

# MB & H

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To whom it may concern:

The purpose of this letter is to provide a legal opinion regarding correspondence from the Office of Deputy Chief Victor Islas and the Caldwell Rural Fire Protection District regarding the fire district's assertion that your project Ridgeline Vistas LLC shall comply with the 2015 International Fire Code by installing automatic fire suppression sprinklers in single-family dwellings or, in the apparent alternative provide a water source with 1500 GM for 2 hours. My understanding is and this letter assumes that the project at issue involves a one-unit family dwelling located outside the Caldwell city limits.

By way of background, I am the managing member of Morris, Bower & Haws, PLLC, a law firm in Boise, Idaho. I have been in practice since 2004. My legal practice is focused on complex civil litigation and constitutional law and appellate issues. I have served as a law clerk on the United States Court of Appeals, Ninth Circuit (for the Honorable Stephen Trott). I have also served as a Deputy Attorney General for the State of Idaho under General Lawrence Wasden.

Significantly, Idaho is one of 26 states where proposed fire sprinkler mandates have been defeated as it relates to such dwellings. To be direct, Mr. Islas's assertions that his fire district can require fire sprinkler installation or a water source with 1500 GMP capacity is without legislative authority is simply without merit and is not legally supportable, i.e., there is no federal, state, county, or municipality authority for Mr. Islas's assertion that the 2015 International Fire Code is binding authority on your project as it relates to mandatory fire sprinkler installation.

Mr. Islas's demand that you install fire suppression sprinklers is based on Idaho Code §41-253(1):

#### 41-253. STATEMENT OF PURPOSE — ADOPTION OF INTERNATIONAL FIRE CODE.

(1) The purpose of sections 41-253 through 41-269, Idaho Code, is to protect human life from fire, and to prevent fires. These sections are intended to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, and there is hereby adopted the "International Fire Code," 2000 edition, with appendices thereto, published by the International Code Council, Inc.

STILL DON'T KNOW IF INTL FIRE CODE IS  
Legally applicable without an adopted ORD.

and such later editions as may be so published and adopted by the state fire marshal, as the minimum standards for the protection of life and property from fire and explosions in the state of Idaho.

See Idaho Code § 41-253(1). Notwithstanding this adoption, the Idaho lawmakers provided additional limitations. Indeed, the very next subsection provides this limitation:

A detached single family dwelling, to be constructed upon lands of five (5) acres or more outside an incorporated city and not within a designated area of city impact, shall be exempt from the water supply and access requirements of the adopted version of the International Fire Code unless a county land use or subdivision ordinance requires such compliance.

See Idaho Code § 253(2). More importantly, the Idaho legislature also exempted all single-family homes and multiple-family dwellings up to two (2) units from having automatic fire sprinkler systems installed:

All single family homes and multiple family dwellings up to two (2) units are hereby exempted from the provisions of the International Fire Code, the International Building Code and the Idaho residential code that require such dwellings to have automatic fire sprinkler systems installed. Nothing in this section shall prevent any person from voluntarily installing an automatic fire sprinkler system in any residential dwelling.

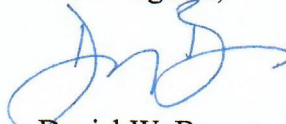
→ opt around this with water supply requirement

See Idaho Code § 39-4116(3). Here, for whatever reason, Mr. Islas ignores these important limitations put in place by Idaho lawmakers. Admittedly, subsection four of Section 39-4111 allows this exemption to be excepted through the passing of a local ordinance: "local governments may amend by ordinance the adopted codes or provisions of referenced codes to reflect local concerns..." Idaho Code § 39-4116(4).

Here, however, there is no county ordinance—a law passed and/or adopted by elected officials—that removes these exemptions and that specifically allows for either fire suppression sprinklers or a water source of 1500 GPM.

In summation, neither Mr. Islas nor any other county or local executive, can usurp legislative authority by executive order as the legislature has made clear that this provision may only be amended by "ordinance." Again, here, that has not happened. Accordingly, any assertion in this matter that your project requires fire suppression sprinklers is simply without legal authority.

Warm regards,



Daniel W. Bower