

Chapter. 4 BUILDING REGULATION

ARTICLE II. CODES

All existing buildings, building systems, new construction, renovations, and dangerous and hazardous substance use and storage, public and private, must comply with the following codes:

**Sec. 4-201. BUILDING & FIRE CODE**

WHEREAS, the City Council finds and determines that the risk of fire poses a threat to the inhabitants of the city of Montpelier and all classes of property located therein; and,

WHEREAS, the imposition of uniform fire suppression measures has been demonstrated nationally to minimize personal injury, death, economic loss and property damage as a result of fire; and,

WHEREAS, among property located within the city of Montpelier are various classes, each exhibiting different characteristics as to age, condition, location, use and risk of conflagration; and,

WHEREAS, the City Council desires to enact and enforce an ordinance imposing reasonable and uniform fire suppression standards, applicable to all classes of property within the city of Montpelier.

NOW, THEREFORE, in the exercise of its lawful police and regulatory authority, the City Council ordains and adopts the following MONTPELIER BUILDING & FIRE CODE, hereby replacing Chapter 4, Article 2, Section 201, of the Code of Ordinances in its entirety:

**§201-1. CODE DEFINITIONS**

*Montpelier Building & Fire Code (2007)*

Vermont Fire and Building Safety Code, IBC, IRC, NFPA 101, NFPA 1, NFPA 13, NFPA 13R, NFPA 13D as defined below.

*Vermont Fire and Building Safety Code (2005)*

Codes and standards as contained in the rules adopted to become effective on 10-22-2005 by the Commissioner of Public Safety under 20 V.S.A., Chapter 173, Subchapter 2, "Fire Safety Division"; Subchapter 3, "Fire Hazards, Boilers, and Pressure Vessels"; and Chapter 177, "Explosives and Fireworks", as amended in §201-4.

*IBC*

International Building Code, as published by the International Code Council, Inc. (2003 Edition) as amended by the Vermont Fire and Building Safety Code (2005)

*NFPA101*

NFPA 101, Life Safety Code (2003 Edition), as published by the National Fire Protection Association, as amended by the Vermont Fire and Building Safety Code (2005)

*NFPA 13*

NFPA 13, Installation of Sprinkler Systems (2002 Edition), as published by the National Fire Protection Association

<i>NFPA 13D</i>	NFPA 13D, Sprinkler Systems One- and Two- Family Dwellings and Manufactured Homes (2002 Edition), as published by the National Fire Protection Association
<i>NFPA 13R</i>	NFPA 13R, Sprinkler Systems Residential Occupancies Up To and Including Four Stories in Height (2002 Edition), as published by the National Fire Protection Association
<i>IRC</i>	International Residential Code (2003 Edition) as published by the International CoDe Council, Inc.
<i>NFPA 1</i>	Uniform Fire Code, NFPA 1 (2003 Edition) as published by the National Fire Protection Association as amended by the Vermont Fire and Building Safety Code (2005)

**§201-2. CODE ADOPTION BY REFERENCE**

The Vermont Fire and Building Safety Code (2005), IBC, NFPA 101, NFPA 1, NFPA 13, NFPA 13D and NFPA 13R and all their referenced documents are adopted by reference.

NFPA 101, the IRC, and all their referenced documents, are adopted by reference. These codes shall apply to one and two-family dwellings and associated structures and systems unless otherwise regulated by the Vermont Fire and Building Safety Code.

**§201-2a. CONFLICTS BETWEEN CODES**

Where there is a conflict or difference between an adopted code and its referenced code or standard, the adopted code shall apply. Where there is a conflict between the Life Safety Code (NFPA 101) and another code or standard, the Life Safety Code shall apply. Where there is a conflict between the Uniform Fire Code (NFPA 1) and the International Building Code (IBC) or the National Board Inspection Code, The Uniform Fire Code shall apply. Where one code or standard has a requirement and another code or standard does not have a requirement, the code or standard with the requirement shall apply. When there is a conflict between a general requirement and a specific requirement, the specific requirement shall apply.

**§201-3. COPY FOR PUBLIC INSPECTION**

A copy of the referenced codes and standards shall be in the Office of the Building Inspector and be available for public use.

**§201-4. AMENDMENTS – AUTOMATIC SPRINKLER SYSTEMS**

201-4 AMENDMENTS - AUTOMATIC SPRINKLER SYSTEMS  
Public Buildings As Defined by 20 V.S.A. 173 § 2730:

Informational Note: "Public Buildings" are all buildings other than an owner-occupied single family home.

In addition to the provisions of the Vermont Fire & Building Safety Code, an automatic sprinkler system installed in accordance with NFPA Section 9.7 shall be installed in the following:

1. All new public buildings;
2. All additions to public buildings exceeding 50% of the footprint square footage of the previously existing building, or 1,000 square feet, whichever is less;
3. Changes of occupancy classification under the Life Safety Code;
4. Construction that adds a new commercial kitchen to a public building;
5. Conversion of a public building to mixed uses; and
6. Conversion of a public building to a use that includes storage or use of flammable materials, or which houses activities which may, at the determination of the Fire Chief, present a discernible fire risk. The Fire Chief will use the same factors listed in section 201-5a to determine if the new use presents a discernible fire risk.

New Multi-family Dwellings:

In addition to the provisions of the Vermont Fire & Building Safety Code, an approved automatic sprinkler system must be installed in residential occupancies up to and including four stories in height in accordance with NFPA 13R.

Exempt Structures:

Unless otherwise required by the Vermont Fire & Building Safety Code, an automatic sprinkler is not required for any of the following structures:

1. Manufactured mobile homes, tents and yurts;
2. Structures on properties not supported by the City water system;
3. Detached structures such as wood sheds, residential garages or accessory type structured deemed insignificant by the City;
4. Residential additions which do not exceed 50% of the footprint of the previously existing building or 1,000 square feet, whichever is less;
5. Additional dwelling units added to existing residential properties, provided each unit has a direct exit to the exterior and are separated from all other portions of the building by fire barriers having a 1-hour fire resistance rating with no openings therein;  
or
6. Change of use from public building or multi-family residential to one- or two- family residential.

**§201-5. PERMITS**

The grant of any permit relating to construction shall be conditioned upon compliance with the Montpelier Building & Fire Code. The grant of any permit relating to new construction, including additions, shall be conditioned upon approval of a design for the installation of an automatic sprinkler system in accordance with the Montpelier Building & Fire Code. For those buildings that are classified as a “public building” pursuant to 20 V.S.A., Chapter 173, such approval shall be obtained from the City of Montpelier pursuant to authority granted by the State of Vermont. For all buildings that are not classified as “public buildings” pursuant to 20 V.S.A., Chapter 173, including but not limited to single family residence and additions to single-family residences, such approval shall be obtained from the City.

### **§201-5a. VARIANCE**

The applicant may request a variance from the sprinkler requirements 201-4 by submitting a written variance request to the Housing and Building Code Board of Appeals, established in Section 4-602. The board shall have the authority to grant a full or partial variance. The factors that the board may consider in favor of granting the variance include, but are not limited to:

1. Low risk occupancy;
2. Alternative compliance measures;
3. Unreasonable cost burden; or
4. Inadequate city water volume at street.

The factors that the board may consider against granting a full or partial variance, include, but are not limited to:

1. Proximity of less than 20 feet to other structures; or
2. High risk occupancy.

### **§201-6. NONCOMPLIANCE**

Any property not in compliance with the Montpelier Building & Fire Code shall be deemed to be unfit for use, occupancy and habitation. Such determination may be made by the City of Montpelier following notice to the property owner, inspection of the premises, and a hearing. A structure determined to be in noncompliance with the Montpelier Building & Fire Code may be subject to a finding by the City Council convened as a local board of health that such premises constitutes a public health hazard, and shall be dealt with as provided by law.

### **§201-7. PENALTIES**

Any person failing to comply with the Montpelier Building & Fire Code shall be subject to (in addition to penalties and other remedies proscribed in the Charter of the City of Montpelier or otherwise permitted by law) injunctive relief, including orders to (i) vacate said property, (ii) install automatic sprinkler systems in compliance with the Montpelier Building & Fire Code, (iii) reimburse the City of Montpelier for all costs incurred in enforcing this ordinance and (iv) in the event the City in its discretion elects to enter premises and install such automatic sprinkler systems itself, reimburse the City of Montpelier for all costs incurred in such installation. Each day in which said premises shall be in noncompliance with the Montpelier Building & Fire Code shall be deemed a separate violation. The City shall have a lien upon said premises for all penalties and costs incurred hereunder.

### **Sec. 4-202. ELECTRICAL CODE**

Applicable sections of the Vermont Fire & Building Code 2005, including NFPA 70 – National Electrical Code (as adopted under the Vermont Electrical Safety Rules), NFPA 73 – Residential Electrical Code (as adopted under the Vermont Electrical Safety Rules), are hereby adopted by reference and incorporated herein and shall be known as the Montpelier Electrical Code.

#### **Sec. 4-203. PLUMBING CODE**

Applicable sections of the Vermont Fire & Building Safety Code 2005, including the Plumbing Code (as adopted by the Plumbers' Examining Board), are hereby adopted by reference and incorporated herein and shall be known as the Montpelier Plumbing Code.

#### **Sec. 4-204. PROPERTY MAINTENANCE CODE**

This code establishes minimum requirements for the initial and continued occupancy and use of dwellings and premises and does not replace or modify requirements otherwise established by ordinance which may be additional or more stringent for the construction, repair, alteration, or use of structures equipment of facilities. The BOCA Basic Property Maintenance Code/1981, published by Building Officials and Code Administrators International, Inc., together with all subsequent amendments and revisions is adopted by reference and incorporated herein together with the following amendments:

- (a) PM - 100.1 is amended to read "These Regulations shall be known as the Housing Code of the City of Montpelier hereinafter referred to as the property maintenance code of 'this code'."
- (b) PM - 109.2 is amended to read "Any person who shall violate any provision of this chapter shall be deemed to have committed a civil offense and shall be subject to the penalties established in Chapter 1, Section 9(d)."
- (c) PM - 303.31 is amended to read "No lead based paint shall be used in painting the interior or exterior of any dwelling unit or child care facility, including fences and outbuildings at these locations."
- (d) PM - 304.0 titled "Utilities" is added and reads "No owner shall cause any water, sewer, equipment or utility which is required by this ordinance to be removed, shut off or discontinued for any occupied dwelling unit let by him/her except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies."
- (e) All provisions relating to the inspection of existing properties shall be limited per section 302 of this chapter.

#### **Sec. 4-205. ABANDONED OR VACANT BUILDINGS CODE**

An abandoned or vacant building shall be defined as a building or portion of a building that is not maintained or is damaged to such an extent that it is no longer in a safe, secure, or occupiable condition. The owner of any abandoned or vacant building or his/her authorized agent shall:

- A. Cause all services and utilities to be disconnected from, or discontinued to, said building;
- B. Remove all personal property from the interior of said building and from its grounds;

- C. Secure the vacant or abandoned building at all times; and
- D. Maintain such buildings so that its foundation, floors, windows, walls, ceilings, roof, porches, and stairs shall be reasonably weather tight, waterproof, rodent proof, and in good repair.

**Sec. 4-206. LEAD PAINT**

In addition to the codes cited above that regulate the use of lead paint, all owners of rental target housing, as defined in Title 18 V.S.A., §1751(b)(24), and child care facilities, shall perform the “Essential Maintenance Practices” required by state law, Title 18 V.S.A., Part 2, Chapter 38, §1759.

**Sec. 4-207. SWIMMING POOLS**

**A. Definitions**

A “swimming pool” is defined as any constructed pool used for swimming or bathing, over 18 inches in depth, or with a surface area exceeding 250 square feet.

A “private swimming pool” shall include all constructed pools which are used, or intended to be used, as a swimming pool in connection with a single or multiple family residence and available only to the family of the householder and private guests.

**B. Safety**

- (1) No private swimming pool shall be constructed or used unless electrical appliances connected therewith shall be properly grounded.
- (2) No private swimming pool shall be constructed or used that has overhead electrical wires crossing the pool area.
- (3) Every swimming pool shall be completely enclosed by a wall, fence, or other substantial structure not less than 4 feet in height measured on the outside of the enclosure. No openings other than doors and gates with any dimensions greater than 4 inches shall be permitted therein except that picket fences may be erected or maintained having horizontal spacing between pickets not more than 4 inches. All gates or doors opening through such enclosures shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping, such door or gates securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings are forming any part of the enclosure here and above required need not be so equipped. Any self-latching device accessible from the outside of the pool enclosure, shall be located at least 4 feet above the ground or otherwise equally inaccessible to small children.

- (4) A natural barrier, hedge, pool cover or other protective device approved by the Building Inspector may be used so long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure gate and latch described herein.

Enacted April 17, 2002 [Chapter 4, Technical Codes, and Chapter 6, Housing, of the existing ordinances combined into one chapter designated Chapter 4, Building Regulations]. Date of Publication: 5/02/02. Effective Date: 5/8/02.

Amendment enacted October 22, 2003 [Sec. 201, BUILDING & FIRE CODE, rewritten].  
Date of Publication: 11/06/03. Effective Date: 11/12/03.

Amendment enacted March 22, 2006 [Sec. 201-4. **AMENDMENTS**, rewritten and *Exceptions 4-6 added*; and §201-5a. **VARIANCE**, added]. Date of Publication: 3/27/06. Effective Date: 4/02/06.

Amendment enacted April 11, 2007 [Opening paragraph and Subsections 4-201-1, 4-201-2, 4-201-3, 4-201-4, 4-201-5, and Sec's. 4-202 and 4-203 rewritten; Subsection 201-2a, added]. Date of Publication: 5/4/07. Effective Date: 5/14/07.

Amendment enacted July 10, 2013 [Sec. 201.4, **AMENDMENTS**, *Exception No. 4*, rewritten; new *Exception No. 7* added]. Date of Publication: 7/16/13. Effective Date: 7/22/13.

Amendment enacted February 14, 2018 [Sec. 201-5a, **VARIANCE**, rewritten] Date of Publication: 2/20/18. Effective Date: 3/2/18

Amendment enacted February 14, 2018 [Sec. 201-4, **AMENDMENTS**, rewritten] Date of Publication: 2/20/18. Effective Date: 3/2/18