture more than 100
 11 homes or buildings a year; and

12 (d) the municipality ~~or county~~ has an agency or
 13 officer assigned to inspect and enforce building
 14 construction standards.

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

-End-

Approved by Comm.
on Local Government

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2 INTRODUCED BY KEYSER, SIVERTSEN, SWITZER

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5 THE AUTHORITY OF MUNICIPALITIES AND COUNTIES IN ADOPTING AND
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8 AMENDING SECTIONS 50-60-101, ~~50-60-102~~, 50-60-104,
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16 otherwise, the following definitions apply:

17 (1) "Building" means a combination of any materials,
18 whether mobile, portable, or fixed, to form a structure and
19 the related facilities for the use or occupancy by persons
20 or property. The word "building" shall be construed as
21 though followed by the words "or part or parts thereof".

22 (2) "Building regulations" means any law, rule,
23 resolution, regulation, ordinance, or code, general or
24 special, or compilation thereof enacted or adopted by the
25 state or any municipality or county, including departments,

1 boards, bureaus, commissions, or other agencies of the
2 state, ~~or a municipality, or a county~~ relating to the
3 design, construction, reconstruction, alteration,
4 conversion, repair, inspection, or use of buildings and
5 installation of equipment in buildings. The term does not
6 include zoning ordinances.

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8 equipment of buildings and requirements or standards
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12 administration provided for in Title 2, chapter 15, part 10.

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18 agencies of any municipality ~~or county~~ charged with the
19 administration, supervision, or enforcement of building
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24 (7) "Local legislative body" means the council or
25 commission charged with governing the municipality ~~or~~

SECOND READING
HB 28

1 county.

2 (8) "Municipality" means any incorporated city or town
3 and its jurisdictional area as defined by subsection (9) of
4 this section.

5 (9) (a) "Municipal jurisdictional area" means the area
6 within the limits of an incorporated municipality unless the
7 area is extended at the written request of a municipality.

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

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

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13 within 4 1/2 miles of the corporate limits of a
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15 (iii) all of any zoning district adopted pursuant to
16 Title 76, chapter 2, part 1 or 2, which is partially within
17 4 1/2 miles of the corporate limits of a municipality.

18 (c) Distances shall be measured in a straight line in
19 a horizontal plane.

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

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25 municipality, a county, or the state maintains for the use

1 of the public or a place where the public has the right to
2 go and be.

3 (12) "Recreational vehicle" means anything defined as a
4 recreational vehicle in the edition of NFPA No. 501C or ANSI
5 A119.2 most recently adopted by the state in accordance with
6 50-60-401.

7 (13) "State agency" means any state officer,
8 department, board, bureau, commission, or other agency of
9 this state.

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

14 (15) "COUNTY JURISDICTIONAL AREA" MEANS THAT AREA IN A
15 COUNTY OUTSIDE OF A MUNICIPALITY OR MUNICIPAL JURISDICTIONAL
16 AREA AND INCLUDES ONLY SINGLE-FAMILY DWELLINGS AND PUBLIC
17 PLACES AS PROVIDED IN 50-60-102."

18 SECTION 2, SECTION 50-60-102, MCA, IS AMENDED TO READ:

19 "50-60-102. Applicability. (1) Outside municipalities
20 and their jurisdictional area, as defined by 50-60-101(9),
21 parts 1 through 4 apply only to single-family dwellings and
22 to "public places", as defined in 50-60-101(11).

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

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

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

8 (b) specified areas of the state based upon size,
 9 population density, special conditions prevailing therein,
 10 or other factors which make differentiation or separate
 11 classification or regulation necessary, proper, or
 12 desirable."

13 Section 3. Section 50-60-104, MCA, is amended to read:

14 "50-60-104. Inspection fees. ~~Whenever the state~~
 15 ~~building code applies, the~~ The department shall establish a
 16 schedule of fees and may collect fees for the inspection of
 17 plans and specifications and for the inspection of
 18 buildings, factory-built buildings, recreational vehicles,
 19 tramways, or any other facility or structure. ~~Whenever a~~
 20 ~~city or county building code applies, the city or county~~
 21 ~~shall establish a schedule of fees and may collect fees for~~
 22 ~~the inspection of plans and specifications and for the~~
 23 ~~inspection of buildings and factory-built buildings."~~

24 Section 4. Section 50-60-106, MCA, is amended to read:

25 "50-60-106. Powers and duties of municipalities and

1 ~~counties.~~ (1) ~~If a municipality or county adopts a building~~
 2 ~~code as provided in 50-60-301,~~ The the examination,
 3 approval, or disapproval of plans and specifications, the
 4 issuance and revocation of building permits, licenses,
 5 certificates, and similar documents, the inspection of
 6 buildings, and the administration and enforcement of
 7 building regulations within the municipal ~~or county~~
 8 jurisdictional area shall be the responsibility of the
 9 ~~municipalities-of-the-state~~ municipality or county.

10 (2) Each municipality ~~or county~~ may:

11 (a) examine, approve, or disapprove plans and
 12 specifications for the construction of any building, the
 13 construction of which is pursuant or purports to be pursuant
 14 to the provisions of the ~~state--or~~ municipal ~~or county~~
 15 building code, and direct the inspection of the buildings
 16 during and in the course of construction;

17 (b) require that construction of buildings be in
 18 accordance with the applicable provisions of the ~~state-or~~
 19 municipal ~~or county~~ building code; ~~subject-to-the-powers--of~~
 20 ~~variance-or-modification-granted-to-the-department;~~

21 (c) order in writing the remedying of any condition
 22 found to exist in, on, or about any building in violation of
 23 the ~~state-or~~ municipal ~~or county~~ building code; orders may
 24 be served upon the owner or his authorized agent personally
 25 or by sending by registered or certified mail a copy of the

1 order to the owner or his authorized agent at the address
 2 set forth in the application for permission for the
 3 construction of the building; any local building department,
 4 by action of an authorized officer, may grant in writing
 5 such time as may be reasonably necessary for achieving
 6 compliance with the order;

7 (d) Issue certificates of occupancy, permits,
 8 licenses, and such other documents in connection with the
 9 construction of the buildings as required;

10 (e) make, amend, and repeal rules for the
 11 administration and enforcement of the provisions of this
 12 section and for the collection of reasonable fees, which
 13 shall be comparable to fees imposed or prescribed by
 14 existing local building regulations;

15 (f) prohibit the commencement of construction until a
 16 permit has been issued by the local building department
 17 after a showing of compliance with the requirements of the
 18 applicable provisions of the state or municipal or county
 19 building code;

20 ~~(g) request assistance from the department to execute~~
 21 ~~the provisions of this section."~~

22 Section 5. Section 50-60-107, MCA, is amended to read:
 23 "50-60-107. Certificate of occupancy. (1) A
 24 certificate of occupancy for a building constructed in
 25 accordance with the provisions of the state, or municipal,

1 or county building code shall certify that the building
 2 conforms to the requirements of the building regulations
 3 applicable to it.

4 (2) Every certificate of occupancy, unless and until
 5 set aside or vacated by a court of competent jurisdiction,
 6 is binding and conclusive upon all municipal or county
 7 agencies as to all matters set forth, and no order,
 8 directive, or requirement at variance therewith may be made
 9 or issued by any other state, or municipal, or county
 10 agency."

11 Section 6. Section 50-60-109, MCA, is amended to read:
 12 "50-60-109. Injunctions authorized. (1) The
 13 construction or use of the building in violation of any
 14 provision of the state, or municipal, or county building
 15 code or any lawful order of a state building official or a
 16 local building department may be enjoined by a judge of the
 17 district court in the judicial district in which the
 18 building is located.

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

21 Section 7. Section 50-60-110, MCA, is amended to read:
 22 "50-60-110. Violation a misdemeanor. Any person seized
 23 with an order pursuant to the provisions of parts 1 through
 24 4 who fails to comply with the order not later than 30 days
 25 after service or within the time fixed by the department or

1 a local building department for compliance, whichever is the
 2 greater, or any owner, builder, architect, tenant,
 3 contractor, subcontractor, construction superintendent,
 4 their agents, or any person taking part or assisting in the
 5 construction or use of any building who knowingly violates
 6 any of the applicable provisions of the state ~~building code~~
 7 ~~or a municipal or a county building code~~ is guilty of a
 8 misdemeanor."

9 Section 8. Section 50-60-301, MCA, is amended to read:

10 "50-60-301. Municipal and county building codes ~~and~~
 11 ~~enforcement~~ authorized. (1) The local legislative body of a
 12 municipality or county may adopt a building code by
 13 ordinance to apply to the municipal or county jurisdictional
 14 area.

15 (2) ~~As a minimum standard, a~~ A municipal or county
 16 building code ~~may must~~ MAY include ~~only~~ ONLY codes adopted
 17 by the department. ~~A municipality or county may, however,~~
 18 ~~adopt building regulations more stringent than those of the~~
 19 ~~state building code.~~

20 (3) ~~If a building code is adopted, the municipality or~~
 21 ~~county shall enforce the code within the municipal or county~~
 22 ~~jurisdictional area."~~

23 Section 9. Section 50-60-302, MCA, is amended to read:

24 "50-60-302. ~~Certification--of Filing~~ municipal and
 25 county building codes ~~with department.~~ (1) A county or

1 municipality ~~may not enforce a~~ shall file any building code
 2 ~~unless the code adopted that it adopts~~ and a plan for
 3 enforcement of the code ~~have been filed~~ with the department.
 4 ~~IF THE ADOPTED A BUILDING CODE AND PLAN FOR ENFORCEMENT ARE~~
 5 ~~NOT FILED WITH THE DEPARTMENT BY THE MUNICIPALITY OR COUNTY,~~
 6 ~~THE DEPARTMENT SHALL ENFORCE THE STATE BUILDING CODE WITHIN~~
 7 ~~THE MUNICIPALITY'S OR COUNTY'S JURISDICTIONAL AREA AS~~
 8 ~~PROVIDED IN 50-60-205.~~

9 (2) ~~The department shall set forth rules and standards~~
 10 ~~governing the certification of municipal and county building~~
 11 ~~code programs as required in subsection (1)."~~

12 Section 10. Section 50-60-303, MCA, is amended to
 13 read:

14 "50-60-303. Municipal ~~and county~~ appeal procedure. (1)
 15 If a municipality ~~or county~~ adopts a municipal ~~or county~~
 16 building code, it shall also establish an appeal procedure
 17 by ordinance ~~which is acceptable to the department.~~

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

22 Section 11. Section 50-60-404, MCA, is amended to
 23 read:

24 "50-60-404. Enforcement of building construction
 25 standards for modular homes. (1) The provisions of this

1 chapter apply to factory-built modular or prebuilt homes or
2 buildings.

3 (2) A municipality or county may regulate the
4 construction of factory-built modular or prebuilt homes or
5 buildings as provided in 50-60-106 if:

6 (a) the homes or buildings are constructed inside the
7 jurisdiction of the municipality or county;

8 (b) the homes or buildings are sold primarily to
9 persons in the county in which the factory is located;

10 (c) the factory does not manufacture more than 100
11 homes or buildings a year; and

12 (d) the municipality or county has an agency or
13 officer assigned to inspect and enforce building
14 construction standards.

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

-End-