

CHAPTER 60 BUILDING CONSTRUCTION STANDARDS

Part 1 General Provisions

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.
- (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.
- (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.
- (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 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 county, city, or town.
- (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.
- (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.
- (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.
- (15) "Public sidewalk" means a sidewalk located in a public right-of-way.

(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.

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

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

(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.

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 a county, city, or town, unless the local legislative body 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). A county, city, or town that has made the state building code applicable to the buildings referred to in subsection (1) may enforce within the area of its jurisdiction the state building code as adopted by the 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.

50-60-103. Administration by department. The department shall administer parts 1 through 7 and for that purpose shall:

- (1) issue orders necessary to effectuate the purposes of parts 1 through 7 and enforce the orders by all appropriate administrative and judicial proceedings;
- (2) enter, inspect, and examine buildings or premises necessary for the proper performance of its duties under parts 1 through 7;
- (3) study the operation of the state building code, local building regulations, and other laws related to the construction of buildings to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health and safety;
- (4) recommend tests or require the testing and approval of materials, devices, and methods of construction to ascertain their acceptability under the requirements of the state building code and issue certification of the acceptability;
- (5) appoint experts, consultants, and technical advisers for assistance and recommendations relative to the formulation and adoption of the state building code;
- (6) advise, consult, and cooperate with other agencies of the state, local governments, industries, and interested persons or groups; and
- (7) consult with the building codes council, established in [50-60-115](#), on all rules and interpretations of building code provisions and on the checklist for the examination of single-family dwelling construction plans provided for in [50-60-118](#).

50-60-104. Inspection fees. The department shall establish a schedule of fees and may collect fees for the inspection of plans and specifications and for the inspection of buildings, factory-built buildings, or any other facility or structure. The fees must be commensurate with the cost of the inspections and with appropriations for other purposes.

50-60-105. Hearings authorized. The department may hold hearings relating to the administration of parts 1 through 7 in accordance with the Montana Administrative Procedure Act.

50-60-106. Powers and duties of 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 limits of a city or town are the responsibility of the 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 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 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 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 state building code or 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 county, city, or town with a building code enforcement program that has been certified under [50-60-302](#) may, within 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 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 county, city, or town under which the county, city, or town will provide reviews, inspections, orders, and certificates of occupancy for a fee and under conditions agreed upon by the parties. County, city, or town powers of enforcement may not be exercised.

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 county, city, or town building code 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 county, city, or town agencies as to all matters set forth, and an order, directive, or requirement at variance with the certificate of occupancy may not be made or issued by any other state agency or county, city, or town agency.

50-60-108. Construction permit required. Any person who desires to construct a building which is subject to the provisions of parts 1 through 4 must apply for a permit from the appropriate authorities.

50-60-109. Injunctions authorized. (1) The construction or use of the building in violation of any provision of the state building, plumbing, elevator, or electrical code or county, city, or town building code or of 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 is governed by the Montana Rules of Civil Procedure.

50-60-110. Violation a misdemeanor. Any person served with an order pursuant to the provisions of parts 1 through 7 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, plumbing, elevator, or electrical code or county, city, or town building code is guilty of a misdemeanor.

50-60-111 through 50-60-114 reserved.

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 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 12 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 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) a licensed elevator mechanic selected by the department;
 - (k) the state fire marshal or the fire marshal's designee; and
 - (l) 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](#).

50-60-116. Continuing education -- funding support from building fees -- special account. (1) There is a building codes education program administered by the department for the purpose of providing continuing education in building code standards and other related topics to interested persons in the construction industry and in regulatory agencies of state and local government.

(2) The building codes education program must be funded entirely from building fee revenue collected by the department, and the department shall allocate 0.5% of the fees that the department collects pursuant to [50-60-104](#) to the state special revenue account established in subsection (3) to pay the costs of conducting courses and seminars at multiple locations in the state.

(3) There is an account in the state special revenue fund for the purpose of paying the costs of the building codes education program.

(4) The department may expend the funds referred to in subsection (2) to contract with the cooperative extension service, the extended studies programs, other appropriate units of the Montana university system, or private sector entities to develop and conduct the building codes education program.

50-60-117. Building code interpretations -- central registry. (1) The department shall, in cooperation with the Montana chapter of the international conference of building officials, develop a process and procedure for:

- (a) achieving, to the greatest extent possible, knowledge and acceptance of the department's interpretations by affected parties;
- (b) publishing the department's interpretations of building code provisions in a manner that makes the interpretations easily accessible to and obtainable by the public by paper copy and by electronic means; and
- (c) maintaining in a central registry easily accessed records of the published interpretations provided for in subsection (1)(b).

(2) The department shall provide to the building codes council, established in [50-60-115](#), a comprehensive and up-to-date file of the department's interpretations of all building codes in use in Montana.

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 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 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

Part 2 State Building Code

50-60-201. Purpose of state building code. The state building code must be designed to effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards to:

(1) provide reasonably uniform standards and requirements for construction and construction materials consistent with accepted standards of design, engineering, and fire prevention practices;

(2) permit to the fullest extent feasible the use of modern technical methods, devices, and improvements that tend to reduce the cost of construction consistent with reasonable requirements for the health and safety of the occupants or users of buildings and, consistent with the conservation of energy, by design requirements and criteria that will result in the efficient use of energy, whether used directly or in a refined form, in buildings;

(3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and requirements that tend to unnecessarily increase construction costs, unnecessarily prevent the use of proven new materials that have been found adequate through experience or testing, or provide unwarranted preferential treatment to types or classes of materials, products, or methods of construction;

(4) ensure that any newly constructed public buildings and certain altered public buildings are readily accessible to and usable by persons with disabilities, according to the principles applicable to accessibility to public buildings for persons with disabilities in the state building code;

(5) ensure statewide uniformity in the inspection and enforcement of exterior features of all newly constructed public buildings and certain altered public buildings, including building sites, for physical accessibility to people with disabilities;

(6) encourage efficiencies of design and insulation that enable buildings to be heated in the winter with

the least possible quantities of energy and to be kept cool in the summer without air conditioning equipment or with the least possible use of the equipment;

(7) encourage efficiencies and criteria directed toward design of building envelopes with high thermal resistance and low air leakage and toward requiring practices in the design and selection of mechanical, electrical, and illumination systems that promote the efficient use of energy;

(8) provide, to the greatest extent possible, with the advice and consent of the building codes council and the Montana chapter of the international conference of building officials, a broadly uniform system of building code interpretations for the purposes of predictability, fairness, and efficiency.

50-60-202. Department to be sole state agency to promulgate building regulations -- exception. No state agency except the department may promulgate building regulations as defined in [50-60-101](#), except the department of justice may promulgate regulations relating to use of buildings and installation of equipment. The state fire prevention and investigation program of the department of justice shall review building plans and regulations for conformity with rules promulgated by the department.

50-60-203. Department to adopt state building code by rule. (1) (a) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with disabilities, sanitation, and conservation of energy. The adoption, amendment, or repeal of a rule is of significant public interest for purposes of [2-3-103](#).

(b) Rules concerning the conservation of energy must conform to the policy established in [50-60-801](#) and to relevant policies developed under the provisions of Title 90, chapter 4, part 10.

(2) The department may adopt by reference nationally recognized building codes in whole or in part and may adopt rules more stringent than those contained in national codes.

(3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and are acceptable for the buildings to which they are applicable.

(4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum gas-burning appliances.

(5) (a) The department shall, by rule, adopt by reference the most recently published edition of the national fire protection association's publication NFPA 99C for the installation of medical gas piping systems. The department may, by rule, issue plumbing permits for medical gas piping systems and require inspections of medical gas piping systems.

(b) A state, county, city, or town building code compliance officer shall, as part of any inspection, request proof of a medical gas piping installation endorsement from any person who is required to hold an endorsement or who, in the inspector's judgment, appears to be involved with onsite medical gas piping activity. The inspector shall report any instance of endorsement violation to the inspector's employing agency, and the employing agency shall report the violation to the board of plumbers.

50-60-204. Public hearing required -- effective date of certain rules. (1) Except as provided in subsection (2), a rule, amendment, or repeal of the state building code is a matter of significant public interest for purposes of [2-3-103](#) and may not take effect until after a public hearing by the department.

(2) If a hearing with adequate public notice pursuant to [2-3-103](#) has been held by the department of justice with respect to the duties contained in chapter 3 of this title or by the board of plumbers, the department of public health and human services, or the state electrical board on a proposed rule relating to building and equipment standards in their respective fields, a public hearing by the department is not required. The proposed rule is effective upon approval of the department and filing with the secretary of state as a part of the state building code.

50-60-205. When state building code applies -- health care facility and public health center doors. (1) If a county, city, or town does not adopt a building code as provided in [50-60-301](#), the state building code applies within the county, city, or town 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](#).

50-60-206. Variances to state building code. (1) The department has the power, on satisfactory proof after a public hearing, to:

(a) vary or modify, in whole or part, the application of any provision or requirement of the state building code if strict compliance would cause any undue hardship; but no variance or modification shall affect adversely provisions for health, safety, and security, and equally safe and proper alternatives may be prescribed therefor;

(b) reverse, modify, or annul, in whole or part, any ruling, direction, determination, or order of any state agency affecting or relating to the construction of any building, the construction of which is pursuant or purports to be pursuant to the provisions of the state building code;

(c) review within 30 days after disapproval any application for permission for the construction of a building pursuant to the provisions of the state building code or plans or specifications submitted in connection therewith;

(d) reverse, modify, or annul the disapproval in whole or part;

(e) within 30 days make a determination that the application or plans or specifications are in compliance with the provisions of the state building code. If this determination is made, the officer charged with the duty shall issue any permit, license, certificate, authorization, or other document required for the construction.

(2) An application for a variance, modification, reversal, annulment, or review may be made by any person aggrieved pursuant to the Montana Administrative Procedure Act.

(3) An application for a variance, modification, reversal, annulment, or review shall stay all proceedings in furtherance of the action appealed from unless there is a showing by the state agency that a stay would involve imminent peril to life or property.

(4) The department, in hearings conducted under this section, shall not be bound by common-law or statutory rules of evidence.

50-60-207 through 50-60-210 reserved.

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 county, city, or town building code.

(b) (i) 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) 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.

50-60-212. Disclaimer. A building permit or certificate of occupancy issued by the state or by a 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."

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 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, counties, cities, and towns shall use the same accessibility standards.

50-60-214. Alteration of primary function area. (1) An alteration that affects or could affect the use of or access to a primary function area in a public building must be made to ensure, to the extent possible, that the path of travel to the altered primary function area and the restrooms, telephones, and drinking fountains serving the altered primary function area are readily accessible and usable by persons with disabilities.

(2) (a) A person or entity is not required to make alterations to provide an accessible path of travel to an altered primary function area if in terms of cost and scope the alterations to the path of travel are disproportionate to the cost of the alterations to the primary function area. Alterations to a path of travel to an altered primary function area must be considered disproportionate if the cost exceeds 20% of the cost of the alterations to the primary function area. This subsection does not prohibit an expenditure to alter a path of travel that exceeds 20% of the cost of the alterations to a primary function area.

(b) If the cost of altering a path of travel to an altered primary function area is disproportionate as provided in subsection (2)(a), the path of travel must be made accessible to the extent possible without incurring disproportionate costs. The alterations to the path of travel must be made by providing, in the following order or priority:

(i) an accessible entrance and accessible exterior route to the accessible entrance from accessible parking and passenger loading zones or from a public sidewalk if the public sidewalk is immediately adjacent to the public building site;

(ii) an accessible path of travel to the altered primary function area;

(iii) accessible restrooms for each sex or a single unisex restroom when allowed by the applicable building code; and

(iv) accessible elements, including but not limited to storage spaces and alarms.

(3) A person or entity subject to the provisions of this section is also subject to the provisions of [50-60-213](#)(5)(a) and (5)(b).

Part 3

Municipal and County Building Codes

50-60-301. 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 county, city, or town may adopt a building code to apply to the county, city, or town 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 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 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 county, city, or town may impose the full examination fee permitted under [50-60-106](#).

50-60-302. Certification of county, city, or town building codes. (1) A county, 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 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, 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, 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, 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 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 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 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 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 county, city, or town prior to decertifying its code enforcement program.

50-60-303. County, city, or town appeal procedure. (1) If a 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 county, city, or town does not adopt a code, appeals on the application of the state building code within the county, city, or town must be made to the department.

50-60-304. 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.

50-60-305 through 50-60-309 reserved.

50-60-310. Repealed. Sec. 26, Ch. 443, L. 2003.

50-60-311. Repealed. Sec. 26, Ch. 443, L. 2003.

50-60-312. Repealed. Sec. 26, Ch. 443, L. 2003.

50-60-313. Repealed. Sec. 26, Ch. 443, L. 2003.

50-60-314. Repealed. Sec. 26, Ch. 443, L. 2003.

Part 4

Factory-Built Buildings and Recreational Vehicles

50-60-401. Department to adopt rules for factory-built buildings. The department may adopt by reference nationally recognized construction standards, in whole or in part, for the construction of factory-built buildings, but this does not prevent the department from adopting rules more stringent than those contained in the national standards.

50-60-402. Factory-built buildings and recreational vehicles to comply with standards. (1) A person, firm, or corporation may not manufacture, sell, or offer for sale any new factory-built building unless the factory-built building and its components, systems, and appliances have been constructed and assembled in accordance with the standards defined in this part.

(2) A factory-built building that has been approved by the department is considered to be in full compliance with the standards and rules prescribed in parts 1 through 4.

(3) All factory-built buildings approved by the department are acceptable as meeting the requirements of parts 1 through 4 throughout the state of Montana without further inspection or fees except for zoning, utility connections, and foundation permits required by local ordinance.

(4) A person, firm, or corporation may not manufacture, sell, or offer for sale a new recreational vehicle unless the vehicle has been constructed and assembled in accordance with the American national standards institute ANSI/A119.2 standard for recreational vehicles. The department is not responsible for enforcing the compliance of recreational vehicles with the ANSI/A119.2 standard as part of the state building code.

50-60-403. Use of independent testing laboratories authorized. The department may use independent testing laboratories or the agencies of other states to determine if approved models of factory-built buildings are being constructed in accordance with the approved plans and specifications for those models.

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 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 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 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 county, city, or town under this section may be recognized and accepted by any other 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.

Part 5

Plumbing Installations

50-60-501. Declaration of public interest. It is hereby declared that the public health and welfare require that minimum standards for the planning, installing, altering, extending, repairing, and maintaining of plumbing systems be established for the protection of the people of the state.

50-60-502. No penalties for hiring unlicensed plumbers. This part shall not be construed as imposing any penalty on any person for hiring or contracting with an unlicensed person to do work in the field of plumbing. However, any person who shall himself engage in the field of plumbing at a time when he is not duly licensed shall be subject to the penalties imposed by this part and Title 37, chapter 69.

50-60-503. Exceptions. This part shall not be construed to apply to or to affect plumbing installations in any mines, mills, smelters, refineries, public utilities, railroads, or plumbing installations on farms having their own individual water supply or sewage disposal system.

50-60-504. Department to prescribe minimum standards. The department of labor and industry shall by rule prescribe minimum standards that are uniform for all plumbing installations or maintenance, except those that are exempt under [50-60-503](#).

50-60-505. Permit required. (1) It is unlawful for any person to engage in the business, trade, or work of installing, removing, altering, or repairing plumbing and drainage systems or parts of plumbing and drainage systems without first obtaining a permit from the department of labor and industry.

(2) A separate permit must be obtained for each building or structure.

(3) A person may not allow any other person to do or cause to be done any work under a permit secured by the permittee except persons in the permittee's employ.

(4) When a permit has been obtained to connect an existing building or existing work to the public sewer or to connect to a new private disposal facility, backfilling of private sewage disposal facilities abandoned consequent to the connection is included in the permit.

50-60-506. Exceptions to permit requirement. (1) 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) A permit is not required where the installation is exempt under the provisions of [37-69-102](#) or [50-60-503](#).

(3) A state permit is not required whenever the installation occurs in an area governed by a county, city,

or town and where there is in effect a county, city, or town building code that covers plumbing installations and that provides inspection procedures.

(4) This part does not prohibit the owner of residential property from making an installation for all sanitary plumbing and potable water supply piping without a permit if the owner personally does the work.

(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.

50-60-507. Application for and issuance of permit. (1) A person required to apply for a permit shall apply on a form provided by the department of labor and industry or its authorized representative. The applicant shall give a description of the character of the work proposed to be done and the location, ownership, occupancy, and use of the premises in connection with the work.

(2) The department or its authorized representative may require sketches, specifications, or drawings and other information it considers necessary in order to determine the scope of the work contemplated.

(3) If the department determines that the sketches, specifications, drawings, descriptions, and information furnished by the applicant are in compliance with the state plumbing code, it shall issue the permit applied for upon payment of the required fee as established by the department.

50-60-508. Permit fees. (1) The department of labor and industry shall establish permit fees in accordance with the Montana Administrative Procedure Act, and the fees must be deposited to the state special revenue fund of the department for use in the administration and enforcement of this part and the Montana state plumbing code and for other purposes as established by law.

(2) For the purpose of [50-60-505](#) through [50-60-513](#), a sanitary plumbing outlet on or to which a plumbing fixture or appliance may be set or attached must be construed to be a fixture. Fees for reconnection and retest of plumbing systems in relocated buildings must be based on the number of plumbing fixtures, gas systems, water heaters, and the like involved. The fees established pursuant to this section must be commensurate with the costs of the administration and enforcement of this part and with appropriations for other purposes.

50-60-509. Person commencing work without a permit to pay double the permit fee -- exception. A person who commences any work for which a permit is required without first obtaining a permit shall, if subsequently allowed to obtain a permit, pay double the permit fee for the work, except that this provision does not apply to emergency work when it is proved to the satisfaction of the department of labor and industry or its authorized representative that the work was urgently necessary and that it was not practical to obtain a permit before the commencement of the work. In all emergency cases, a permit must be obtained as soon as it is practical to do so, and if there is unreasonable delay in applying for the permit, a double fee must be charged.

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 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.

50-60-511. Duty of permittee regarding inspection and compliance. (1) It is the duty of the person doing work authorized by the permit to notify the department of labor and industry, orally or in writing, that the work is ready for inspection. The notification must be given not less than 24 hours before the work is to be inspected.

(2) It is the duty of the person doing the work authorized by the permit to ensure that the work performed before notification and after notification pending inspection complies with the state plumbing code.

50-60-512. Department authorized to order work stopped for noncompliance. Whenever any work is being done contrary to the provisions of the state plumbing code, the department of labor and industry or its authorized representative may, after a hearing conducted under the provisions of the Montana Administrative Procedure Act, order work stopped by notice in writing served on any person engaged in the work.

50-60-513. Suspension or revocation of permit. The department of labor and industry may suspend or revoke a permit whenever it is issued in error or on the basis of incorrect information supplied or whenever work performed under the permit is in violation of any of the provisions of Title 37, chapter 69 or this part.

50-60-514. District court -- jurisdiction -- restraining orders. The district court of any county has jurisdiction in equity, on application of the department of labor and industry, to restrain from connection any new plumbing installations on finding, after a hearing, that the plumbing is inferior to the standards of the state plumbing code.

50-60-515. Penalty for violations -- exceptions. A person who works at the field of plumbing or maintains or conducts a plumbing business or an individual who connects or disconnects plumbing from a public water or sewer system in violation of any provisions of this part or at a time when he is not exempt from the provisions of this part pursuant to the provisions of a duly enacted and subsisting ordinance of a city or town is guilty of a misdemeanor and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$10 and not more than \$100 for each separate offense. However, this part shall not be construed to apply to or affect plumbing or pipefitting as indicated in the [37-69-102](#) and [50-60-503](#) exceptions.

Part 6

Electrical Installations

50-60-601. Purpose. The purpose of this part is to protect the health and safety of the people of this state from the danger of electrically caused shocks, fires, and explosions; to protect property from the hazard of electrically caused fires and explosions; to establish a procedure for determining where and by whom electrical installations are to be made; and to insure that the electrical installations and electrical products made and sold in this state meet minimum safety standards.

50-60-602. Exceptions. (1) This part does not apply to:

- (a) the installation, alteration, or repair of electrical signal or communications equipment and traffic signals, street lighting, and other electrical traffic control devices owned or operated by a public utility, city, or county or the state;
- (b) electrical installations on the premises of petroleum refineries, 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;
- (c) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection under the Federal Mine Safety and Health Act; or
- (d) the installation, alteration, or repair of low-voltage electrical signal and communications equipment and optical fiber cable.

(2) The inspection provisions of this part do not apply to regularly employed maintenance electricians doing maintenance work on the business premises of their employer nor do they apply to line work on the business premises of the employer or to ordinary and customary in-plant or onsite installations, modifications, additions, or repairs.

(3) A person who plugs in an electrical appliance where an approved electrical outlet is already installed may not be considered as an installer.

(4) This part does not in any manner interfere with, hamper, preclude, or prohibit any vendor of any electrical appliance from selling, delivering, and connecting any electrical appliance if the connection does not necessitate the installation of electrical wiring of the structure where the appliance is to be connected.

50-60-603. Electrical codes to be adopted by department by rule. (1) The department of labor and industry shall adopt rules relating to the installation of wires and equipment to convey electrical current and installations of apparatus to be operated by current, except as provided in [50-60-602](#).

(2) The department may adopt by reference the national fire protection association standard NFPA 70, national electrical code, in whole or in part, and may adopt rules more stringent than those in the national fire protection association standard NFPA 70, national electrical code.

50-60-604. Inspections -- electrical permits -- fees. The department of labor and industry or an authorized representative or a 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.

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 county, city, or town certified to enforce the electrical code pursuant to [50-60-302](#).

50-60-606. Repealed. Sec. 7, Ch. 47, L. 2001.

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 county, city, or town certified to enforce the electrical code pursuant to [50-60-302](#) is guilty of a misdemeanor.

50-60-608. Injunction authorized. The use or installation of wires or equipment conveying electrical current or the use or installation of any apparatus operated by electrical current in violation of any provision of this part or a lawful order of a state or local government building official may be enjoined by a judge in the district court of the judicial district in which the wires, equipment, or apparatus is located.

Part 7 Elevators

50-60-701. Repealed. Sec. 24, Ch. 303, L. 2005.

50-60-702. Repealed. Sec. 24, Ch. 303, L. 2005.

50-60-703. Repealed. Sec. 24, Ch. 303, L. 2005.

50-60-704. Scope. (1) This part covers the design, construction, alteration, operation, maintenance, repair, inspection, installation, and testing of the following equipment, associated parts, and hoistways:

(a) hoisting and lowering mechanisms equipped with a car or platform, which move between two or more landings, including but not limited to:

(i) elevators; and

- (ii) platform lifts and stairway chairlifts;
- (b) power-driven stairways and walkways for carrying persons between landings, including but not limited to:
 - (i) escalators; and
 - (ii) moving walks;
- (c) hoisting and lowering mechanisms equipped with a car, which serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car, including but not limited to:
 - (i) dumbwaiters; and
 - (ii) material lifts and dumbwaiters with automatic transfer devices; and
 - (d) automatic guided transit vehicles on guideways with an exclusive right-of-way, including but not limited to automated people movers.
- (2) The department shall adopt rules designating equipment that is not subject to the provisions of this part, including but not limited to certain types of:
 - (a) personnel hoists;
 - (b) material hoists;
 - (c) manlifts;
 - (d) mobile scaffolds, towers, and platforms;
 - (e) powered platforms and equipment for exterior and interior maintenance;
 - (f) conveyors and related equipment;
 - (g) cranes, derricks, hoists, hooks, jacks, and slings;
 - (h) industrial trucks;
 - (i) portable equipment, except for portable escalators that are covered by this part;
 - (j) tiering or piling machines used to move materials to and from storage that are located and operating entirely within one story;
 - (k) equipment for feeding or positioning materials at machine tools, printing presses, and similar locations;
 - (l) furnace hoists;
 - (m) railroad car lifts or dumpers; and
 - (n) moving platforms and similar equipment used by an elevator contractor for installing an elevator.
- (3) This part does not apply to private residences or farm and ranch operations.

50-60-705. Authority of department -- rulemaking. (1) The department may consult with engineering authorities and organizations concerned with safety codes, rules, and regulations governing the design, construction, alteration, operation, maintenance, repair, inspection, installation, and testing of elevators, dumbwaiters, escalators, and other equipment subject to the provisions of this part.

(2) (a) The department shall adopt rules relating to the design, construction, alteration, operation, maintenance, repair, inspection, installation, and testing of elevators, dumbwaiters, escalators, and other equipment subject to the provisions of this part.

(b) The department may adopt by reference national standards for equipment subject to the provisions of this part, including national safety codes for elevators and escalators, safety standards for platform lifts and stairway chairs, safety codes for existing elevators and escalators, and standards for automated people movers.

(3) The department may modify or grant exceptions to any provision of this part or any rule or standard adopted pursuant to this part if to do so would not jeopardize the public safety or welfare.

50-60-706. Registration of elevators and other conveyances. (1) Within 6 months of October 1, 2005, the owners or lessees of existing elevators, dumbwaiters, escalators, or other equipment subject to the provisions of this part shall register the equipment with the department on a form provided by the department unless the equipment was previously registered with the department.

(2) The registration form must contain the type, load and speed, name of manufacturer, location, use, and any other information the department may require for each elevator, dumbwaiter, escalator, or other equipment subject to the provisions of this part that is registered pursuant to this section.

(3) Each elevator, dumbwaiter, escalator, or other equipment subject to the provisions of this part whose

construction is completed subsequent to the 6-month period referred to in subsection (1) must be registered by the owner or lessee when the construction is complete.

50-60-707 through 50-60-708 reserved.

50-60-709. Permits. (1) (a) An elevator contractor may not erect, construct, install, or alter an elevator, dumbwaiter, escalator, or other equipment subject to the provisions of this part unless the elevator contractor has obtained a permit from the department and paid the requisite permit fees.

(b) Only a licensed elevator contractor may perform the work described in subsection (1)(a).

(2) Each permit application must be accompanied by copies of specifications and accurately scaled and fully dimensioned plans that:

(a) show the location of the installation in relation to the plans and elevation of the building;

(b) show the location of the machinery room and the equipment to be installed, relocated, or altered;

(c) show all structural supporting members, including foundations;

(d) specify all materials to be employed and all loads to be supported or conveyed; and

(e) are sufficiently complete to illustrate all details of construction and design.

(3) The department may by rule establish criteria for revoking a permit, including but not limited to materially false statements or misrepresentations made in conjunction with a permit application, an elevator contractor's failure to perform in accordance with the specifications or plans submitted with the application or with conditions of the permit, or the elevator contractor's failure to comply with a department stop-work order.

(4) A permit issued under this section expires:

(a) 6 months from the date of its issuance unless the permit specifies a shorter expiration period; or

(b) if an elevator contractor suspends or abandons work covered by a permit for 60 days unless the permit specifies a shorter expiration period for suspension or abandonment.

50-60-710 reserved.

50-60-711. Inspections -- fees -- exception. (1) Except as provided in subsection (2), all elevators, escalators, dumbwaiters, or other equipment subject to the provisions of this part, including freight elevators, must be inspected by the department to ensure compliance with the requirements of the applicable building code and this part. The department shall establish and charge a reasonable fee based on the type of equipment being inspected that may not exceed the expense of providing the inspection. Inspections must be made on an annual basis, except that freight elevator inspections must be conducted every 2 years.

(2) (a) In lieu of an inspection by the department, inspections of equipment provided for in subsection (1) may be made by a licensed elevator inspector.

(b) When an inspection is made by an elevator inspector, a copy of the condition report must be provided to the owner and a copy must be sent to the department. The department may not charge more than \$10 for receiving and processing a condition report for each individual piece of equipment in a building and for issuing a certificate of inspection for the piece of equipment if the licensed elevator inspector doing the inspection certifies to the department that there are not any deficient conditions or that all deficient conditions noted in the condition report have been corrected and that a followup inspection by the department is not necessary.

(3) It is the responsibility of the owner or lessee of equipment subject to the provisions of this section to ensure compliance with any inspection requirements.

50-60-712 through 50-60-714 reserved.

50-60-715. Testing. (1) The department shall establish by rule requirements for periodic testing of elevators, escalators, dumbwaiters, and other equipment subject to the provisions of this part. It is the responsibility of the owners or lessees of equipment subject to the provisions of this section to ensure compliance with any testing requirements.

(2) An owner or lessee shall obtain the services of a licensed elevator contractor for testing and all tests must be conducted by a licensed elevator mechanic.

50-60-716. Insurance requirements. (1) Each licensed elevator contractor and licensed elevator inspector shall provide the department with a certified copy of an insurance policy issued by an insurance company authorized to do business in this state that provides at least \$1 million coverage for injury or death for any number of persons in any single occurrence and \$500,000 for property damage in any single occurrence.

(2) A licensed elevator contractor or licensed elevator inspector shall notify the department of any material policy alteration or policy cancellation within 10 days of receiving notice of the alteration or cancellation.

50-60-717 through 50-60-719 reserved.

50-60-720. Violation -- misdemeanor -- injunction. (1) Any person taking part or assisting in the design, construction, alteration, operation, maintenance, repair, inspection, installation, or testing of elevators, escalators, dumbwaiters, or other equipment subject to the provisions of this part who knowingly violates any provision of this part, the applicable building code, or any lawful order of a state, county, or municipal building official is guilty of a misdemeanor.

(2) A violation described in subsection (1) may be enjoined by a district court judge in the judicial district where the violation occurs.

(3) Subsection (2) is governed by the Montana Rules of Civil Procedure.

Part 8

Residential Energy Efficiency

50-60-801. Statement of policy on residential energy efficiency. The legislature finds that the people of Montana have an interest in energy efficiency in certain residential buildings for the purpose of protecting and improving their economic and environmental well-being and energy security, while recognizing the basic need for safe and affordable shelter. It is the policy of the state of Montana to encourage energy efficiency in residential buildings through strategies that ensure that:

(1) the housing consumer has access to the information required to make informed choices about structures and energy efficiency measures;

(2) energy efficiency measures are safe, reliable, and readily available for use in Montana;

(3) investments in energy efficiency measures are cost-effective;

(4) the cost of energy efficiency measures on the combination of down payments, monthly mortgage payments, and monthly utility bills does not adversely affect the affordability of housing to prospective home buyers and renters; and

(5) energy efficiency measures do not place an undue or inequitable burden on residential building owners or renters, the residential construction industry, financial institutions, real estate salespersons and appraisers, energy providers, or state and local governments.

50-60-802. Enforcement of energy code through builder self-certification. A person who begins construction on a residential building in Montana after October 1, 1993, shall certify in writing to the building owner at the conclusion of construction that the residential building has been constructed in compliance with the energy-efficient construction standards adopted under the provisions of [50-60-203](#)(1).

50-60-803. Energy labeling sticker. (1) The department of labor and industry, in consultation with the department of environmental quality, shall prescribe by rule requirements for a labeling sticker to be affixed to a new residential building that describes the energy efficiency components of the home, including but not limited to heating appliance efficiencies and R-value or U-value of ceilings, walls, floors, windows, and doors in new residential buildings.

(2) A person constructing a new residential building shall affix to that residential building in a manner prescribed by the department of labor and industry a labeling sticker as described in subsection (1).

CHAPTER 74 BOILERS AND STEAM ENGINES

Part 1 General Provisions

50-74-101. Definition -- department to formulate rules. (1) As used in this chapter, the term "department" means the department of labor and industry.

(2) The department shall adopt definitions and rules for the safe construction, installation, operation, inspection, and repair of equipment covered by this chapter. The definitions and rules must follow generally accepted nationwide engineering standards as published by the American society of mechanical engineers.

50-74-102. Boilers to conform to rules. No boiler which does not conform to the rules adopted by the department governing new construction and installation shall be installed and operated in this state after 12 months from the date upon which the first rules under this chapter pertaining to new construction and installation shall have become effective unless the boiler is of special design or construction, is not covered by the rules, or is in any way inconsistent with such rules, in which case a special installation and operating permit may be granted by the department at its discretion

50-74-103. Boilers exempted. (1) This chapter shall not apply to boilers under federal control.

(2) The provisions of this chapter requiring inspections, inspection fees, and certificates shall not apply to steam heating boilers operated at not over 15 pounds per square inch gauge pressure in private residences or apartments of six or less families or to hot water heating or supply boilers operated at not over 50 pounds per square inch gauge pressure and temperatures not over 250 degrees F when in private residences or apartments of six or less families.

(3) No persons operating any of the engines or boilers exempted from the operation of this chapter shall be required to procure a license from the department.

50-74-104. Dinkey engines to be classed as traction engines. Locomotives, commonly known as dinkey engines, used in operating logging or mining railroads or any similar work where such locomotives are owned, leased, or operated by any individual, company, or corporation and are used in the business of such individual, company, or corporation and not for general commercial purposes shall be classed as traction engines and be subject to inspection as are other traction engines, and the persons operating or firing such dinkey locomotives shall be required to hold traction licenses.

50-74-105. Purchaser to notify department of purchase. (1) Any person purchasing any boiler, whether traction or stationary, not exempted by the provisions of [50-74-103](#) shall, within 10 days after such purchase, report the fact of such purchase to the department and shall notify the department as to where the boiler will be installed and operated.

(2) Any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

50-74-106. Certificate and license to be conspicuously displayed. All certificates of inspection, operating certificates, and engineer's licenses must be displayed in a conspicuous place in the boiler room.

50-74-107. Wrongful certification or granting of a license a misdemeanor. Any inspector or assistant inspector who willfully certifies regarding any boilers or their attachments or grants a license to any person to act as engineer contrary to the provisions of this chapter is guilty of a misdemeanor.

50-74-108. Tampering with safety valve a misdemeanor. A renter, user, or owner of a boiler or a person who tampers with the safety valve to allow the boiler to carry greater pressure than is allowed by the inspection certificate is guilty of a misdemeanor.

Part 2 Inspections

50-74-201. State boiler inspectors. The department shall appoint state inspectors of boilers and shall prescribe their duties and term of office and fix their compensation.

50-74-202. Special boiler inspectors. (1) In addition to the state boiler inspectors, the department shall issue to the inspectors of boiler insurance companies authorized to do business in the state commissions, certificates, or other recognition as special boiler inspectors and may accept the inspection reports of such special inspectors as equivalent to those of the state inspectors.

(2) Each such special inspector shall hold a certificate as boiler inspector issued by the national board of boiler and pressure vessels inspectors.

(3) Such special inspectors shall receive no salary or expenses from the state, nor shall the state collect inspection fees for inspections made by such special inspectors.

50-74-203. Qualifications of boiler inspectors. No person is eligible to hold the office of inspector of boilers and steam engines who has not had at least 10 years of actual experience in the operation of steam engines, steam boilers, and steam machinery and who has not held for at least 3 years immediately preceding his appointment a first-class stationary engineer's license of the state of Montana or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery or any patented article required to be sold relating thereto.

50-74-204. Joint or separate inspection authorized -- inspectors to certify inspection under seal. In making an inspection of the boilers and machinery herein provided for, the inspectors may act jointly or separately, but the inspector or assistant inspector making such inspection must in all cases certify the same under the seal of the inspector of boilers and safety.

50-74-205. Purchaser to receive certificate of inspection. (1) Any person purchasing any boiler, whether traction or stationary, shall be entitled to receive from the seller the certificates of inspection issued on such boiler.

(2) Any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

50-74-206. Boiler to be inspected prior to use -- duty of notification. (1) The inspector of boilers must inspect all boilers and steam generators before the same are used.

(2) All persons who bring into this state for operation in this state any boiler or boilers must notify the department stating the number and kind of boilers and where they are to be located and operated in this state and must secure from the department a certificate of inspection before boilers are placed in operation except in the case of new boilers, which must be inspected within 90 days after they are put in use.

50-74-207. Boiler opened for repair subject to inspection -- duty of notification. Any owner, operator, or user who opens a boiler or boilers between inspections for repair or other reasons must notify the department of such action, and such boiler or boilers shall at the discretion of the department be inspected by the state or special boiler inspector before the boiler or boilers may be placed back in operation.

50-74-208. Penalty for operation without certificate or failure to give notice. Any person failing to give notice to the department as provided in [50-74-206](#) or [50-74-207](#) or who operates such boilers without a certificate from the department shall be punished by a fine of not less than \$100 or more than \$500 for each offense, by imprisonment in the county jail for not less than 30 or more than 90 days, or by both such fine and imprisonment.

50-74-209. Required inspection intervals -- failure to comply with safety standards. (1) (a) All manually fired boilers and all boilers and banks of boilers rated with a total input of 400,000 Btu's an hour or greater must be inspected at least once each year.

(b) All automatically fired boilers rated with an input of less than 400,000 Btu's an hour must be inspected at least once every 2 years, except that an automatically fired boiler in a school, day-care center, hospital, rest home, retirement center, or place of assembly with a capacity for more than 100 persons must be inspected once a year.

(c) Boilers exempt under the provisions of [50-74-103](#) do not require inspections.

(d) Upon written application, longer inspection intervals may be authorized by the department.

(2) In addition to the inspection required by subsection (1), it is the duty of each inspector to examine at proper times, when in the inspector's opinion an examination is necessary, all boilers that have become unsafe from any cause and to notify the owner or the person using the boilers of any defect and what repairs are necessary to render them safe.

(3) If a boiler is found, upon inspection, to violate safety standards set forth in rules referred to in [50-74-101](#), the department shall order the owner of the boiler to comply with the standards. An owner who negligently or knowingly fails to comply with an order is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 or more than \$100, imprisonment for not more than 60 days in a county detention center, or both.

50-74-210. Duty to permit inspection. It is the duty of the owners, engineers, or managers of steam or water boilers to allow the inspector free access to the same.

50-74-211. Inspector to notify department of refused access. In case the owner, operators, or manager of any boiler is notified by the inspector to have the boiler ready for inspection on a certain day and fails to have such boiler ready for inspection at such time, the inspector shall notify the department to gain access to the boiler.

50-74-212. Payment of costs resulting from refused access. The owner, engineer, or manager of any boiler who has refused access resulting in a department order must pay all transportation and hotel expenses of the inspector who makes the inspection directed by such order in addition to the inspection fee provided by law.

50-74-213. Failure to comply with department directed access a misdemeanor. Any person failing to immediately comply with department directed access to the boiler shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 or more than \$500, by imprisonment in the county jail for not less than 2 months or more than 6 months, or by both such fine and imprisonment.

50-74-214. Engineer to assist in inspection. It shall be the duty of the engineer operating any boiler or boilers to assist the inspectors in their examination of the same and point out any defects known to him in the boilers or machinery under his charge. Any engineer not complying with this section shall have his license revoked or suspended.

50-74-215. Interior and exterior examination of boiler. (1) The inspector must satisfy himself by a thorough interior and exterior examination that the boilers are well-made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of the proper dimensions and free from obstructions; that the flues are circular in shape; that the fire line of the furnace is at least 2 inches below prescribed minimum waterline of the boilers; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby; and that such boilers and the steam connections may be safely employed without danger to life.

(2) No boiler or steam pipe or any of the connections thereto which are made in whole or in part of bad material or are unsafe from any cause shall be approved. Nothing herein shall be construed to prevent the use of any boiler or steam generator, which may not be constructed of riveted iron or steel plates, when the

inspector has satisfactory evidence that such boiler or steam generator is equal in strength to and as safe from explosion as boilers of the best quality, constructed of iron or steel plates.

50-74-216. Hydrostatic pressure test. When necessary, the boiler inspector shall subject boilers, except those exempted by [50-74-103](#), to hydrostatic pressure, which hydrostatic pressure shall not exceed 150% of the steam pressure allowed on the boilers, providing there are no such leaks on such boilers which prevent the inspector from applying such hydrostatic pressure.

50-74-217. Other inspection requirements. The inspector must satisfy himself that:

(1) the safety valves are of suitable relieving capacity ratings, sufficient in number and area, and properly arranged and are properly adjusted so as not to allow a greater pressure in a boiler than the amount prescribed by the inspection certificate;

(2) there are a sufficient number of gauge cocks properly inserted to indicate the amount of water and suitable gauges that will correctly record the pressure of steam; and

(3) adequate and certain provisions for an ample supply of water to feed the boiler at all times and suitable means for blowing out are provided so as to thoroughly remove mud and sediment from all parts of the boiler when it is under pressure of steam.

50-74-218. Safe working pressure. (1) If a boiler is constructed with lap horizontal seams on the boiler, dome, or drum, a factor of 4 1/2 shall be used in determining the safe working pressure allowed on the boiler.

(2) If a boiler is constructed with butt strap horizontal seams, a factor of four may be used in determining the safe working pressure.

(3) If a boiler rests on a side wall on lugs, is hung by I-beams, or is in any way set up so that the weight of the boiler is pulling against the horizontal seam of rivets, a factor of five must be used in determining the safe working pressure.

(4) If the horizontal lap seams of a boiler are exposed to the fire, a factor of five must be used in determining the safe working pressure.

(5) On new stay bolts, 7,500 pounds pressure per square inch is allowed. If the stay bolts are corroded or defective, the inspector must determine the pressure to be allowed on them.

(6) On braces made of solid material, 8,000 pounds pressure per square inch is allowed. On welded braces or braces with only one crowfoot, 6,000 pounds pressure per square inch is allowed.

(7) No cast iron may be used in the construction or reinforcements of a boiler if the pressure allowed on the boiler is more than 100 pounds per square inch.

50-74-219. Fee for inspection. (1) Whenever a department inspector inspects a boiler, a fee must be charged and collected by the department prior to issuance of a boiler operating certificate in accordance with the following schedule:

(a) operating certificate, \$31;

(b) internal inspection, \$75;

(c) external inspection:

(i) hot water heating and supply, \$35;

(ii) steam heating, \$50; and

(iii) power boiler, \$70; and

(d) special inspection, \$50 an hour plus expenses.

(2) If two or more boilers in the same room are inspected at the same time, the total fee imposed for all boilers must be the fee for inspection of one boiler, and the fee is the amount for the type of boiler with the highest fee.

(3) Fees collected under this section must be deposited in the state special revenue fund in an account credited to the department for administration of the boiler inspection program.

Part 3

Licenses

[50-74-103](#), come under the provisions of this chapter, and persons operating same are required to hold the proper grade of license.

50-74-302. General requirements for licensure. No person may be granted a license to operate steam or water boilers and steam machinery under the provisions of this chapter who has not met the qualifications for licensing and been found to be competent by examination to perform the duties of an engineer.

50-74-303. Engineer's license classifications. (1) Engineers entrusted with the operation, care, and management of steam or water boilers and steam machinery, as specified in [50-74-302](#), are divided into five classes, including first-class engineers, second-class engineers, third-class engineers, agricultural-class engineers, and low-pressure engineers.

(2) Licenses for the operation of steam or water boilers and steam machinery are divided into five classifications in accordance with the following schedule:

(a) First-class engineers are licensed to operate all classes, pressures, and temperatures of steam and water boilers and steam-driven machinery with the exception of traction and hoisting engines.

(b) Second-class engineers are licensed to operate steam boilers operating not in excess of 250 pounds per square inch gauge saturated steam pressure, water boilers operating not in excess of 375 pounds per square inch gauge pressure and 450 degrees F temperature, and steam-driven machinery not to exceed 100 horsepower per unit, with the exception of traction and hoisting engines.

(c) Third-class engineers are licensed to operate steam boilers operating not in excess of 150 pounds per square inch gauge saturated steam pressure and not in excess of 150 horsepower per hour and water boilers operating not in excess of 160 pounds per square inch gauge pressure and 350 degrees F temperature.

(d) Agricultural-class engineers are licensed to operate steam boilers that operate not in excess of 150 pounds per square inch saturated steam pressure and that:

(i) are not operated for more than 6 months of the year; and

(ii) are not operated for purposes other than the harvesting or processing of agricultural products.

(e) Low-pressure engineers are licensed to operate steam boilers operating not in excess of 15 pounds per square inch gauge pressure and water boilers operating not in excess of 50 pounds per square inch gauge pressure and 250 degrees F temperature.

50-74-304. Requirements for engineer's license. Each applicant for an engineer's license must be physically and mentally capable of performing the required duties and must meet the following minimum requirements for the class of engineer's license for which application is being made:

(1) Except as provided in subsection (6), an applicant for a low-pressure engineer's license must be 18 years of age or older, must have at least 3 months' full-time experience in the operation of a boiler in this classification under an engineer who holds a valid low-pressure or higher license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler in this classification by the department.

(2) Except as provided in subsection (6), an applicant for an agricultural-class engineer's license must be 18 years of age or older, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler in this classification by the department.

(3) Except as provided in subsection (6), an applicant for a third-class engineer's license must be 18 years of age or older, must have at least 6 months' full-time experience in the operation of a boiler in this classification under an engineer holding a valid third-class or higher license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler in this classification by the department.

(4) An applicant for a second-class engineer's license must be 18 years of age or older and:

(a) must have at least 2 years' full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid second-class or first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department; or

(b) must hold a valid third-class engineer's license, must have at least 1 year's full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid second-class or first-class license, is required to successfully pass a written examination prescribed by the

department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department.

(5) An applicant for a first-class engineer's license must be 18 years of age or older and:

(a) must have at least 3 years' full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department;

(b) must hold a valid second-class engineer's license, must have at least 1 year's full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department; or

(c) must hold a valid third-class engineer's license, must have at least 2 year's full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department.

(6) As an alternative to the requirements of subsections (1) through (3), an applicant who is 18 years of age or older may apply for and be issued a license for any of the three classes of licenses provided for in subsections (1) through (3) if:

(a) the applicant completes a training course acceptable to the department that is specific to the class of boiler license sought by the applicant and successfully passes a written examination administered by the department that is specific to the class of boiler license sought by the applicant; and

(b) an engineer with a license at least equal to the class of boiler license sought by the applicant informs the department that the applicant has worked with the type of boiler for which a license is sought under the engineer's supervision for a minimum of 40 hours and that the applicant is competent to operate a boiler of the class for which licensure is sought by the applicant.

50-74-305. Exceptions to requirements for engineer's license. Allowable exceptions or variances to the minimum requirements set out in [50-74-304](#) are as follows:

(1) An applicant for an engineer's license in any classification who holds a valid license in that classification from another state having licensing requirements equal to or exceeding the minimum requirements set out in [50-74-304](#), who successfully passes a written examination prescribed by the department, and who is found competent to operate a boiler and steam-driven machinery in that classification by the department must be granted a license in that classification.

(2) Operating experience in a classification accumulated in the United States military services or the merchant marine service satisfactory to the department may be accepted in lieu of the operating experience required for licensing of engineers in each of the license classifications.

(3) An applicant who has training in the operation of steam or water boilers and steam machinery and who has been certified as having satisfactorily completed a prescribed training course from a department-approved institution or training program in the classification for which the applicant is applying may, pursuant to department rule, be credited with experience toward a first-, second-, or third-class or low-pressure engineer's license.

50-74-306. Traction licenses. (1) The licenses named in [50-74-303](#) do not entitle the holder to operate a traction engine.

(2) A person who is entrusted with the care and management of traction engines or boilers on wheels is required to pass an examination testing the person's competency to operate that class of machinery and procure a traction license.

(3) A person who is entrusted with the care, management, and operation of steam locomotives not addressed by federal regulations is required to pass an examination testing the person's competency to operate that class of machinery and procure a traction license.

(4) A traction license does not entitle its holder to operate any other class of steam machinery.

50-74-307. Requirements for traction licenses. An applicant for a traction engineer's license:

- (1) must be 18 years of age or older;
- (2) must have at least 480 hours total experience in the operation of steam traction engines;
- (3) shall successfully pass a written examination prescribed by the department; and
- (4) must be found competent to operate a traction engine by the department.

50-74-308. Waiver of experience requirement for traction licenses. The department, at its discretion, may waive the experience requirement for operators of traction engines which are maintained and operated as a hobby for the restoration and show purposes of antique equipment.

50-74-309. License fees. An applicant for an engineer's license shall pay a fee according to the class of license for which application is made, as specified by administrative rule, commensurate with program area costs approved by the legislature. All fees must be deposited in the state special revenue fund for the use of the department. The account balance may not exceed one-half of 1 year's approved appropriation without either a reduction in fees or an increase in appropriation approved by the legislature.

50-74-310. Repealed. Sec. 28, Ch. 196, L. 2003.

50-74-311. Waiting period before reexamination permitted. In case of the failure of any applicant to successfully pass an examination, 45 days must elapse before he can again be examined for license.

50-74-312. Review of license rejection -- waiting period. (1) An applicant for a license under the provisions of this chapter whose application has been rejected may, within 45 days after the date of the rejection, set forth in writing any arguments opposing the rejection and request a review by the department. The request must be addressed to the department and must be signed by the applicant.

(2) Within 2 days after receiving the request, the department shall notify the applicant in writing that on a certain day, not less than 5 days or more than 30 days after receipt of the written request, the department shall review and evaluate the application and any arguments opposing the rejection of the license application.

(3) The applicant may appear in person at the review. At least 2 days before the day set for the review, the applicant may designate in writing to the department the name of an engineer holding a valid license of equal or higher grade than the one applied for, and the engineer may testify on behalf of the applicant at the review.

(4) After the review, if the department determines that the applicant is entitled to the license, the department shall issue the license. If the department affirms the decision to not issue the license, the applicant may reapply to take the license examination, as provided in [50-74-311](#), and may not take the examination within 45 days of the final decision to not issue the license.

50-74-313. Renewal of licenses. (1) All certificates of license to engineers of all classes must be renewed at periodic intervals as established by the department by rule.

(2) Any engineer failing to renew the license within at least 30 days after the date of expiration must be assessed the fee for the original license of the same grade before the license will be reissued.

(3) Any engineer failing to renew the license within 12 months of the date of expiration shall reapply for an engineer's license as required by the provisions of [50-74-303](#) through [50-74-308](#).

(4) Any engineer whose license expired while the engineer was in the military or naval service of the United States shall within 90 days of discharge renew the license at the renewal fee.

50-74-314. Repealed. Sec. 46, Ch. 481, L. 1997.

50-74-315. Unlawful to operate boiler or steam engine without license. (1) It is unlawful for any person in this state to operate a stationary boiler or steam engine or any boiler or steam engine other than engines and boilers exempted by the provisions of [50-74-103](#) without a license granted under the provisions of this chapter. The owner, renter, or user of any engine or boiler is equally liable for the violation of this section.

(2) A person who operates a boiler or steam engine without first obtaining a license is guilty of a

misdemeanor and, upon conviction, shall be fined no less than \$50 or more than \$100 or be imprisoned in the county jail for any term not to exceed 60 days, or both.

50-74-316. Unlawful to employ unlicensed operator. It shall be unlawful, except as stated in [50-74-317](#), for any person, firm, or corporation to employ any person not duly licensed as an engineer within the meaning of this chapter to run or operate any of the boilers or engines subject to the provisions of this chapter.

50-74-317. When unlicensed person may operate. (1) In case of accident, sickness, or any unforeseen event that prevents a licensed engineer, employed by an owner, renter, or user of an engine or boiler, from performing required duties, the owner, renter, or user may for 15 days employ any person 18 years of age or older whom the owner, renter, or user considers competent to run the engine or boiler.

(2) Although the person employed may not be the holder of an engineer's license, the person must have reasonable qualifications acceptable to the department.

(3) A person employing an unlicensed engineer shall immediately notify the department.

(4) An owner, renter, or user of boilers or steam machinery may not employ unlicensed engineers for more than 15 days in any 1 calendar year.

50-74-318 through 50-74-319 reserved.

50-74-320. Examinations -- fees -- third parties. (1) The department shall administer the engineer examinations at least once every 3 months at places within the state as determined by the department.

(2) The department shall determine the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.

(3) The department may use a third party to provide examination and grading services