

MODIFICATIONS ASSOCIATED WITH THE INTERNATIONAL BUILDING CODE (IBC)

24.301.109 DEFINITIONS (1) As used in this chapter:

- (a) "Department" means the Department of Labor and Industry.
- (b) "IBC" means the International Building Code, ~~2009~~ 2012 edition.
- (c) "IMC" means the International Mechanical Code, ~~2009~~ 2012 edition.
- (d) "IFGC" means the International Fuel Gas Code, ~~2009~~ 2012 edition.

(History: 50-60-203, MCA; IMP, 50-60-203, MCA; NEW, 2010 MAR p. 1733, Eff. 7/30/10.)

24.301.131 INCORPORATION BY REFERENCE OF INTERNATIONAL BUILDING CODE (1) The department adopts and incorporates by reference the International Building Code, ~~2009~~ 2012 edition, unless another edition is specifically stated, together with Appendix **Chapter C (Group U - Agricultural Buildings)**.

(2) The IBC is a nationally recognized model code setting forth minimum standards and requirements for building design, construction, alteration, and repair. The IBC also provides a framework for program administration.

(3) A copy of the IBC may be obtained from the Department of Labor and Industry, Building Codes Bureau, P.O. Box 200517, 301 South Park, Helena, MT 59620-0517, at cost plus postage and handling. A copy may also be obtained by contacting the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, or on their web site at www.ICCsafe.org.

(History: 50-60-203, MCA; IMP, 50-60-203, MCA; NEW, 2002 MAR p. 2656, Eff. 9/27/02; AMD, 2004 MAR p. 571, Eff. 3/12/04; AMD, 2007 MAR p. 112, Eff. 1/26/07; AMD, 2010 MAR p. 1733, Eff. 7/30/10.)

24.301.134 OPTIONAL APPENDIX CHAPTERS FOR LOCAL GOVERNMENT

ADOPTION (1) The following appendix chapters of the International Building Code are adopted for use by local governments, in part or in whole, if the local government has specifically provided for their adoption. These appendix chapters are not adopted for use by the department:

- (a) **Appendix Chapter B (Board of Appeals);** and
- (b) **Appendix Chapter H (Signs).**

(History: 50-60-203, MCA; IMP, 50-60-203, MCA; NEW, 2002 MAR p. 2656, Eff. 9/27/02.)

24.301.138 CALCULATION OF FEES (1) International Building Code Section 109.2, Schedule of Permit Fees, is modified for use by the department with the following additions:

(a) Permit fees. The fee for each building permit is established in Table 109.2.

(b) Plan review fees. When submittal documents are required, a plan review fee must be paid in addition to the building permit fee. The plan review fee is 35 percent of the building permit fee as established in Table 109.2. If only plan review services are provided, the plan review fee for such services shall be 50 percent of the combined plan review and building permit fee.

(c) Add a new paragraph to IBC Section 109.2 to read: "Requested Inspection Fee - \$45 75.00 per hour, with any portions of an hour rounded up to the next full hour. ~~provided that such service is not in excess of one hour in duration, and then \$25.45 for each 30 minutes or fractional part thereof in excess of one hour.~~ Travel and per diem will may be charged as per the state of Montana's existing rates for these items."

(2) ~~A minimum 50 percent of the combined building permit fee and the plan review fee must be paid before a building permit application is reviewed beyond the initial screening. Both the building permit fee and the plan review fee must be paid before a building permit will be issued.~~

(3) The determination of value or valuation under any of the provisions of this code shall be made by the building official. The value to be used in computing the building permit and building plan review fees is the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems, and any other permanent equipment.

(4) The value or valuation of a building or structure under any of the provisions of the International Building Code will be determined using one of the following methods of determining valuation, listed in their order of priority:

- (a) firm bids or contract amounts, if available;
- (b) the design professional's preliminary cost estimate, if such estimate is available; or
- (c) the cost per square foot method of valuation and the cost per square foot figures for the type of construction and occupancy group listed in the "Building Valuation Data" table of the January/February 2009 edition of "Building Safety Journal " magazine, published by the International Code Council.

(d) For purposes of modifying the building valuation values derived from the square-foot method calculations of (4)(c), the calculated building valuation shall be multiplied by a factor of ~~0.60~~ 70 to arrive at a final calculated building valuation.

(e) When in unusual circumstances the valuation calculated by the use of the "Building Valuation Data" table, the design professional's estimated project cost, firm bids, or contract amounts are determined to be unreasonable for the nature of the project, the department reserves the right to base the building permit fee and plan review fee on the best valuation information it has available to it.

(5) For purposes of calculation of fees, the building valuation shall be rounded off to the nearest \$1000 and any calculated building and plan review fees shall be rounded off to the nearest \$1.

(6) As provided in ARM 24.301.203, local governments certified to enforce the state building code may establish their own permit fees. Local governments may also establish their own method of building valuation.

(7) For projects involving replacement of existing building components, such as roof coverings, siding, and windows, the department may use the requested inspection fee rate in calculating and assessing an appropriate and reasonable fee for projects in which such factors as material costs cause the plan review and building permit fee to exceed the cost of the service the department provides.

(8) A copy of the "Building Valuation Data" table may be obtained free of charge from the Department of Labor and Industry, Building Codes Bureau, P.O. Box 200517, 301 South Park, Helena, MT 59620-0517.

TABLE 109.2

BUILDING PERMIT FEES

TOTAL VALUATION	FEE
\$1 to \$500	\$23.50

\$501 to \$2000	\$23.50 for first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2000
\$2001 to \$25,000	\$69.25 for the first \$2000 plus \$14 for each additional \$1000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	\$391.75 for the first \$25,000 plus \$10.10 for each additional \$1000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	\$643.75 for the first \$50,000 plus \$7 for each additional \$1000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1000, or fraction thereof to and including \$500,000
\$500,001 to \$1,000,000	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and up	\$5,608.75 for the first \$1,000,000 plus \$3.15 for each additional \$1000, or fraction thereof
Other Inspections and Fees:	
1. Inspections outside of normal business hours (minimum charge - two hours)	\$45.00 <u>75.00</u> per hour
2. Inspections for which no fee is specifically indicated (minimum charge - one-half hour)	\$45.00 <u>75.00</u> per hour
3. Additional plan review required by changes, additions or revisions to plans (minimum charge - one-half hour)	\$45.00 <u>75.00</u> per hour
4. For use of outside consultants for plan checking and inspections, or both	Actual costs ¹

¹ Actual costs include administrative and overhead costs.

(History: 50-60-104, 50-60-203, MCA; IMP, 50-60-103, 50-60-104, 50-60-203, MCA; NEW, 2002 MAR p. 2656, Eff. 9/27/02; AMD, 2004 MAR p. 571, Eff. 3/12/04; AMD, 2004 MAR p. 2103, Eff. 9/3/04; AMD, 2006 MAR p. 567, Eff. 2/24/06; AMD, 2007 MAR p. 112, Eff. 1/26/07; AMD, 2010 MAR p. 1733, Eff. 7/30/10.)

24.301.139 INVESTIGATION FEES ASSESSED FOR WORK COMMENCING

WITHOUT BUILDING PERMIT (1) In accordance with subsection 109.4 of the International Building Code and pursuant to the requirements of fees being commensurate with costs, the department may assess an investigation fee for any work commenced on a building or structure prior to obtaining the required building permits. The investigation fee will be charged on an hourly rate of ~~\$45.00~~ 75.00 per hour, for every hour, including portions of an hour spent on investigating the work commenced without the proper building permits. This investigation fee shall be in addition to the regular plan review and building permit fee assessed in ARM 24.301.138(1)(a) and (b).

(History: 50-60-104, 50-60-203, MCA; IMP, 50-60-103, 50-60-104, 50-60-201, 50-60-203, MCA; NEW, 2004 MAR p. 2103, Eff. 9/3/04; AMD, 2010 MAR p. 1733, Eff. 7/30/10.)

24.301.142 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE

APPLICABLE ONLY TO THE DEPARTMENT'S CODE ENFORCEMENT PROGRAM (1) The following modifications to the International Building Code are applicable only to the department's building code enforcement program. The referenced sections remain without amendment for local government building code enforcement programs.

(2) The department will use 50-60-109 and 50-60-110, MCA, in cases requiring prosecution in lieu of Section 114 of the IBC. When a person fails to submit required plans, obtain a permit, correct plans, or comply with an order of the department, the department, as authorized by 50-60-109, MCA, may bring civil action to enjoin the person from constructing or using the building.

(3) No plumbing, mechanical, or electrical permit will be issued for a building or structure under the jurisdiction of the department, until:

- (a) the building permit has been issued;
- (b) it has been determined that a building permit is not required; or
- (c) special circumstances exist which make issuance of the permit appropriate.

(4) An owner seeking to do work that the owner believes is not subject to a building code requirement shall provide, in writing either electronically or via US Mail, the department, if in the state's jurisdiction, with any documentation or information that it may reasonably require so that the department may determine whether the work is subject to the building code

requirement. The documentation or information provided may be required to be in the form of an affidavit or affirmation.

(5) Subsection 107.1 of the IBC is amended with the addition of the following: "The department requires submittal of ~~two~~ a complete sets of construction documents for all projects. This section shall not be construed to require an architect or engineer license. The requirements for who must be licensed to practice architecture or engineering work is governed by Title 37, chapter 65, MCA and Title 37, chapter 67, MCA. The issuance of a building permit does not in any way address the need for licensure by the permit holder or designer."

(6) Subsection 111.1 of the IBC is amended with the addition of the following: "On a case-by-case basis, the building official or his agent may grant the owner permission to occupy and use a building or portions thereof prior to completion of the project when the building official or his agent finds the building or structure to be in substantial compliance with the intent of the International Building Code."

(7) Subsection 111.2 of the IBC is amended to read:

(a) "111.2 Certificate issued. If the building official or the building official's agent makes all the inspections of a building or structure required by Section 110, and finds it was constructed in accordance with the provisions of the state building code, the building official shall issue a certificate of occupancy, as referenced in 50-60-107, MCA, which shall contain the following:

- (i) the building permit number;
- (ii) the address of the building;
- (iii) the name and address of the owner;
- (iv) a description of that portion of the building for which the certificate is issued;
- (v) a statement that the described portion of the building has been inspected and complies with the state building code for the group and division of occupancy and the use for which the proposed occupancy is classified;
- (vi) the name of the building official;
- (vii) the section of the code under which the permit was issued;
- (viii) the use and occupancy, in accordance with the provisions of Chapter 3;
- (ix) the type of construction as defined in Chapter 6;
- (x) the design occupant load;
- (xi) if an automatic sprinkler system is provided, whether the sprinkler system is required; and

(xii) any special stipulations and conditions of the building permit."

(b) The department will issue certificates of occupancy only when all of the inspections applicable to construction projects have been performed and, based on those inspections, the department reasonably believes the construction has occurred in compliance with applicable state laws and administrative rules.

(i) Where inspections have been performed on various aspects of the same construction project by a combination of state, city, or county inspectors, the department will issue certificates of occupancy based upon written representations from the city or county inspectors that the portions of projects which they inspected caused them to believe those portions of the projects were constructed in compliance with the applicable codes.

(ii) Where certificates of occupancy are sought from certified city or county building code enforcement programs, but those programs' officials must rely on the department to complete a portion of the requisite inspections, the department inspectors will provide written representations, as described above, to city or county officials concerning those portions of the projects they inspected.

(c) "Formal Written Approval: In situations where the department was unable to perform the required inspections referenced in Section 110 of the IBC, but no significant deficiencies from the state building code have been noted, the bureau may issue a letter of formal written approval in lieu of a certificate of occupancy."

(8) The department will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal in lieu of Section 113 of the IBC.

(9) Subsection 1809.5 of the IBC requires that footings and foundations shall extend below the frost line. In all areas of the state outside of certified local government jurisdictions, the minimum depth from finished grade to the bottom of footings shall be three feet for single story wood or metal frame buildings, and four feet for multistory or masonry buildings. Buildings located on highly expansive or unstable soils may need engineered footings and foundation walls that extend below the minimum depths indicated above. At the discretion of the building official, the above minimum depths may not be required for properly designed so-called monolithic slabs for single story storage and similar use buildings. The building official may require monolithic slabs to be designed and stamped or certified by a Montana registered engineer who practices structural design. The design and stamp of a Montana licensed architect may be accepted in lieu of an engineer's stamp when the monolithic slab design is an incidental part of an architectural building design, as allowed by 37-67-103, MCA.

(10) Delete Chapter 32 in its entirety.

(History: 50-60-203, MCA; IMP, 50-60-107, 50-60-108, 50-60-109, 50-60-203, 50-60-212, MCA; NEW, 2002 MAR p. 2656, Eff. 9/27/02; AMD, 2002 MAR p. 3627, Eff. 12/27/02; AMD, 2007 MAR p. 112, Eff. 1/26/07; AMD, 2010 MAR p. 1733, Eff. 7/30/10.)

24.301.146 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE APPLICABLE TO BOTH THE DEPARTMENT'S AND LOCAL GOVERNMENT CODE ENFORCEMENT PROGRAMS (1) The following modifications to the International Building Code are applicable to both the department's building code enforcement program and local government building code enforcement programs.

(2) Subsection **101.4**, Referenced Codes, is modified by adding the following: "Any reference to a separate specialty code, by title, either in this subsection or elsewhere in this code, shall be considered deleted and replaced with the title of the model code adopted and in effect at the time, as applicable."

(3) Subsection **101.4.3**, Plumbing, is modified by:

(a) Deleting "International Plumbing Code" and replacing with "Uniform Plumbing Code."

(b) Deleting the last sentence: "The provisions of the International Private Sewage Disposal Code shall apply to private sewage disposal systems."

(4) Subsection **101.4.4**, Property Maintenance, is deleted in its entirety.

(5) Subsection **101.4.5**, Fire Prevention, is modified by deleting "International Fire Code" and replacing with "fire code adopted by the fire authority having jurisdiction."

(6) Subsection **105.1.1** is deleted and replaced with the following: "At the discretion of the building official, a single annual permit may be issued for multiple buildings owned by a single entity, located in a single geographic location, which require similar and repetitive repair, restoration, and maintenance work."

(7) Subsection **107.3.1** is amended by the addition of the following sentence: "When the building official issues the permit where plans are required, the building official shall approve the construction documents, with corrections as required, or with adequate written resolution of deficiencies noted in plan review comments."

(8) The following modifications apply to riding arenas:

(a) Subsection **312.1** is amended by addition of the following paragraph: "Riding arenas limited to occupant loads of 200 or less and used for boarding, breeding, and training of horses, horse shows and competitions, clinics and rider instruction, and open riding are considered agricultural buildings subject to the provisions of **Appendix Chapter C**, as amended. Uses such as rodeos, barn dances, craft and other **nonlivestock** shows, conventions, and similar events which result in large numbers of spectators or occupants are not allowed in riding arenas classified as agricultural buildings."

(b) **Appendix Chapter C, Subsection C101.1** is amended by addition of: "9. Riding arenas as defined in amended Subsection **312.1**."

(c) **Appendix Chapter C, Subsection C104.1** is amended by addition of the following sentences to Exception 2: "The portion of riding arena buildings where riding will occur or where spectators may be present or seating is provided shall be provided with a minimum of four exits directly to the outside, with the exits located in a manner acceptable to the department that enhances exit from spectator areas. Exits from this portion of the building shall not be provided with a latch or lock unless it is panic hardware."

(d) **Appendix Chapter C, Subsection C104.1** is amended by addition of Exception 3: "Exit doors for riding arenas shall not be less than 3 feet wide by 6 feet 8 inches high."

(9) In new or existing structures, the building official may allow the installation of **noncode** compliant equipment, facilities, or structural elements including but not limited to fire-extinguishing (sprinkler) systems or fire-resistive construction, which are not required by the building code, upon the finding that such installation does not negatively impact the overall compliance of the structure with the building code. Subsection **901.2**, Fire Protection Systems, is modified by deleting the exception and replacing with the following: "Any fire protection system or portion thereof not required by this code shall be permitted to be installed for partial or complete protection at the discretion of the building official."

(10) Subsection **903.3.5**, Inadequate Water Supply, is amended by addition of the following: "This subsection shall apply to buildings which are required by the International Building Code to be provided with an automatic fire extinguishing system and do not have access to an existing multiple user water supply system, such as a municipal water supply system or a private community water supply system, capable of providing the water supply requirements of National Fire Protection Association Standard for the Installation of Sprinkler Systems, ~~2007~~ **2010** edition (NFPA 13). Under such circumstances, water storage requirements may be modified by the building official. The modified design shall include sufficient storage onsite to operate the hydraulically remote area for the response time of the local fire department. Response time is the time from alarm to the time the fire department can apply water to the fire. Response time shall be established by the use of the formula $T = 6.5 \text{ minutes (mobilization time)} + 1.7 \text{ minutes/mile } D \text{ (travel time)}$, where T is response time, in minutes, and D is distance, in miles, from the fire station to the building. The modified water supply shall be sufficient to operate the system for the response time calculated above but not be less than 20 minutes. Water supply requirements shall be established by using the area/density method as defined in NFPA 13. A reduction in water storage of up to 50 percent, but not less than that required for a 20 minute supply is allowed. All automatic fire sprinkler system designs and components shall be in compliance with NFPA 13. When a modified water storage is allowed, the automatic fire sprinkler system must be equipped with a flow alarm, digital alarm communicator transmitter, and a fire department connection. The automatic fire sprinkler system shall be monitored by an approved central station in accordance with NFPA 72, National Fire Alarm Code, ~~2007~~ **2010** edition."

(11) The standards for fire-extinguishing systems and standpipe systems referenced in Chapter 9 of the International Building Code shall be the following **unamended** National Fire Protection Association (NFPA) Standards:

(a) Fire-extinguishing system.

(i) Installation of Sprinkler Systems: NFPA 13 Standard for the Installation of Sprinkler Systems, 2007 2010 edition.

(ii) Installation of Sprinkler Systems in Group R Occupancies Four Stories or Less: NFPA 13R Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2007 2010 edition.

(b) Standpipe Systems: NFPA 14 Standard for the Installation of Standpipe and Hose Systems, 2007 2010? edition.

(c) Notwithstanding any other provisions or references to the contrary within the NFPA standards, the authority having jurisdiction over any fire protection system required by the International Building Code shall be the building official.

(12) Delete Subsection **903.2.8** and replace with the following:

"1. An approved automatic sprinkler system installed in accordance with Section 903.3 shall be provided in all Group R buildings meeting any of the following criteria:

"a. ~~4~~ 9 or more transient guests or ~~8~~ 5 or more transient guestrooms;

"b. ~~4~~ 9 or more occupants in other than dwelling units;

"c. ~~8~~ 5 or more dwelling units; or

"d. more than 2 stories.

"2. In lieu of the above required automatic sprinkler system in buildings not more than three stories above the lowest level of exit discharge, each transient guestroom may be provided with at least one door leading directly to an exterior exit access that leads directly to approved exits.

"3. "Transient guest" for the purpose of this subsection shall mean an occupant who is primarily transient in nature, staying at one location for 30 days or less."

"4. "The requirements for automatic sprinkler systems for R-4 occupancies are found in ARM 24.301.146."

(13) ~~Subsection 907.2.8.1, Manual Fire Alarm System, is amended with the addition of the following: "Exception 3: A manual fire alarm system is not required in buildings with five or fewer guestrooms or 10 or fewer guests where the building does not exceed two stories in height and is equipped with multiple-station smoke alarms installed in accordance with Subsection 907.2.11."~~

(14) Subsection **1018.1** is amended by addition of the following: "Upgrading of corridors in existing E occupancies serving an occupant load of 30 or more, may have walls and ceilings of not less than one-hour fire-resistive construction as required by this code. Existing walls

surfaced with wood lathe and plaster in good condition or 1/2-inch gypsum wallboard or openings with fixed wired glass set in steel frames are permitted for corridor walls and ceilings and occupancy separations when approved. Doors opening into such corridors shall be protected by 20-minute fire assemblies or solid wood doors not less than 1 3/4 inches (45 mm) thick. Where the existing frame will not accommodate the 1 3/4-inch-thick door, a 1 3/8-inch-thick solid bonded wood-core door or equivalent insulated steel door shall be permitted. Doors shall be self-closing or automatic closing by smoke detection. Transoms and openings other than doors from corridors to rooms shall comply with this code or shall be covered with a minimum of 3/4-inch plywood or 1/2-inch gypsum wallboard or equivalent material on the room side. Exception: Existing corridor walls, ceilings, and opening protection not in compliance with the above may be continued when such buildings are protected with an approved automatic sprinkler system throughout. Such sprinkler system may be supplied from the domestic water system if it is of adequate volume and pressure."

(15) For "R" occupancies that are exempt from the requirements of a fire sprinkler system, pursuant to ARM 24.301.146(12), **Table 1018.1**, referenced in subsection **1018.1**, shall be amended by the deletion of the language "Not Permitted" under the heading "Required Fire-Resistive Rating (hours) – Without sprinkler system" for "R" occupancies with an occupant load served by corridor of greater than ten. Under that same location where "Not Permitted" is to be deleted, the language "1" shall be inserted instead, which will require those corridors to have one-hour fire-resistive ratings.

(16) Subsection **1608.2** is deleted and replaced with the following: "Snow loads shall be determined by the building official. In areas of the state outside of certified city, county, and town jurisdictions, the design snow load shall be based on the ground snow loads developed in "Snow Loads for Structural Design in Montana", Civil Engineering Department, Montana State University, **2004 Revised Edition**. The minimum design roof snow load after allowed reductions shall be 30 psf unless justified by a Montana licensed design professional to the satisfaction of the building official. Coefficients and factors other than those specified in the building code may be used when justified by a Montana licensed design professional to the satisfaction of the building official."

(17) Subsection **2902.1**, Minimum Number of Fixtures, is modified by deleting and replacing with the following: "Plumbing fixtures shall be provided as established in ARM 24.301.351."

(18) Table **2902.1**, MINIMUM NUMBER OF PLUMBING FIXTURES, is modified by deleting and replacing with **ARM 24.301.351**.

(19) Subsection **2902.3**, Required Public Toilet Facilities, is deleted in its entirety.

(20) Delete Section **3107** in its entirety.

(21) Delete Section **3109** in its entirety.

(22) Delete Chapter **33** in its entirety.

(23) Community residential facilities are subject to this rule as follows:

(a) As specified in 76-2-412, MCA, building codes which are not applicable to residential occupancies may not be applied to a community residential facility serving eight or fewer persons or to a day care home serving 12 or fewer children.

(b) A community residential facility as defined in 76-2-411, MCA, includes an assisted living facility licensed under 50-5-227, MCA. Residential building codes are applicable to assisted living facilities with eight or fewer persons and a building permit will not be required by the department. Within the jurisdictional area of a local government that is certified to enforce the International Residential Code for single family dwellings, residential building codes shall be applied to assisted living facilities with eight or fewer persons.

(c) A licensed adult foster care home, as defined in 50-5-101, MCA, which by definition is limited to four or fewer residents, is the equivalent to a licensed adult foster family care home referenced in 76-2-411, MCA, and is therefore a community residential facility. Within the jurisdictional area of a local government that is certified to enforce building codes for single family dwellings, a licensed adult foster care home will be classified as a Group R, Division 3 structure for building permit and construction standard purposes. Within the state's jurisdictional area a licensed adult foster care home will be treated as a residential building exempt from the state building code as provided in 50-60-102, MCA.

(24) The building official may waive minor building code violations that do not constitute an imminent threat to property or to the health, safety, or welfare of any person.

(25) The building official may accept high quality, essentially defect-free, rough sawn lumber as being equal and an alternative to graded and stamped dimension lumber. The building official may require in-place installations of rough sawn lumber to be inspected and certified by a Montana licensed engineer or inspected and approved by a certified lumber grader.

(26) The building official may accept high quality log construction as being equal and an alternative to graded and stamped dimension lumber. Typically, nine inch or greater nominal diameter log wall construction is considered to be equivalent to one-hour fire-resistive construction provided the minimum dimension is five inches or more.

(27) A private garage is a building or a portion of a building in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept. A building in which vehicles are repaired or stored as part of commercial enterprise or business, even if on the premises of a dwelling, is not a private garage.

(28) A private storage structure is a building:

(a) used for storage of personal effects of the owner only;

(b) not used for storage of items relating to any for profit or nonprofit venture which intends or contemplates any transfer or exchange of the stored items; and

(c) not used for storage of equipment, vehicles, materials, supplies, or products used in connection with a business.

(29) Aircraft hangars, even if for private use, are not exempt as private garages or private storage structures unless located on the same parcel of private property or lot as the owner's residence. Aircraft hangars that are used in conjunction with a commercial activity of any kind are not exempt as private garages or private storage structures regardless of location. Aircraft hangars, less than 3000 square feet in size, that are used only for parking of an aircraft and where no repair work or welding is performed and where no fuel is dispensed, will be classified as utility buildings (Group U).

(30) Upon the effective date of new requirements, administrative rules, and/or adoption of new editions of model codes, any building or project for which a legal building permit has been issued shall not be required to meet the new requirements. If the building or project is subsequently altered or remodeled, the alteration or remodel shall be subject to the applicable requirements in effect at the time of permit issuance for the new work. On a case-by-case basis, the building official shall have the discretion to determine if the process for issuance of a legal permit was substantially complete enough to warrant the exemption of the project or building from the new requirements, rules, or code provisions.

(31) The building official may require an applicant for a building permit to obtain, at the applicant's expense, an independent plan review from a plan review firm or agency acceptable to the building official. The independent plan review shall include, but is not limited to, a structural review for compliance with the requirements of the building code. The building official shall modify the plan review fee for projects which were required to obtain the independent plan review to be commensurate with the services provided by the agency in relation to the fee charged the applicant by the independent plan review firm or agency.

(32) Construction documents for public buildings, owned by the state and its political subdivisions as outlined by 18-2-122, MCA, shall bear the seal of a design professional. The building official may waive the requirements for a design professional seal for minor projects such as storage sheds and minor renovations, which do not have a direct bearing on the public health and safety. In addition, the requirement for the seal of a design professional may be waived for projects for which documentation has been submitted, including but not limited to, a letter from the attorney for the local jurisdiction where the project is located, which supports a conclusion that the scope of the project does not have the potential to have a direct bearing on public health and safety.

(33) The term "public building" as used in 18-2-122, MCA, refers only to the buildings owned by the state and its political subdivisions for the purposes of requiring a design professional's seal, and does not include privately owned buildings as included in the definition of a "public building" in 50-60-101, MCA.

(34) The term "farm or ranch building" as used in 50-60-102, MCA, is defined as a building located on and used in conjunction with, or in support of an agricultural use of a parcel of land, that either totals 160 or more contiguous acres under one ownership or is classified as

agricultural pursuant to **Title 15, chapter 7, part 2, MCA**. The term "farm and ranch building" does not include buildings which are classified as either Group F or Group M Occupancies by the International Building Code.

(35) Notwithstanding any other provisions within the International Building Code, the following adult group residential facilities, licensed by the Department of Public Health and Human Services will be classified and treated as follows:

(a) Category A assisted living facilities with 9 to 19 residents, as referenced in **50-5-226, MCA**, will be classified as an R-4 occupancy for building permit and construction standard purposes. Automatic fire sprinkler systems are not required.

(b) Category B assisted living facilities with 9 to 19 residents, as referenced in **50-5-226, MCA**, will be classified as an R-4 occupancy for building permit and construction standards purposes. In addition, a Category B assisted living facility shall have an automatic fire sprinkler system and provide an accessible sleeping room or space for each Category B resident.

(c) An assisted living facility with 20 or more residents, in any combination of Category A or Category B, will be classified as an R-2 occupancy for building permit and construction standards and shall meet accessibility standards as provided in **Subsection 1103** of the International Building Code. Automatic fire sprinkler systems are required. A fire wall cannot be used to isolate and reduce occupant loads in order to avoid an R-2 classification.

(36) Section 50-60-102, MCA, exempts certain buildings from application of the state building codes. Provisions of the International Building Code shall not be applied in determining whether a building or structure is exempt from the state building codes. For example, fire walls as described in Section ~~705~~ **706** of the International Building Code shall not be used to separate buildings otherwise covered by the state building codes into smaller buildings that would, if alone, be exempted by 50-60-102, MCA.

(37) The exemptions in 50-60-102, MCA, do not apply to any building used as or in conjunction with a hotel, motel, inn, motor court, guest or dude ranch, tourist home, public lodging house, youth camp, church camp, dormitory, youth living quarters, adult prerelease centers, bed and breakfast establishment, or other places where sleeping accommodations are furnished for a fee to a transient guest. "Transient guest" means a guest staying at one location for 30 days or less.

~~**(38)** Subsection 903.2.7, condition #4 is deleted and replaced with the following: "A Group M occupancy is used for the display and sale of upholstered furniture which exceeds 2500 square feet of display and sale area."~~

(History: 50-60-203, MCA; IMP, 50-60-101, 50-60-102, 50-60-104, 50-60-201, 50-60-203, 50-60-205, MCA; NEW, 2002 MAR p. 2656, Eff. 9/27/02; AMD, 2004 MAR p. 571, Eff. 3/12/04; AMD, 2006 MAR p. 567, Eff. 2/24/06; AMD, 2007 MAR p. 112, Eff. 1/26/07; AMD, 2010 MAR p. 1733, Eff. 7/30/10.)