



January 26, 2023

P.O. Box 1178  
Billings, MT 59103  
P 406.657.8205

Shane Colton  
EDMISTON & COLTON  
310 Grand Avenue  
Billings, MT 59101

RE: January 11, 2023, correspondence – Family Promise of Yellowstone Valley

Dear Mr. Colton,

Fire Marshal Bill Tatum forwarded your January 11, 2023, letter regarding Family Promise to me to coordinate a response to your request for information and to address your concerns.

First, I want to assure you that the City of Billings does not want to shut down any program that provides such a valuable service to the community. In fact, the City wants to see Family Promise succeed and wants to work cooperatively with Family Promise and local churches to ensure its success while also ensuring the safety of those you are serving.

I believe the email correspondence between Fire Marshal Tatum and Lisa Donnot has been misconstrued and was not intended to be a “cease and desist order” as described in your letter. In his November 4 email, Mr. Tatum asked that referrals to those buildings that have not been approved to stop until he had an opportunity to inspect the areas used for overnight guests to confirm those areas met all applicable fire codes. Mr. Tatum was not familiar with the churches that were providing the overnight lodging and therefore could not determine without additional information which buildings already met the code requirements or if any of them had already been approved for the change of use. The City is not aware of any specific violations at this point.

Because churches are not residential structures, they are considered commercial buildings and are subject to the International Fire Code (IFC) as well as the International Building Code (IBC). If a commercial building, in this case a church, wishes to provide overnight shelter, it is considered outside of the allowed use for churches and constitutes a change of use for whatever portion of the building being used in that manner. Any use for a church that includes overnight sleeping of a transient nature must meet the requirements of the IBC for residential uses. It is important to note that multiuse spaces are required to meet code requirements for all the intended uses.

The City's Building Official, Jessica Fust, and Fire Marshal Tatum have provided a detailed explanation of the code requirements I have mentioned above in the attached documents. Please review these for further explanation.

In his January 4 email, Mr. Tatum explained that any church providing overnight guests would need to contact him to begin the process to allow for this change in use. He also stated that many churches may already meet requirements and may not need to make any improvements but unfortunately, he was not contacted by any of Family Promise's partners to confirm this.

In any event, the attached documents set forth the code requirements of both the IFC and the IBC that apply to commercial buildings, e.g., church buildings. This matter involves both fire and building codes, so the enclosed information is detailed and lengthy. This information was not previously provided because the City generally requires the private party to obtain the services of an appropriate professional to submit a code analysis and plan to the City for review. However, in an effort to move this forward more quickly, we are providing detailed information about the code for you to share with Family Promise and its partners. This information outlines the use and occupancy classification as well as the basis for requiring the change of use or occupancy, subject to approval of the building and fire code officials.

I hope this information will be helpful and provides the answers to your questions. However, please feel free to reach out to me, Bill Tatum (406-657-8422), or Jessica Fust (406-657-8271), if we can provide any additional information or to proceed with next steps to ensure any Family Promise partners are compliant with applicable code requirements.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gina Dahl".

Gina Dahl  
City Attorney

Enc.

cc: Chris Kukulski, City Administrator  
Bill Tatum, Billings Fire Marshal  
Jessica Fust, Building Official



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**Jessica Fust**  
Building Official

## **Building Code Requirements for Adding Sleeping Areas in Existing Churches**

**By Jessica Fust, CBO**  
**January 2023**

Many rooms in buildings are used for more than a singular use. This is especially true for churches, which often host a wide variety of community events and activities. Church sanctuaries and associated areas are classified as A-3, whereas community rooms or banquet halls that have kitchens and regularly serve food and beverages most likely will be classified as A-2.

Note: All codes listed below are from the 2021 International Building Code (IBC), the currently adopted State of Montana building code.

The building code defines these occupancy types per the following:

**303.1 Assembly Group A.** Assembly Group A occupancy includes, among others, the use of a building or structure, or a portion thereof, for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption or awaiting transportation.

**303.1.4 Accessory to places of religious worship.** Accessory religious educational rooms and religious auditoriums with *occupant loads* of less than 100 per room or space are not considered separate occupancies.

**303.3 Assembly Group A-2.** Group A-2 occupancy includes assembly uses intended for food and/or drink consumption including, but not limited to:

Banquet halls  
Casinos (*gaming areas*)  
Nightclubs



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Restaurants, cafeterias and similar dining facilities  
(including associated commercial kitchens)  
Taverns and bars

**303.4 Assembly Group A-3.** Group A-3 occupancy includes assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including, but not limited to:

Amusement arcades  
Art galleries  
Bowling alleys  
Community halls  
Courtrooms  
Dance halls (not including food or drink consumption)  
Exhibition halls  
Funeral parlors  
*Greenhouses* for the conservation and exhibition of plants that provide public access  
Gymnasiums (without spectator seating)  
Indoor *swimming pools* (without spectator seating)  
Indoor tennis courts (without spectator seating)  
Lecture halls  
Libraries  
Museums  
*Places of religious worship*  
Pool and billiard parlors  
Waiting areas in transportation terminals

The code addresses multiuse spaces within the occupancy classification requirements by stating:

**302.1 Occupancy classification.** Occupancy classification is the formal designation of the primary purpose of the building, structure or portion thereof. Structures shall be classified into one or more of the occupancy groups specified in this section based on the nature of the hazards and risks to building occupants generally associated with the intended purpose of the building or structure. An area, room or space that is intended to be occupied at different times for different purposes shall comply with all applicable requirements associated with such potential multipurpose.



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If areas within a church are intended to be used for uses that fall outside of the allowed uses under the A-3 or A-2 occupancy, then those areas must meet the code requirements for those other uses. If a church intends to house overnight guests, regardless of the frequency, that is not an allowed use under the 'A' occupancy classification and the building must have the required code provisions for that use.

Buildings or spaces that are used for overnight sleeping, and are not institutional uses, such as a hospital or prison, are considered 'R' occupancies.

**310.1 Residential Group R.** Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code*. Group R occupancies not constructed in accordance with the *International Residential Code* as permitted by Sections 310.4.1 and 310.4.2 shall comply with Section 420.

**310.2 Residential Group R-1.** Residential Group R-1 occupancies containing *sleeping units* where the occupants are primarily *transient* in nature, including:

*Boarding houses (transient)* with more than 10 occupants  
*Congregate living facilities (transient)* with more than 10 occupants  
*Hotels (transient)*  
*Motels (transient)*

While sleeping rooms in a church are not listed under the example uses in section 310.2, the intended use is the same – overnight sleeping of a transient nature. Therefore, any such use must meet the code requirements for an R-1 occupancy.

These code requirements include, but are not limited to:

- **Fire sprinkler protection** of the sleeping areas and path of egress.  
**903.2.8 Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be



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provided throughout all buildings with a Group R fire area.

Note that the Existing Building Code (IEBC) does allow design options for only providing fire sprinklers in the 'Change In Use' or 'Work Area' if that area is separated from the remainder of the building with fire-rated construction. The state has adopted the 2021 IEBC, and that code can be used as a basis of design for existing buildings.

- **Rated wall and door construction** to separate the sleeping areas from the remainder of the building. This may require another layer of gypsum board on existing walls and/or installing rated doors and/or protecting penetrations.
- **Fire and smoke detection and notification.** Per the following:

**907.2.8 Group R-1.** Fire alarm systems and smoke alarms shall be installed in Group R-1 occupancies as required in Sections 907.2.8.1 through 907.2.8.3.

**[F] 907.2.8.1 Manual fire alarm system.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R- 1 occupancies.

**Exceptions:**

1. A manual fire alarm system is not required in buildings not more than two *stories* in height where all individual *sleeping units* and contiguous *attic* and crawl spaces to those units are separated from each other and public or common areas by not less than 1-hour *fire partitions* and each individual *sleeping unit* has an *exit* directly to a *public way, egress court* or *yard*.
2. Manual fire alarm boxes are not required throughout the building where all of the following conditions are met:
  - 2.1. The building is equipped throughout with an *automatic sprinkler system* installed in accordance with



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Section 903.3.1.1 or 903.3.1.2.

2.2. The notification appliances will activate upon sprinkler water flow.

2.3. Not fewer than one manual fire alarm box is installed at an *approved* location.

**[F] 907.2.8.2 Automatic smoke detection system.** An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior *corridors serving sleeping units*.

**Exception:** An automatic smoke detection system is not required in buildings that do not have interior *corridors serving sleeping units* and where each *sleeping unit* has a *means of egress* door opening directly to an *exit* or to an exterior *exit access* that leads directly to an *exit*.

**[F] 907.2.8.3 Smoke alarms.** Single- and multiple station smoke alarms shall be installed in accordance with Section 907.2.11.

- **Carbon monoxide detection and notification** if there are fuel-burning appliances present in the building. This system should be interconnected so that detection in any part of the building will notify throughout the building.
- **Approved means of egress.** Egress from sleeping areas shall comply with Chapter 10 of the IBC. This may include protected corridors and stair enclosures until the occupants reach the exit discharge. Generally, at least two means of egress are required depending on the occupant load and the travel distance. Emergency escape and rescue openings are generally not required if the building has fire sprinklers and there are two means of egress from a sleeping room. Means of egress must be clearly marked with EXIT signs, and emergency egress lighting shall be provided from the sleeping areas to the exit discharge.



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- **Design Alternatives.** The Building Official and Fire Marshal have the authority to approve design alternatives. When analyzing a proposed design alternative, we must consider if it is at least equivalent to the code requirement in intent, quality, strength, effectiveness, fire resistance, durability, and safety (IBC 2021, Section 104.11). The City of Billings may approve proposed design alternatives that demonstrate they meet the intent of the code.





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## Fire and Building Code Requirements for Sleeping Areas in Existing Church Buildings

All commercial buildings, including churches, built in the State of Montana are constructed under the adopted codes at the time of construction. The currently adopted building codes in the State of Montana and the City of Billings are the 2012 International Fire Code (IFC), the 2021 International Building Code (IBC), and all referenced codes listed in the IFC and IBC. The following code sections from the 2012 IFC provide its scope and intent:

### 101.2 Scope.

*This code establishes regulations affecting or relating to structures, processes, premises and safeguards regarding:*

- 1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;*
- 2. Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;*
- 3. Fire hazards in the structure or on the premises from occupancy or operation;*
- 4. Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems; and*
- 5. Conditions affecting the safety of fire fighters and emergency responders during emergency operations.*

### 101.3 Intent.

*The purpose of this code is to establish the **minimum requirements** consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises, and to provide safety to fire fighters and emergency responders during emergency operations.*

Prior to construction, a commercial building goes through a plans review process. Each building is given an occupancy classification and use designation.

Section 302.1 of the 2021 IBC defines occupancy classification and use designation:

**302.1 Occupancy classification.** *Occupancy classification is the formal designation of the primary purpose of the building, structure or portion thereof. Structures shall be classified into one or more of the occupancy groups listed in this section based on the nature of the hazards and the risks to building occupants generally associated with the intended purpose of the building or structure. An area, room or space that is intended to be occupied at different times for different purposes shall comply with all applicable requirements*

*associated with such potential multipurpose. Structures containing multiple occupancy groups shall comply with Section 508 Mixed Use and Occupancy. Where a structure is proposed for a purpose that is not specifically listed in this section, such structure shall be classified in the occupancy it most nearly resembles based on the fire safety and relative hazard.*

All applicable code requirements are based on the occupancy classification and use designation of the building. The following code sections of the 2012 IFC provide the applicability of this code to all new and existing structures:

### **102.1 Construction and design provisions.**

*The construction and design provisions of this code shall apply to:*

- 1. Structures, facilities and conditions arising after the adoption of this code.*
- 2. Existing structures, facilities and conditions not legally in existence at the time of adoption of this code.*
- 3. Existing structures, facilities and conditions when required in Chapter 11.*
- 4. Existing structures, facilities and conditions which, in the opinion of the fire code official, constitute a distinct hazard to life or property.*

### **102.2 Administrative, operational and maintenance provisions.**

*The administrative, operational and maintenance provisions of this code shall apply to:*

- 1. Conditions and operations arising after the adoption of this code.*
- 2. Existing conditions and operations.*

### **102.4 Application of building code.**

*The design and construction of new structures shall comply with the International Building Code, and any alterations, additions, changes in use or changes in structures required by this code, which are within the scope of the International Building Code, shall be made in accordance therewith.*

A church building falls under the Assembly Group occupancy classification. Section 303.1 of the 2021 IBC defines an assembly occupancy as:

**303.1 Assembly Group A.** *Assembly Group A occupancy includes, among others, the use of a building or structure, or a portion thereof, for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption or awaiting transportation.*

A church building is specifically classified as a Group A-3 occupancy per section 303.4 of the 2021 IBC:

**303.4 Assembly Group A-3.** *Group A-3 occupancy includes assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including, but not limited to:*

*Amusement arcades  
Art galleries  
Bowling alleys  
Community halls*

*Courtrooms*  
*Dance halls (not including food or drink consumption)*  
*Exhibition halls*  
*Funeral parlors*  
*Greenhouses for the conservation and exhibition of plants  
that provide public access*  
*Gymnasiums (without spectator seating)*  
*Indoor swimming pools (without spectator seating)*  
*Indoor tennis courts (without spectator seating)*  
*Lecture halls*  
*Libraries*  
*Museums*  
***Places of religious worship***  
*Pool and billiard parlors*  
*Waiting areas in transportation terminals*

Community rooms and banquet halls inside of a church may also be classified as a Group A-2 especially if it has kitchen equipment and food and drink are served. Section 303.3 of the IBC defines a Group A-2 Occupancy as:

**303.3 Assembly Group A-2.** *Group A-2 occupancy includes assembly uses intended for food and/or drink consumption including, but not limited to:*

*Banquet halls*  
*Casinos (gaming areas)*  
*Nightclubs*  
*Restaurants, cafeterias and similar dining facilities (including associated commercial kitchens)*  
*Taverns and bars*

Section 303.1.4 of the 2021 IBC defines accessory uses inside places of worship as:

**303.1.4 Accessory to places of religious worship.** *Accessory religious educational rooms and religious auditoriums with occupant loads of less than 100 per room or space are not considered separate occupancies.*

There are no provisions or applicable code sections in the fire or building codes that allow people to sleep overnight in a Group A Occupancy regardless of the frequency or number of guests. Allowing overnight guests in a church falls outside the allowed use of a Group A Occupancy and is considered a change of use or occupancy.

Section 102.3 of the 2012 IFC defines a change of use or occupancy as:

**102.3 Change of use or occupancy.**

*No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the International Building Code. Subject to the approval of the fire code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all of the requirements of this code and the International Building Code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.*

The definition of a change of occupancy in the 2021 IBC is as follows:

**CHANGE OF OCCUPANCY.** *Either of the following shall be considered as a change of occupancy where this code requires a greater degree of safety, accessibility, structural strength, fire protection, means of egress, ventilation or sanitation than is existing in the current building or structure:*

1. *Any change in the occupancy classification of a building or structure.*
2. *Any change in the purpose of, or a change in the level of activity within a building or structure.*

**Buildings or spaces inside buildings used for overnight sleeping, other than an institutional type of occupancy such as a prison or hospital facility fall under a Group R Occupancy. Section 310.1 of the 2021 IBC defines a Group R (residential) occupancy as:**

**310.1 Residential Group R.** *Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code. Group R occupancies not constructed in accordance with the International Residential Code as permitted by Sections 310.4.1 and 310.4.2 shall comply with Section 420.*

**Any Group R Occupancy type where a transient population is allowed to sleep falls under a Group R-1 Occupancy type. Section 310.2 of the 2021 IBC defines a residential group R-1 occupancy as:**

**310.2 Residential Group R-1.** *Residential Group R-1 occupancies containing sleeping units where the occupants are primarily transient in nature, including:*

*Boarding houses (transient) with more than 10 occupants*  
*Congregate living facilities (transient) with more than 10 occupants*  
*Hotels (transient)*  
*Motels (transient)*

**Fire safety code requirements for Group R-1 Occupancies found in the 2012 IFC may include:**

#### **903.2.8 Group R.**

*An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.*

#### **907.2.8 Group R-1.**

*Fire alarm systems and smoke alarms shall be installed in Group R-1 occupancies as required in Sections 907.2.8.1 through 907.2.8.3.*

##### **907.2.8.1 Manual fire alarm system.**

*A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-1 occupancies.*

*Exceptions:*

1. *A manual fire alarm system is not required in buildings not more than two stories in height where all individual sleeping units and contiguous attic and crawl spaces to those units are separated from each other and public or common areas by at least 1-hour fire*

*partitions and each individual sleeping unit has an exit directly to a public way, egress court or yard.*

*2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:*

*2.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2;*

*2.2. The notification appliances will activate upon sprinkler water flow; and*

*2.3. At least one manual fire alarm box is installed at an approved location.*

#### **907.2.8.2 Automatic smoke detection system.**

*An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors serving sleeping units.*

*Exception: An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.*

#### **907.2.8.3 Smoke alarms.**

*Single- and multiple-station smoke alarms shall be installed in accordance with Section 907.2.11.*

#### **907.2.11.1 Group R-1.**

*Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:*

*1. In sleeping areas.*

*2. In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.*

*3. In each story within the sleeping unit, including basements. For sleeping units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.*

#### **908.7 Carbon monoxide alarms.**

*Group I or R occupancies located in a building containing a fuel-burning appliance or in a building which has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An open parking garage, as defined in Chapter 2 of the International Building Code, or an enclosed parking garage ventilated in accordance with Section 404 of the International Mechanical Code shall not be considered an attached garage.*

*Exception: Sleeping units or dwelling units which do not themselves contain a fuel-burning appliance or have an attached garage, but which are located in a building with a fuel-burning appliance or an attached garage, need not be equipped with single-station carbon monoxide alarms provided that:*

*1. The sleeping unit or dwelling unit is located more than one story above or below any story which contains a fuel-burning appliance or an attached garage;*

2. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage; and
3. The building is equipped with a common area carbon monoxide alarm system.

**908.7.1 Carbon monoxide detection systems.**

*Carbon monoxide detection systems, which include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075.*

An approved means of egress may also need to be addressed if the current means of egress does not meet the requirements of the new occupancy type or use.

There is the possibility to modify the above life safety and design requirements to become compliant with the new occupancy type or use of an existing building. In order for that to happen the modification shall meet the same intent and purpose of this and the building code, does not lessen health, life, and fire safety requirements, and is approved by the Fire Marshal and Building Code Official.

Sincerely,

Bill Tatum  
Fire Marshal  
Billings Fire Department

