

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.301.301 incorporation by)	PROPOSED AMENDMENT AND
reference of uniform plumbing code,)	ADOPTION
24.301.714 fees, and adoption of)	
NEW RULE I incorporation by)	
reference of international wildland-)	
urban interface code (IWUIC))	

TO: All Concerned Persons

1. On December 17, 2015, at 1:00 p.m., a public hearing will be held in the Basement Conference Room, #B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Building Codes Bureau no later than 5:00 p.m., on December 11, 2015, to advise us of the nature of the accommodation that you need. Please contact David White, Building Codes Bureau, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2009; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2050; or dlibsdbcb@mt.gov (bureau's e-mail).

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.301.301 INCORPORATION BY REFERENCE OF UNIFORM PLUMBING CODE (1) through (1)(s) remain the same.

(t) Subsection 704.3, is amended by deleting the first sentence and replacing it with, "There may not be a direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed." Exception: A warewashing (3-compartment) sink may have a direct connection only when used as a wash bin, rinse bin, and sanitizing bin and shall not be used for any other purpose. Establishments that use the sanitizing bin of their warewashing sink to wash produce or conduct other food preparation must maintain an indirect connection and are not eligible for this exception.

(u) through (y) remain the same.

(z) Subsection ~~897.4~~ 807.4, Domestic Dishwashing Machine, add exception as follows: "Exception #1: An approved type of indirect waste receptor may be used to receive discharge from domestic dishwashing machines."

(aa) through (2) remain the same.

AUTH: 50-60-203, 50-60-504, 50-60-508, MCA

IMP: 50-60-201, 50-60-203, 50-60-504, 50-60-508, MCA

REASON: Experience with indirect connections in warewashing sinks has demonstrated that the risk created by an indirect connection, e.g., the growth of mold and bacteria surrounding the drain, floor, and wall areas, outweighs the risk the indirect connection was intended to mitigate. This awareness has begun to create tension in the field between sanitarians and plumbers bound by the current plumbing code. This tension is likewise recognized by the 2013 U.S. Department of Health and Human Services, Food and Drug Administration Food Code 5-402.11(D) which provides an exception to the backflow protector design if allowed by law. The Montana Department of Public Health and Human Services has adopted the USDHHS food code by reference at ARM 37.110.260. The department is amending (1)(t) to create an exception for warewashing sinks and address this tension.

The department is amending (1)(z) correct a typographical error.

24.301.714 FEES (1) through (2) remain the same.

~~(3) If two or more boilers in the same room are inspected at the same time, the total inspection fee imposed for all boilers must be the fee for inspection of one boiler, and the inspection fee is the amount for the type of boiler with the highest fee.~~ The operating certificate fee is required for each boiler inspected.

(4) and (5) remain the same.

AUTH: 50-60-203, 50-74-101, MCA

IMP: 50-60-203, 50-74-219, MCA

REASON: The 2015 Montana Legislature enacted Chapter 46, Laws of 2015 (Senate Bill 71), an act revising the inspection fee for two or more boilers. The bill was signed by the Governor on February 18, 2015, and became effective July 1, 2015. The department is amending (3) to implement the legislation by addressing confusion regarding inspection fees for multiple boilers in a single room, and clarifying that each boiler requires its own inspection and associated inspection fees. Senate Bill 71 eliminated the same language from 50-74-219, MCA.

4. The proposed new rule provides as follows:

NEW RULE I INCORPORATION BY REFERENCE OF INTERNATIONAL WILDLAND-URBAN INTERFACE CODE (IWUIC) (1) The department adopts and incorporates by reference the International Wildland-Urban Interface Code, 2012 edition, published by the International Code Council, unless another edition is specifically stated, together with Appendix "B" (Vegetation Management Plan) and Appendix "C" (Fire Hazard Severity Form).

(2) Section 302 is deleted in its entirety and replaced with the following: "The governmental body or some other official state or local agency shall declare the wildland-urban interface areas within the jurisdiction. Such declaration or designation shall be based on findings of fact or some other process already completed such as mapping, boundary designations, or other informative processes such as wildland fire plans. Cities, counties, and towns that have adopted the

International Building Code or the International Residential Code in connection with their certification to enforce building codes will, if they elect to enforce the International Wildland-Urban Interface Code, record the official wildland-urban interface areas on maps available for inspection by the public.

(3) Chapter 4 is deleted in its entirety.

(4) Subsection 101.2, Scope, is modified by:

(a) Deleting the first sentence and replacing with: "The provisions of this code shall apply to the construction, alteration, movement, repair, addition, change-of-use or remodeling of any building, structure, or premises within the designated wildland-urban interface within the jurisdiction."

(5) Subsection 101.4, Retroactivity, is deleted in its entirety.

(6) Subsection 101.5, Additions or Alterations, delete the written exception.

(7) Subsection 101.6, Maintenance, is deleted in its entirety.

(8) Subsection 102.6, Existing Conditions, is modified by:

(a) Deleting "International Property Maintenance Code."

(9) Section 103, Enforcement Agency, is deleted in its entirety.

(10) Subsection 107.2, Permits Required, retain the first sentence and delete the remainder of the subsection.

(11) Subsection 109.4.4, Citations, is deleted in its entirety.

(12) Subsection 109.4.5, Unsafe Conditions, is deleted in its entirety.

(13) Subsection 109.4.5.1, Record, is deleted in its entirety.

(14) Subsection 109.4.5.2, Notice, is deleted in its entirety.

(15) Subsection 109.4.5.2.1, Method of Service, is deleted in its entirety.

(16) Subsection 109.4.5.3, Placarding, is deleted in its entirety.

(17) Subsection 109.4.5.3.1, Placard Removal, is deleted in its entirety.

(18) Subsection 109.4.5.4, Abatement, is deleted in its entirety.

(19) Subsection 109.4.5.5, Summary Abatement, is deleted in its entirety.

(20) Subsection 109.4.5.6, Evacuation, is deleted in its entirety.

(21) Replace Table 503.1 "Ignition-Resistant Construction" with the one

below:

DEFENSIBLE SPACE	Fire Hazard Severity		
	Moderate Hazard	High Hazard	Extreme Hazard
Nonconforming	IR2	IR1	IR1 N.C.
Conforming	IR3	IR2	IR1
1.5 X Conforming	Not Required	IR3	IR2

(22) Section 602, Automatic Sprinkler Systems, is deleted in its entirety.

(23) Section 604, Maintenance of Defensible Space, is deleted in its entirety.

(24) The IWUIC adopted by reference in (1) is a nationally recognized model code setting forth minimum standards and requirements for the safeguarding of life and property. A copy of the IWUIC may be obtained from the Department of Labor and Industry, Building Codes Bureau, P.O. Box 200517, Helena, MT 59620-0517, at cost plus postage and handling. A copy may also be obtained by writing to the

International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, or on their web site at www.ICCSafe.org.

AUTH: 50-60-202, 50-60-203, MCA

IMP: 50-60-201, 50-60-202, 50-60-203, MCA

REASON: The department determined it is reasonably necessary to adopt NEW RULE I to align with the adoption of a new publication of the International Wildland-Urban Interface Code (IWUIC). Adoption of the IWUIC as modified involves more than two years of stakeholder involvement, listening sessions, and deliberations with other jurisdictions, other agencies, and the Building Codes Advisory Council, to adopt a wildland-urban interface code suited to the particular needs of the state of Montana and its citizens.

Appendix "B" and "C" are adopted in (1) to provide specific information to assist citizens in vegetation management and in determining fire hazard severity.

Language in (2) modifies the IWUIC to identify agencies authorized to designate the wildland-urban interface.

Language in (3) deletes chapter 4 regarding subdivision review and infrastructure because these functions are the responsibility of local government and are outside the authority of the department.

The department is amending or deleting IWUIC language in (4) through (20) to be consistent with jurisdictional and procedural requirements of Title 50, chapter 60, MCA.

Section (21) modifies the IWUIC to exclude water supply access as a consideration for mitigation of defensible space, which in rural Montana is not a feasible requirement. Additionally, the table to be replaced references other sections of the IWUIC which are not being adopted.

In (22), the department is deleting the requirement of an automatic sprinkling system since the department has not adopted the requirement in any other residential building code. Further, the IWUIC focuses not on fires starting in a building and spreading outward, but on wildland fires spreading toward a building.

Language in (23) deletes Section 604 of the IWUIC as the department lacks authority over existing conditions and maintenance of defensible space. Though a condition to be complied with at the time of construction, once construction is complete, conditions and maintenance of the defensible space fall outside jurisdiction of the department.

The department is adding (24) to provide citizens and stakeholders with the purpose of this code and how to obtain copies.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to David White, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2050, or e-mail to dlibsdbcb@mt.gov and must be received no later than 5:00 p.m., December 24, 2015.

6. An electronic copy of this notice of public hearing is available at www.buildingcodes.mt.gov (department and bureau's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all department or bureau administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to David White, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2050; e-mailed to dlibsdbcb@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Senator Jim Keane, the primary bill sponsor, was contacted in person on September 10, 2015.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.301.301 and 24.301.714 and the adoption of NEW RULE I will not significantly and directly impact small businesses.

Documentation of the department's above-stated determinations is available upon request to David White, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2050, or by e-mail to dlibsdbcb@mt.gov.

10. Colleen White, attorney, has been designated to preside over and conduct this hearing.

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State November 16, 2015