Chapter SPS 361

ADMINISTRATION AND ENFORCEMENT

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Note: Chapters Comm 50 to 64 and Appendices A and B as they existed on June 30, 2002 were repealed and new chapters Comm 61 to 65 and Appendix A and B were created effective July 1, 2002. Chapter Comm 61 was renumbered chapter SPS 361 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.

Note: Chapters SPS 361 to 366 are affected by 2017 Wisconsin Acts 59, 198, 243, 317, 329, 330, and 331. Future rule–making will update chs. SPS 361 to 366 to reflect this legislation.

Subchapter I — Scope and Application

SPS 361.01 Purpose of code. Pursuant to various statutory provisions under subch. I of ch. 101, Stats., the purpose of chs. SPS 361 to 366 is to protect the health, safety, and welfare of the public and employees by establishing minimum standards for the design, construction, maintenance, and inspection of public buildings, including multifamily dwellings and places of employment.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 16–094: am. Register April 2018 No. 748 eff. 5–1–18.

SPS 361.02 Scope. (1) Except as provided in subs. (2) and (3), chs. SPS 361 to 366 apply to all public buildings and places of employment.

Note: "Place of employment" is defined under s. 101.01 (11), Stats.

Note: "Public building" is defined under s. 101.01 (12), Stats.

(2) Chapters SPS 361 to 366 do not apply to buildings or situations listed under the exclusions in s. 101.01 (11) and (12), Stats., or under the exemptions in s. 101.05, Stats.

(3) Chapters SPS 361 to 366 do not apply to any of the following types of buildings, structures, or situations:

(a) A temporary building or structure used exclusively for construction purposes, not exceeding 2 stories in height, and not used as living quarters.

(b) 1. Buildings or structures located on Indian reservation land that are held either in trust by the United States, or in fee by the tribe or a tribal member.

2. Buildings or structures which are located on off–reservation Indian land that is held in trust by the United States — and which are held either in trust by the United States, or in fee by the tribe or a tribal member.

(c) Buildings and portions of buildings that are exempted by federal statutes or treaties.

(d) Portions of buildings leased to the federal government provided all of the following conditions are met:

1. A statement is recorded with the register of deeds that describes the steps necessary for compliance with chs. SPS 361 to 366 if the space is converted to a nonexempt use.

2. The statement recorded with the register of deeds is recorded in a manner that will permit the existence of the statement to be determined by reference to the property where the building is located.

3. The owner of the building submits a copy of the recorded document to the department or its authorized representative.

(e) Buildings and structures that are on a farm premises and used exclusively for farming purposes, provided any use of the building or structure by the public consists only of consumers directly receiving farm commodities, substantially all of which have been planted or produced on the farm premises. In this application, "substantially all" means at least 90 percent of the commodities were planted or produced on the farm premises.

(f) A one– or 2–family dwelling used as a foster home, treatment foster home, or group home, or as a child caring institution having a capacity for 8 or fewer children, all as defined in s. 48.02, Stats.

(g) A one– or 2–family dwelling in which a public or private day care center for 8 or fewer children is located.

(h) That portion of or space within a one– or 2–family dwelling in which a home–based business is located.

(4) Chapters SPS 361 to 366 also apply to any existing building that is converted to a community–based residential facility for 9 to 20 residents.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 04–016: cr. (5) Register December 2004 No. 588, eff. 1–1–05; CR 06–120: r. and recr. (3) (b), am. (3) (d) 1. and 2., Register February 2008 No. 626, eff. 3–1–08; CR 16–094: am. (1), (2), (3) (intro.), (d) 1., (h), r. (4), renum. (5) to (4) and am., Register April 2018 No. 748 eff. 5–1–18.

SPS 361.03 Application. (1) STANDARDS. (a) The design and construction of public buildings and places of employment shall comply with s. SPS 361.05, except as otherwise provided in chs. SPS 361 to 366.

(b) The codes and standards that are referenced in this chapter, and any additional codes and standards which are subsequently referenced in those codes and standards, shall apply to the prescribed extent of each such reference, except as modified by this chapter.

(c) The requirements in IBC Appendix C may be applied to certain agricultural buildings, as specified in s. SPS 362.3600 (2),

in lieu of corresponding, otherwise applicable requirements of chs. SPS 361 to 366.

(2) RETROACTIVITY. A rule of chs. SPS 361 to 366 does not apply retroactively to public buildings and places of employment existing prior to the effective date of the rule unless specifically stated in the rule.

(3) CONFLICTS. (a) If any rule written by the department differs from a requirement within a document referenced in chs. SPS 361 to 366, the rule written by the department shall govern.

(b) Where rules of the department specify conflicting requirements, types of materials or methods of construction, the most restrictive rule shall govern, except as provided in pars. (a) and (c).

Note: If the most restrictive of two or more conflicting requirements is not readily apparent, a determination of which is more restrictive can be obtained from the department.

(c) Where a rule prescribes a general requirement and another rule prescribes a specific or more detailed requirement regarding the same subject, the specific or more detailed requirement shall govern, except as provided in par. (a).

(4) DEPARTMENT AUTHORITY. Any departmental interpretation of the requirements in this chapter or in the codes and standards that are adopted in this chapter shall supersede any differing interpretation by either a lower level jurisdiction or an issuer of the adopted code or standard.

(5) LOCAL ORDINANCES. (a) 1. Except as provided in par. (b), pursuant to s. 101.02 (7), Stats., no city, village, or town may enact or enforce an additional or more restrictive local ordinance that establishes minimum standards for constructing, altering, or adding to public buildings or buildings that are places of employment.

Note: 2013 Wisconsin Act 270 established a uniform commercial code. Municipalities with ordinances enacted before May 1, 2013 and approved by the department shall remain in effect. A complete list of department–approved municipal ordinances is available on the department's website at dsps.wi.gov.

2. Nothing in chs. SPS 361 to 366 affect the authority of a municipality to enact or enforce standards relative to land use, zoning, or regulations under ss. 59.69, 60.61, 60.62, 61.35, and 62.23 (7), Stats.

(b) 1. Pursuant to s. 101.02 (7m), Stats., a city, village, town, or county may not enact or enforce additional or more restrictive standards for multifamily dwellings, except as provided under s. 101.975, Stats., and that do not conflict with chs. SPS 361 to 366.

2. Any municipality exercising or intending to exercise jurisdiction under chs. SPS 361 to 366 may apply to the department for a variance permitting the municipality to adopt an ordinance pertaining to multifamily dwellings not in conformance with chs. SPS 361 to 366. The department shall review and make a determination on a municipal request under this section within 60 business days of receipt of the request.

3. a. The department may grant a municipal variance only where all of the conditions in subds. 3. b. and c. are demonstrated.

b. The municipality demonstrates that the variance is necessary to protect the health, safety, and welfare of individuals within the municipality because of specific climate or soil conditions generally existing within the municipality.

c. The municipality demonstrates that the granting of the variance, when viewed both individually and in conjunction with other variances requested by the municipality, does not impair the statewide uniformity of chs. SPS 361 to 366.

d. Prior to making a determination on a municipal variance, the department shall solicit within the municipality and consider the statements of any interested persons as to whether the variance should be granted.

e. This subdivision shall be strictly construed in accordance with the goal of promoting statewide uniformity.

4. Pursuant s. 101.121, Stats., a city, village, town, or county may not enact or enforce additional or more restrictive standards regarding issues addressed under chs. SPS 361 to 366 that would apply to alteration or change of occupancy for a historic building.

5. Pursuant to s. 101.02 (7e), Stats., no city, village, or town may enact or enforce an ordinance related to fire safety that prohibits the seasonal placement of a Christmas tree in a church.

(6) ALTERNATIVES. Nothing in chs. SPS 361 to 366 is intended to prohibit or discourage the design and utilization of new building products, systems, components, or alternate practices, provided written approval from the department is obtained first.

Note: Chapter SPS 361, subch. VI contains requirements for approval of building products and alternate standards.

(7) NEW BUILDINGS AND STRUCTURES. All buildings, structures and additions to buildings, structures, and components, to be constructed or erected shall be designed, constructed, and maintained in accordance with the rules of chs. SPS 361 to 366 as the rules exist on one of the following:

(a) Pursuant to s. SPS 361.30, the date plans for the building, structure or addition are approved by the department or authorized representative.

(b) The date the local building permit is issued, if plan submission and approval is not required under s. SPS 361.30.

(c) The date construction is initiated, where pars. (a) and (b) do not apply.

(8) ALTERATIONS. All portions, elements, systems or components of existing buildings and structures to be altered or modified, where the alteration or the modification affects a building element or component relating to subject matters regulated by chs. SPS 361 to 366, shall be designed, constructed, and maintained in accordance with the rules of chs. SPS 361 to 366 as the rules exist on one of the following:

(a) Pursuant to s. SPS 361.30, the date plans for the alteration or modification are approved by the department or authorized representative.

(b) The date the local building permit is issued, if plan submission and approval is not required under s. SPS 361.30.

(c) The date the alteration is initiated, where pars. (a) and (b) do not apply.

(9) REPLACEMENTS. All building systems or components of existing buildings and structures to be replaced, where the replacement involves a building element or component relating to subject matters regulated by chs. SPS 361 to 366 shall conform and be maintained in accordance with the rules of chs. SPS 361 to 366 as the rules exist on one of the following:

(a) Pursuant to s. SPS 361.30, the date plans for the replacement are approved by the department or authorized representative.

(b) The date the local building permit is issued, if plan submission and approval is not required under s. SPS 361.30.

(c) The date the replacement is initiated, where pars. (a) and (b) do not apply.

(10) REPAIRS. All portions, elements, systems or components of existing buildings and structures repaired shall conform and be maintained in accordance with the rules of chs. SPS 361 to 366 as the rules exist on one of the following:

(a) The date plans for that portion, element, system or component was approved by the department or authorized representative.

(b) The date the local building permit was issued for that portion, element, system or component, if plan submission and approval was not required.

(c) The date construction was initiated for that portion, element, system or component, where pars. (a) and (b) do not apply.

(d) The date repair is initiated.

(11) CHANGE OF OCCUPANCY OR USE. Except as provided in sub. (12), no change may be made in the use or occupancy of any building or structure, or any space within a building or structure, that would place the building, structure or space either in a different division of the same group of occupancies or in a different group of occupancies, unless the building, structure or space com-

plies with the requirements of chs. SPS 361 to 366 for the new division or group of occupancies, as these requirements exist on one of the following dates:

(a) Pursuant to s. SPS 361.30, the date when plans for the change in occupancy or use are approved by the department or authorized representative.

(b) The date a local building permit is issued, if plan submittal and approval is not required under s. SPS 361.30.

(c) The date construction is initiated, where pars. (a) and (b) do not apply.

(d) The date an occupancy permit is issued, where pars. (a) to (c) do not apply.

(12) TEMPORARY USE. A municipal fire or building code official may permit a building or structure to be used temporarily by the public, subject to all of the following provisions:

(a) The official shall determine the time frame within which the temporary use is permitted, based on the extent hazards are created by the temporary use. This time frame may not exceed 180 days, except the official may grant extensions for demonstrated cause.

(b) Except as provided in par. (c), buildings or spaces considered for temporary use shall conform to the requirements of chs. SPS 361 to 366 as necessary to ensure the public safety, health and general welfare.

(c) The official may require additional safety requirements for a temporary use as a tradeoff for any safety provisions that may be lacking.

(d) The official may terminate the approval for a temporary use at any time and order immediate discontinuance of the use or complete evacuation of the building or space.

(13) EXISTING BUILDINGS AND STRUCTURES. (a) Unless otherwise specifically stated in chs. SPS 361 to 366, an existing building or structure, and every element, system, or component of an existing building or structure shall be maintained to conform with the Wisconsin administrative building code provisions that applied when the building, structure, element, system, or component was constructed, or altered except when required by subsequent editions of the building code.

(b) Existing bleachers, grandstands, and folding and telescopic seating shall comply with IBC section 1029.1.1.

(14) INTERNATIONAL FIRE CODE. The 2015 IFC does not apply to chs. SPS 361 to 366 except as follows:

(a) Design and construction–related requirements shall apply that are addressed in the IFC section 102.6; IFC chapters 2 to 4; IFC sections 501 to 502 and 504 to 510; IFC sections 601 to 605 and 607 to 609; IFC chapters 7 and 8; IFC sections 901.1 to 901.4.3, 901.4.5 to 909.18.9, and 909.20 to 913; IFC chapters 10, 11, 21, and 22; IFC section 2311.7, and IFC chapters 24 to 37, 50, 51, 54 to 57, 59, 60, 62 to 67, and 80.

(b) Occupant loads addressed in IFC section 1004.5 shall apply but shall be established by the owner rather than by the code official.

(c) Construction–related inspections and reports shall apply that are addressed in IFC chapters 2 to 8; IFC sections 901 to 909.18.9 and 909.20 to 913; and IFC chapters 10, 11, 21, 22, 24 to 37, 50, 51, 54 to 57, 59, 60, and 62 to 67, but may be performed or compiled by any qualified agency, rather than by a special inspector.

(d) Use and operation provisions shall apply which are a contingency of design and construction–related requirements and which are addressed in IFC chapters 2 to 4; IFC sections 501 and 502 and 504 to 510; IFC sections 601 to 605 and 607 to 609; IFC chapters 7 and 8; IFC sections 901.1 to 901.4.3, 901.4.5 to 909.18.9, and 909.20 to 913; and IFC chapters 10, 11, 21, 22, 24 to 37, 50, 51, 54 to 57, 59, 60, 62 to 67, and 80.

Note: A copy of the 2015 IFC may be viewed or acquired at codes.iccsafe.org.

(15) GLOBAL DELETIONS FOR THE INTERNATIONAL CODES. Unless specifically applied by another department–written rule in chs. SPS 361 to 366, the following requirements of the IBC, IEBC, IECC, IFC, IFGC, and IMC do not apply as rules of the department:

(a) All requirements that specify submittal and approval of construction documents, shop drawings or acceptance tests and records.

(b) All requirements that specify employing special inspectors or obtaining special inspections or structural observations.

(c) All requirements that mandate obtaining approval, acceptance or other direction from a building or fire code official.

Note: This paragraph does not delete options to obtain approval from the Department or its authorized agents for specific circumstances that differ from conditions which are more generally prescribed in the above–listed codes.

(d) All requirements that specify providing information to a building or fire code official, unless that official requests the information.

(e) All requirements that address construction in flood hazard areas.

(f) All requirements that address construction of detached one–or two–family dwellings and any references to the IRC.

(g) All requirements that specify obtaining a permit or certificate of occupancy.

Note: For an example of a Department–written rule that specifically applies one or more of the requirements referenced above, see s. SPS 362.1700, which specifically applies the special inspections and determinations in IBC sections 1711 to 1716.

Note: The Department and other state agencies may have additional rules that affect the design, construction, maintenance and use of public buildings and places of employment, including chs. SPS 305, Licenses, Certifications, and Registrations; SPS 307, Explosives and Fireworks; SPS 314, Fire Prevention; SPS 316, Electrical; SPS 318, Elevators, Escalators and Lift Devices; SPS 340, Gas Systems; SPS 341, Boilers and Pressure Vessels; SPS 343, Anhydrous Ammonia; SPS 345, Mechanical Refrigeration; SPS 375 to 379, Buildings Constructed Prior to 1914; SPS 381 to 387, Plumbing; SPS 390, Public Swimming Pools; and SPS 391, Sanitation. The Department's Division of Industry Services administers all of these listed codes.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 01–139: am. (6) (c), (7) (c), (13) (a) 1. and 6. Register June 2002 No. 558, eff. 7–1–02; CR 04–016: am. (3), (5), (6) (intro.), (7) (intro.), (8) (intro.), (9) (intro.), (10) (b), (13) (a) 1. and 6., cr. (10) (a) 4. and (12) (b), renum. (12) to be (12) (a) and am., Register December 2004 No. 588, eff. 1–1–05; CR 05–113: cr. (4) (b) 6. Register December 2006 No. 612, eff. 4–1–07; CR 06–120: r. and recr. Register February 2008 No. 626, eff. 3–1–08; CR 10–103: am. (14) (a) to (c), r. (14) (d) and (e), renum. (14) (f) to be (d) and am., cr. (15), Register August 2011 No. 668, eff. 9–1–11; correction in (1) (a), (c), (7) (a), (b), (8) (a), (b), (9) (a), (b), (11) (a), (b), (14) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 15–016: am. (14) (a) Register October 2015 No. 718, eff. 11–1–15; CR 16–094: am. (1) (a), (c), (2), (3) (a), (5) (a) 1., 2., (5) (b) 1., 2., 3. c., 4., cr. (5) (b) 5., am. (6), (7) (intro.), (8) (intro.), (9) (intro.), (10) (intro.), (11) (intro.), (12) (b), (13), (14), (15) (intro.), (f), Register April 2018 No. 748 eff. 5–1–18.

SPS 361.04 Definitions. In chs. SPS 361 to 366:

(1) "Authorized representative" means any certified municipality or county as specified in s. SPS 361.60, and any appointed agent under s. 101.12 (3g), Stats.

(1g) "Compliance assurance program" means a detailed system documenting the methods used to ensure modular multifamily housing, modular multifamily building systems, and building system components are manufactured in accordance with department–approved plans and chs. SPS 361 to 366.

(1r) "Crematory" means a building or portion of a building within which a cremation chamber is located.

(2) "Department" means the department of safety and professional services.

(3) "Dwelling unit" has the meaning given in s. 101.61 (1), Stats., for the purpose of determining whether chs. SPS 361 to 366 applies to a residential occupancy. For all other purposes, the meaning is as given in IBC section 202, IECC section 202, and IMC section 202.

Note: Section 101.61 (1), Stats., reads in part: " 'Dwelling unit' means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others."

(3m) "Home–based business" means any business, profession, trade, or employment conducted in a person's dwelling unit,

which may involve the person's immediate family or household and a maximum of one other unrelated person, but does not involve any of the following:

(a) Explosives, fireworks, or repair of motor vehicles.

(b) More than 25% of the habitable floor area of the dwelling unit.

Note: A dwelling unit that includes a home−based business is referred to as a "live/work" unit as defined in s. SPS 362.0202 (2) (h).

(4) "HVAC system" means a heating, ventilating, or air conditioning system or a component thereof that is permanently installed to provide control of environmental conditions within buildings.

(5) "IBC" or "International Building Code" means the *International Building Code*®, as adopted under s. SPS 361.05 and modified in chs. SPS 361 to 366.

(6) "ICC Electrical Code" means ch. SPS 316.

(7) "IEBC" or "International Existing Building Code" means the International Existing Building Code®, as adopted under s. SPS 361.05 and modified in chs. SPS 361 to 366.

(8) "IECC" or "International Energy Conservation Code" means the *International Energy Conservation Code*®, as adopted under s. SPS 361.05 and modified in chs. SPS 361 to 366.

(9) "IFC" and "International Fire Code" mean the *International Fire Code*®.

(10) "IFGC" or "International Fuel Gas Code" means the *International Fuel Gas Code*®, as adopted under s. SPS 361.05 and modified in chs. SPS 361 to 366.

(11) "IMC" or "International Mechanical Code" means the *International Mechanical Code*®, as adopted under s. SPS 361.05 and modified in chs. SPS 361 to 366.

(12) "IPC" and "International Plumbing Code" mean chs. SPS 381 to 387.

(13) "IPSC" and "International Private Sewage Code" mean chs. SPS 381 to 387.

(13g) "IRC" or "International Residential Code" means the *International Residential Code*®.

(13r) "Mausoleum" means a public building, structure, or part of a building or structure that is used or intended to be used for the burial of human remains.

(14) "Multifamily dwelling" has the meaning given in s. 101.971 (2), Stats.

(15) "Recreational and educational camp" has the meaning given in s. 101.053, Stats.

(15g) "Seasonal recreational and educational camp building" means a building or structure occupied only between the dates of May 1st and October 15th and located at a recreational and educational camp.

(15m) "Secretary" has the meaning given in s. 101.01 (14), Stats.

(16) "Wisconsin insignia" means a device or seal approved by the department to certify compliance with chs. SPS 361 to 366.

Note: Many of the model building codes created by the International Code Council (ICC) and adopted by the Department of Safety and Professional Services may be viewed free of charge on the ICC website. To access these codes go to codes.iccsafe.org and click on "I-Codes."

History: CR 00−179: cr. Register December 2001 No. 552, eff. 7−1−02; CR 04−016: (4) renum. from Comm 62.0202 (1) (j), am. (1), renum. (3) and (4) to be (5) and (6), cr. (3) Register December 2004 No. 588, eff. 1−1−05; CR 05−113: am. (6) Register December 2006 No. 612, eff. 4−1−07; CR 06−120: renum. (4) to (6) to be (14), (4) and (15) and am. (15), cr. (7), renum. Comm 62.0202 (1) (c), (d) and (e) to (j) to be Comm 61.04 (5), (6) and (8) to (13) and am. (5) and (8) to (11), Register February 2008 No. 626, eff. 3−1−08; CR 10−103: r. and recr. (4), am. (15), Register August 2011 No. 668, eff. 9−1−11; correction in (1), (2), (5), (6), (7), (8), (10), (11), (12), (13), (15) made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672; CR 16−094: am. (intro.), cr. (1g), (1r), am. (3), cr. (3m), am. (5), (7), (8), (10), (11), cr. (13g), (13r), r. (15), cr. (15m), (16) Register April 2018 No. 748 eff. 5−1−18; 2017 Wis. Act 198: am. (1) Register April 2018 No. 748, eff. 5−1−18; **CR 22−069: cr. (15), (15g) Register July 2023 No. 811, eff. 8−1−23.**

SPS 361.05 Adoption of the International Codes.

(1) IBC. The *International Building Code*® – 2015, subject to the modifications specified in this chapter and ch. SPS 362 is incorporated by reference into chs. SPS 361 to 366.

(2) IECC. The *International Energy Conservation Code*® – 2015, subject to the modifications specified in this chapter and ch. SPS 363 is incorporated by reference into chs. SPS 361 to 366.

(3) IMC. The *International Mechanical Code*® – 2015, subject to the modifications specified in this chapter and ch. SPS 364 is incorporated by reference into chs. SPS 361 to 366.

(4) IFGC. The *International Fuel Gas Code*® – 2015, subject to the modifications specified in this chapter and ch. SPS 365 is incorporated by reference into chs. SPS 361 to 366.

(5) IEBC. The *International Existing Building Code*® – 2015, subject to the modifications specified in this chapter and ch. SPS 366 is incorporated by reference into chs. SPS 361 to 366.

Note: A copy of the *International Building Code*®, *International Energy Conservation Code*®, *International Mechanical Code*®, *International Fuel Gas Code*®, and *International Existing Building Code*® is on file in the offices of the Department and the Legislative Reference Bureau. Copies of the International Codes may be purchased from the International Code Council®, 4051 West Flossmoor Road, Country Club Hills, IL 60478−5795, (708) 799−2300, Website www.iccsafe.org.

Note: The references in chs. SPS 362 to 366 to individual ICC code sections typically are to a particular paragraph or set of paragraphs within a referenced ICC section, and are not intended to affect any subsequent subdivisions of the specified section unless stated otherwise. For example, the directive in s. SPS 362.0907 (1) to substitute certain language for IBC section 907.1 is not intended to mean that IBC sections 907.1.1 through 907.1.2 are also being changed.

Note: Many of the model codes created by the International Code Council (ICC) and adopted by the Department of Safety and Professional Services may be viewed free of charge on the ICC website at codes.iccsafe.org and select the version adopted under s. SPS 361.05.

History: CR 00−179: cr. Register December 2001 No. 552, eff. 7−1−02; CR 01−109: cr. (5) Register June 2002 No. 558, eff. 7−1−02; CR 06−120: am. (1) to (4), r. and recr. (5), Register February 2008 No. 626, eff. 3−1−08; corrections made under s. 13.92 (4) (b) 7., Stats., Register February 2008 No. 626; CR 10−103: am. (1) to (5) Register August 2011 No. 668, eff. 9−1−11; correction in (1), (2), (3), (4), (5) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 16−094: am. (1), (2), (3), (4), (5), Register April 2018 No. 748 eff. 5−1−18.

SPS 361.06 Fees.

Fees for petitions for variance, product approvals, notice registrations, plan examination and approvals, and for inspections of buildings, and structures shall be submitted as specified in ch. SPS 302. Fees shall be submitted at the time the application for approval is submitted. No plan examinations, approvals or inspections may be made until the fees are received.

History: CR 00−179: cr. Register December 2001 No. 552, eff. 7−1−02; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter II — Responsibilities, Appeals, Petitions and Penalties

SPS 361.20 Responsibilities.

(1) OWNER. Compliance with chs. SPS 361 to 366 does not relieve the owner of a public building or place of employment from compliance with the administrative rules established by other state jurisdictions.

Note: Pursuant to s. 101.11 (2) (a), Stats., no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

Note: Section 101.12 (3) (h), Stats., prohibits local issuance of permits or licenses for construction or use of public buildings or places of employment until required drawings and calculations have been examined and approved by the department.

Note: Section 145.195 (1), Stats., prohibits local issuance of a building permit for construction of any structure requiring connection to a private onsite wastewater treatment system unless a system satisfying all applicable regulations already exists to serve the proposed structure or all permits necessary to install such a system have been obtained.

(2) DESIGN. (a) Pursuant to ch. 443, Stats., a public building, structure or place of employment shall be designed by an architect or an engineer, except as provided under ss. 443.14 and 443.15, Stats.

(b) Pursuant to ch. 443, Stats., a component or a system, including an electrical system, a fire protection system, a heating ventilating and air conditioning system, or a plumbing system, for a public building, structure or place of employment shall be designed by an architect, engineer or a designer of engineering systems, except as provided under ss. 443.14 and 443.15, Stats.

History: CR 00−179: cr. Register December 2001 No. 552, eff. 7−1−02; CR 16−094: am. (1), Register April 2018 No. 748 eff. 5−1−18.

SPS 361.21 Appeals. (1) APPEAL OF DEPARTMENT ORDER. Pursuant to s. 101.02 (6) (e), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department for a hearing on the reasonableness of the order.

(2) APPEAL OF LOCAL ORDER. Pursuant to s. 101.02 (7) (b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing.

Note: "Local order" is defined under s. 101.01 (8), Stats.

Note: See also s. 101.02 (7) (c), Stats.

(3) CONTESTED CASE HEARING. In addition to any other right provided by law, any interested person may file a written request for a contested case hearing, as specified in s. 227.42, Stats.

(4) PETITION OF ADMINISTRATIVE RULE. Pursuant to s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may petition the department requesting the adoption, amendment or repeal of the rule.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02.

SPS 361.22 Petition for variance. The department shall consider and may grant a variance to a provision of chs. SPS 361 to 366 in accordance with ch. SPS 303. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

Note: Chapter SPS 303 requires the submittal of a petition for variance form (SBD–9890) and a fee, and that an equivalency is established in the petition for variance which meets the intent of the rule being petitioned. Chapter SPS 303 also requires the Department to process regular petitions within 30 business days and priority petitions within 10 business days. The SBD–9890 form is available at the Department's Web site at www.dsps.wi.gov through links to Division of Industry Services forms.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 16–094: am. (intro.), Register April 2018 No. 748 eff. 5–1–18.

SPS 361.23 Penalties. Penalties for violations shall be assessed in accordance with ss. 101.02 (12) and (13) (a), and 101.978, Stats.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02.

Subchapter III — Plan Review and Related Functions

SPS 361.295 Administrative coordination. Pursuant to ss. 101.02 (13) (b) and 101.12 (3) (h), Stats., if plans are required to be submitted to the department for review under s. SPS 361.30, a municipality may not issue a building permit to commence construction or use of the building until the plans have been approved by the department or its agent.

History: EmR0904: emerg. cr. eff. 3–2–09, except (2) eff. 7–1–09; CR 08–110: cr. Register September 2009 No. 645, eff. 10–1–09; correction in (1), (2) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 14–010: renum. (1) to section 361.295, r. (2) Register August 2014 No. 704, eff. 9–1–14.

SPS 361.30 Plan review and approval. (1) TYPES OF BUILDINGS. (a) Except as provided in par. (b), Table 361.30–1, and sub. (4), the construction of, the alteration of, or the addition to a public building or a place of employment may not commence unless plans for the project have been submitted to and approved by the department or its authorized representative in accordance with s. SPS 361.31.

(b) The following are exempt from plan submittal and review under par. (a):

1. Single–story buildings and structures of less than 1,000 square feet located on individual parcels or lease sites at state fair park.

2. Fire service drill towers used exclusively for hands–on training reflecting emergency conditions.

Note: The exemptions under pars. (a) and (b) for not having to submit and obtain prior approval from the department for specific building projects does not waive the obligation for these types of projects to conform to the standards of chs. SPS 361 to 366.

Note: The exemptions under pars. (a) and (b) for not having to submit and obtain prior approval from the department for specific building projects does not prohibit a municipality from requiring the submission, review and approval of plans by the municipality nor does it supersede the necessity of obtaining local building permits prior to the commencement of the project.

Note: See also s. 101.02 (7r) (g) 2., Stats. Pursuant to 2017 Wisconsin Act 330, no county, city, village, or town may enact or enforce an ordinance that is more restrictive than the department in administration of the code. "Administration" includes the process an owner must follow when applying for a permit for construction, altering, or adding to a public building or a building that is a place of employment.

Table 361.30–1
Buildings Exempt from Plan Review

Building Type or Occupancy	Building Description
Assembly Group A–2, A–3 Business Group B Factory Group F Mercantile Group M Storage Group S Utility and Miscellaneous Group U	Total building volume of less than 25,000 cubic feet

(2) TYPES OF STRUCTURES. Plans for all of the following types of structures shall be submitted and approved by the department or authorized representative prior to commencement of the project:

(a) An assembly seating facility to be located within a public building or place of employment.

(b) An assembly seating facility more than 5 rows in height and not located within a public building or place of employment.

(c) A mausoleum.

(d) A crematory.

(3) TYPES OF BUILDING COMPONENTS. (a) Except as provided in sub. (4), building component or system plans shall be submitted to and approved by the department or authorized representative prior to installation of the component or system, for each of the following type components or systems:

1. Pre–manufactured and pre–engineered structural components.

2. Heating, ventilating and air conditioning systems.

3. Fire protection systems.

(b) Component or systems plans shall be submitted in one of the following manners:

1. Included with the plans under sub. (1) (a).

2. Submitted as a separate plan for the component or system.

(4) EXCLUSION FOR MINOR ALTERATIONS. (a) This section does not apply to minor alterations where the building official agrees the nature of the work is such that review and approval of construction documents is not necessary to achieve compliance with chs. SPS 361 to 366.

(b) The submission and approval of fire protection system plans is not required for a project involving the alteration or addition of the following components:

1. Twenty or fewer sprinkler heads to an existing automatic fire sprinkler system.

2. Twenty or fewer alarm devices to an existing fire alarm system.

(5) CALCULATING TOTAL BUILDING VOLUME. Total building volume shall be determined by calculating the cubic footage of space enclosed within the outer surfaces of the building's outside or enclosing walls and the space between the upper most surface of the roof and the underside of the lowest floor of a building. The outer surface of structures or portions of structures without enclosed walls shall be established by projecting vertical planes from the outer surface of exterior supports or columns. The total building volume shall be calculated on structures with interior supports by establishing a vertical plane projected from the farthest roof projection. Roof overhangs less than 24 inches from a

vertical wall may not be included in the calculation. Total building volume shall include the cubic footage of space in dormers, penthouses, vaults, pits, enclosed porches, and other enclosed appendages to the building.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 01–139: cr. (2) (c), r. and recr. Table 61.30–3 Register June 2002 No. 558, eff. 7–1–02; CR 04–016: am. (1) (b) 1., 2. b. and Table 61.30–3, cr. (4) Register December 2004 No. 588, eff. 1–1–05; CR 06–120: am. Table 1 and 2, cr. (2) (d), Register February 2008 No. 626, eff. 3–1–08; CR 10–103: am. (1) (a), r. (1) (b) 2., 3., Table 61.30–2 and Table 61.30–3, renum. (1) (b) 1. to be (1) (b) and (4) to be (4) (a), cr. (4) (b), Register August 2011 No. 668, eff. 9–1–11; r. and recr. (3) Register August 2011 No. 668, eff. 1–1–12; correction in (1) (a), (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 16–094: r. and recr., Register April 2018 No. 748 eff. 5–1–18; CR 16–094: am. (1) (a), r. and recr. (1) (b), am. Table 361.30–1, (2) (a), (b), (c), (d), am. (4) (a), cr. (5), Register April 2018 No. 748 eff. 5–1–18.

SPS 361.31 Plans. (1) SIGNING AND SEALING. (a) Except as provided in par. (b), construction documents submitted to the department or its authorized representative for review shall be prepared, signed and sealed in accordance with ch. 443, Stats., and s. A–E 2.02.

(b) Sprinkler construction documents that are required by s. SPS 361.33 to be at an installation site shall comply with one of the following:

1. Be signed and sealed in accordance with s. A–E 2.02 by an architect, engineer or fire protection systems designer who is registered by the department.

2. Be signed, including license number, and dated by an automatic fire sprinkler contractor who is responsible for the installation of the sprinklers and who is licensed by the department.

Note: Pursuant to s. A–E 2.02 (4) and (5) read:

"A–E 2.02 (4) Each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, professional geological, professional engineering, design or land surveying practice shall be signed, sealed and dated by the registrant or permit holder who prepared, or directed and controlled preparation of, the written material, except as specified in sub. (5).

"(5) If more than one sheet is bound together in a volume, the registrant or permit holder who prepared or directed and controlled the preparation of the volume, may sign, seal and date only the title or index sheet if the signed sheet identifies clearly all other sheets comprising the bound volume and if any other sheets which are prepared by or under the direction and control of another registrant or permit holder are signed, sealed and dated by the other registrant or permit holder."

Note [2]: Nothing in chs. SPS 361 to 366 is intended to prohibit the submission and acceptance of plans and construction documents in an electronic or digital media.

3. Be signed, including license number, and dated by the master plumber who is responsible for the installation of a NFPA 13D multipurpose piping system and who is licensed by the department.

Note: Plans for a multipurpose piping system must be submitted under s. SPS 382.20 to determine compliance for the non–fire protection aspects of the system.

(2) CONTENTS AND INFORMATION. (a) 1. Construction documents submitted to the department or its authorized representative for review shall be dimensioned and drawn to scale.

2. The scale used for the construction documents shall be indicated on the documents.

(b) 1. Except as provided in subd. 2., at least 4 sets of construction documents shall be submitted to the department or authorized representative for review.

2. a. At least one set of construction specifications shall be submitted to the department or authorized representative for review.

b. One complete set of plans may be submitted, provided it is accompanied with 3 copies of the cover sheet for the complete set, and provided all 4 cover sheets comply with sub. (1) (a).

(c) All construction documents submitted to the department or authorized representative for review shall be permanent copies of the original documents and the copies shall be bound into sets in a manner that enables the documents to be reviewed without removing the binding.

(d) Construction documents submitted to the department or its authorized representative for review shall be of sufficient clarity, character and detail to show how the proposed design will conform to chs. SPS 361 to 366.

(e) 1. Construction documents shall be accompanied by sufficient calculations or information to substantiate that the documents conform to chs. SPS 361 to 366.

2. When requested by the department or its authorized representative, additional data pertaining to the design, construction, materials, and equipment shall be submitted to the department or the authorized representative to substantiate conformance to chs. SPS 361 to 366.

3. The title and edition of an alternate model building code used in the plan as allowed under s. SPS 361.51 (8) shall be submitted to the department or its authorized representative.

(3) APPLICATION FOR APPROVAL. (a) A plan review application form shall be included with the construction documents and information submitted to the department for examination and approval. Pursuant to s. SPS 302.07 (3), the department shall review and make a determination on an application for plan review under this chapter within 15 business days.

Note: The Department forms required in this chapter are available at the Department's website at www.dsps.wi.gov through links to Division of Industry Services forms.

Note: Under s. 145.195, Stats., "No county, city, town or village may issue a building permit for construction of any structure requiring connection to a private domestic sewage treatment and disposal system unless a system satisfying all applicable regulations already exists to serve the proposed structure or all permits necessary to install such a system have been obtained." See ch. SPS 383 for applicable regulations.

(b) If, upon examination, the department determines that the construction documents or application for approval do not substantially conform to chs. SPS 361 to 366, the application for conditional approval will be denied, in writing.

(c) If, upon examination, the department determines that the construction documents and the application for approval substantially conform to chs. SPS 361 to 366, a conditional approval, in writing, will be granted and the plans will be stamped conditionally approved. All conditions stated in the conditional approval shall be complied with before or during construction.

Note: The plan examination and approval by the department does not constitute an approval to proceed with construction prior to obtaining any permits or approvals that are required by a local unit of government.

(4) REVISIONS TO APPROVED PLANS. (a) 1. All proposed revisions and modifications which involve rules under chs. SPS 361 to 366 and which are made to construction documents that have previously been granted approval by the department or its authorized representative, shall be submitted for review to the office that granted the approval.

2. All revisions and modifications to the plans shall be approved in writing by the department or its authorized representative prior to the work involved in the revision or modification being carried out.

(b) A revision or modification to a plan, drawing or specification shall be signed and sealed in accordance with s. SPS 361.31 (1).

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 01–139: renum. (3) (intro.) to (b) to be (3) (a) to (c) Register June 2002 No. 558, eff. 7–1–02; CR 04–016: renum. (2) (b) 2. to be (2) (b) 2. a., cr. (2) (b) 2. b. Register December 2004 No. 588, eff. 1–1–05; CR 06–119: am. (3) (a) Register July 2007 No. 619, eff. 8–1–07; CR 10–103: cr. (1) (b) 3. Register August 2011 No. 668, eff. 9–1–11; correction in (1) (b) made under s. 13.92 (4) (b) 7. Stats., Register August 2011 No. 668; correction in (1) (b) (intro.), 1., 2., 3., (3) (a), (4) (b) made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672; CR 16–094: am. (2) (d), (e), cr. (2) (e) 3., am. (3) (b), (c), (4) (a) 1., Register April 2018 No. 748 eff. 5–1–18.

SPS 361.32 Permission to start construction. (1) A building owner may request and the department or its authorized representative may grant permission to start construction for the footings and foundations upon submission of construction documents under s. SPS 361.31.

(2) A building owner who has been granted permission to start construction of the footings and foundations may proceed at the owner's own risk without assurance that a conditional approval for the building will be granted.

(3) The department shall review and make a determination on an application for permission to start construction of the footings

and foundations within 3 business days of receipt of the application and all forms, fees, construction documents and information required to complete the review.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 361.33 Evidence of plan approval. Where plan approval is required by chs. SPS 361 to 366, one set of plans bearing the stamp of conditional approval and a copy of the specifications shall be kept at the building site. The plans and specifications shall be open to inspection by the department or its authorized representative.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 16–094: am., Register April 2018 No. 748 eff. 5–1–18.

SPS 361.35 Revocation of approval. The department may revoke any approval, issued under chs. SPS 361 to 366, for any false statements or misrepresentation of facts on which the approval was based.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 16–094: am., Register April 2018 No. 748 eff. 5–1–18.

SPS 361.36 Expiration of plan approval and extension of plan approval. (1) EXPIRATION OF PLAN APPROVAL. (a) *Building shell.* Except as provided in par. (f) and sub. (2) (b), plan approval by the department or its authorized representative for new buildings and building additions shall expire 2 years after the approval date indicated on the approved building plans if the building shell is not closed in within those 2 years.

(b) *Occupancy.* Except as provided in sub. (2), plan approval by the department or its authorized representative for new buildings and building additions shall expire 3 years after the approval date indicated on the approved building plans if the building is not ready for occupancy within those 3 years.

(c) *Alterations.* Except as provided in sub. (2), plan approval by the department or its authorized representative for interior building alterations shall expire one year after the approval date indicated on the approved building plans if the alteration work is not completed within that year.

(d) *HVAC construction only.* Except as provided in sub. (2), plan approval by the department or its authorized representative for heating, ventilating, or air conditioning construction that does not include any associated building construction shall expire one year after the approval date indicated on the approved plans if the building or building area affected by the plans is not ready for occupancy within that year.

(e) *Fire protection systems only.* Except as provided in sub. (2), plan approval by the department or its authorized representative for a fire protection system that does not include any associated building construction shall expire 2 years after the approval date indicated on the approved plans if the building or building area affected by the plans is not ready for occupancy within those 2 years.

(f) *Mausoleums.* Except as provided in sub. (2), plan approval by the department or its authorized representative for mausoleums within the scope of s. 440.92 (2) (e), Stats., shall expire 3 years after the date indicated on the approved building plans of the building shell if not closed within those 3 years.

(g) *Bleachers and canopies.* Except as provided in sub. (2), plan approval by the department or its authorized representative for bleachers or free standing canopies shall expire 2 years after the approval date on the approved plans of the structure.

(2) EXTENSION OF PLAN APPROVAL. (a) Except as provided in par. (b), upon request and payment of the fee specified in ch. SPS 302, the expiration dates in sub. (1) (b) to (g) may be extended provided the request is submitted prior to expiration of the original approval.

Note: According to s. 66.0413, Stats., the local governmental body or building inspector may order the razing of buildings or portions thereof, where there has been a cessation of normal construction for more than 2 years.

(b) Upon request to the secretary, the expiration dates in sub. (1) (a) and (b) may be extended at the discretion of the secretary for a one–time, 2–year period provided all of the following:

1. The approved plan is for multifamily dwelling containing less than 11 dwelling units.

2. The original plan was submitted for department review prior to January 1, 2011.

3. The request is submitted prior to expiration of the original approval.

Note: According to s. 66.0413, Stats., the local governmental body or building inspector may order the razing of buildings or portions thereof, where there has been a cessation of normal construction for more than 2 years.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 06–120: renum. (2) to be (2) (a) and am., cr. (2) (b), Register February 2008 No. 626, eff. 3–1–08; correction in (2) (a) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 16–094: am. (1) (f), cr. (1) (g), am. (2) (a), Register April 2018 No. 748 eff. 5–1–18.

SPS 361.37 Department limitation. A conditional approval of a plan by the department may not be construed as an assumption of any responsibility on the part of the department for the design or construction of the project.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02.

SPS 361.39 Registration of cross connection control assemblies. Cross connection control assemblies to be installed in water–based fire protection systems shall be registered with the department in accordance with ch. SPS 382.

History: CR 02–002: cr. Register April 2003 No. 568, eff. 5–1–03; CR 04–016: am. Register December 2004 No. 588, eff. 1–1–05; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter IV — Supervision and Inspections

SPS 361.40 Supervision. (1) GENERAL. (a) Except as provided in par. (b), the proposed construction of a project within the scope of chs. SPS 361 to 366 shall be supervised by one or more Wisconsin registered architects or engineers, except that Wisconsin registered designers may supervise the installation of heating, ventilating and air conditioning systems, fire protection systems, and illumination systems. The person responsible for supervision shall also be responsible for the construction and installation being in substantial compliance with the approved plans and specifications. If the supervising architect, engineer, or designer is confronted with a nonconformance with the code during or at the end of construction, that party, together with the designing architect, engineer, or designer shall effect compliance or shall notify the department of the noncompliance.

(b) 1. A project does not require supervision by a Wisconsin registered architect or engineer, if the project qualifies under one of the following conditions:

a. The building contains less than 50,000 cubic feet total volume.

b. An addition to an existing building does not cause the entire building to contain or exceed a volume of 50,000 cubic feet.

2. For the purposes of this paragraph, the utilization of fire walls to divide up a building does not create separate buildings.

(2) DUTIES. Supervision of construction is a professional service, as distinguished from superintending of construction by a contractor, and means the performance, or the supervision thereof, of reasonable on–the–site observations to determine that the construction is in substantial compliance with the approved plans and specifications.

(3) NAME OF SUPERVISING ARCHITECT, ENGINEER OR DESIGNER. (a) Prior to the start of construction, the owner of the building or structure shall designate in writing to the authority that issued plan approval the name and Wisconsin registration number of the architect, engineer or designer retained to supervise construction of the building or structure.

(b) If the supervising architect, engineer, or designer withdraws from a construction project, the owner of the building or

structure shall retain a new supervising professional within 30 days of the date of the withdrawal and provide the authority that issued plan approval the name and Wisconsin registration number of the replacement supervising professional.

(4) COMPLIANCE STATEMENT. Prior to initial occupancy of a new building or addition, and prior to final occupancy of an alteration of an existing building, the supervising architect, engineer or designer shall file a written statement with the authority that issued plan approval certifying that, to the best of his or her knowledge and belief, construction of the portion to be occupied has been performed in substantial compliance with the approved plans and specifications. This statement shall be provided on a form prescribed by the department.

Note: The Department forms required in this chapter are available at the Department's website at www.dsps.wi.gov through links to Division of Industry Services forms.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 01–139: am. (1) (b) 1. a. and b. Register June 2002 No. 558, eff. 7–1–02; CR 04–016: renum. from Comm 61.50 Register December 2004 No. 588, eff. 1–1–05; CR 10–103: am. (1) (a) Register August 2011 No. 668, eff. 9–1–11; correction in (1) (b) 1. made under s. 13.92 (4) (b) 7. Stats., Register August 2011 No. 668; CR 16–094: am. (1) (a), renum. (3) to (3) (a), cr. (3) (b), Register April 2018 No. 748 eff. 5–1–18.

SPS 361.41 Inspections. (1) ON–SITE. (a) When required, on–site inspections shall be conducted within 5 business days following a request by the applicant or an authorized representative.

(b) Construction may proceed if the inspection has not been completed by the end of the fifth business day following the day of notification or as otherwise agreed between the applicant and the municipality or authorized inspection agency.

(c) On–site inspections shall be conducted by an authorized representative of the department to determine whether or not the construction or installations conform to the conditionally approved plans, the conditional approval letter, and chs. SPS 361 to 366.

Note: See s. 101.14, Stats., and ch. SPS 314 for requirements relating to fire inspections and fire prevention.

(2) IN–PLANT. (a) *General.* Manufacturers of manufactured buildings shall contract with the department or an independent inspection agency to conduct in–plant inspections to assure that the manufactured buildings are in compliance with the plans approved by the department. All inspections shall be performed by a certified commercial building inspector.

(b) *Wisconsin insignia for manufactured buildings.* Pursuant to s. 101.75, Stats., a Wisconsin insignia shall be installed on a manufactured dwelling unit approved by the department and inspected at the manufacturing plant. Each Wisconsin insignia shall be assigned and affixed to a specific manufactured multifamily dwelling, in the manner approved by the department, before the dwelling is shipped from the manufacturing plant. The serial number shall be located on the manufacturer's data plate.

(c) *Manufacturer's responsibilities.* 1. 'Insignia records.' The manufacturer shall keep permanent records regarding the handling of all Wisconsin insignias indicating the number of Wisconsin insignias which have been affixed to manufactured buildings, building components, or groups of components; which Wisconsin insignias have been applied to which manufactured building or building component; and the disposition of any damaged or rejected Wisconsin insignias. The records shall be maintained by the manufacturer or by the independent inspection agency for at least 10 years. A copy of the records shall be sent to the department upon request.

2. 'Lost or damaged insignia.' a. If Wisconsin insignias become lost or damaged, the department shall be notified immediately in writing by the manufacturer or dealer.

b. If a Wisconsin insignia becomes damaged, the insignia shall be returned to the department with the fee specified in ch. SPS 302 to obtain a new insignia.

(d) *Insignia suspension and revocation.* 1. The department may suspend or revoke its approval if it determines that the standards for the construction or manufacture and installation of a manufactured building do not meet chs. SPS 361 to 366, or if such standards are not being enforced as required by this chapter.

2. Upon suspension or revocation of the approval, no further insignias may be attached to any manufactured building or type of manufactured building with respect to which the approval was suspended or revoked.

3. Upon suspension or revocation of the approval, all insignias allocated to the manufacturer shall be returned to the department no later than 30 days from the effective date of the suspension or revocation.

(3) MAUSOLEUM. Within 30 days after receiving written notice from a cemetery authority that the construction or conversion of a mausoleum has been completed, the department or authorized representative shall inspect the mausoleum and provide written notification of violations. Except as provided in s. 157.12 (2) (b), Stats., mausoleum spaces may not be sold prior to approval by the department or its authorized representative.

Note: Sale of mausoleum spaces is permitted prior to departmental approval in accordance with other requirements of the Department.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 01–139: renum. (2) (e) to be (3) Register June 2002 No. 558, eff. 7–1–02; CR 04–016: renum. from Comm 61.51 Register December 2004 No. 588, eff. 1–1–05; correction in (2) (c) 2. b. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 16–094: renum. (1) to (1) (c) and am., cr. (1) (a), (b), am. (2) (d) 1., (3), Register April 2018 No. 748 eff. 5–1–18.

Subchapter V — Approval and Inspection of Modular Multifamily Dwellings and their Components

SPS 361.45 Modular multifamily dwelling scope. This subchapter shall govern the design, manufacture, installation, and inspection of modular multifamily housing, modular multifamily building systems, and the building system components displaying the Wisconsin insignia.

History: CR 16–094: cr., Register April 2018 No. 748 eff. 5–1–18.

SPS 361.46 Manufacture, sale, and installation of dwellings. (1) MANUFACTURE AND SALE. No modular multifamily housing, modular multifamily building system and the building system components subject to this subchapter may be manufactured for use, sold for initial use or installed in this state unless it is approved by the department and it bears the Wisconsin insignia issued in accordance with s. SPS 361.47 (6).

(2) COMPLIANCE ASSURANCE PROGRAM. A manufacturer of a modular multifamily dwelling shall establish a compliance assurance program to ensure that materials, production, and site operations conform to chs. SPS 361 to 366 and approved construction documents. The compliance assurance program shall be independent from the production of the unit. The compliance assurance program shall include all of the following:

(a) Inspection and testing procedures that include inspection and testing frequency, processes, and criteria for accepting and rejecting materials and products.

(b) A flow chart, plant layout, or other schematic plan or document illustrating and describing the process for manufacturing modular multifamily dwellings, including locations and check points where mandatory inspections will occur.

(c) Procedures for protecting materials, supplies, and other items used in the production process from damage and deterioration.

(d) Procedures for segregating and disposing of rejected materials and products, including a record documenting the authority to reject defective work without conflict from the production department.

(e) Procedures for calibrating, testing, and inspecting equipment used in the production process.

(f) Procedures for final inspection, identification, and labeling of finished modular multifamily housing, modular multifamily building systems, and the building system components, including a system for issuing and maintaining records of serial numbers on units and components.

(g) Procedures for handling, storing, and protecting all finished modular multifamily housing, modular multifamily building systems, and the building system components at the manufacturing plant or other storage facility.

(h) Procedures and methods for storing and maintaining access to manufacturing records.

(i) An audit, monitoring, or similar evaluation system to assess the effectiveness of the compliance assurance program and the manufacturing process.

(3) INSTALLATION. The manufacturer shall obtain building plan review and approval, in accordance with this subchapter, for a modular multifamily dwelling before any on−site construction within the scope of chs. SPS 361 to 366 is commenced.

History: CR 16−094: cr., Register April 2018 No. 748 eff. 5−1−18.

SPS 361.47 Approval procedures. (1) APPLICATION FOR APPROVAL. (a) An application for approval of any modular multifamily housing, modular multifamily building system, and the building system components shall be submitted to the department on a form required by the department, along with the appropriate fees in accordance with s. SPS 302.34 (5).

Note: An application form is available from the department's Division of Industry Services website at dsps.wi.gov.

(b) The department shall review and make a determination on an application for approval of a modular multifamily housing, modular multifamily building system, and the components of the building system within 30 days.

(2) APPROVAL OF PLANS AND SPECIFICATIONS FOR MODULAR MULTIFAMILY BUILDING SYSTEMS AND BUILDING SYSTEM COMPONENTS. (a) *Approval of building systems.* Four complete sets of building, structural, and HVAC plans, including elevations, sections, and details, and one set of specifications and calculations shall be submitted to the department on behalf of the manufacturer for examination and approval.

Note: Plumbing plans submission criteria can be found in ch. SPS 384.

(b) *Approval of building components.* Four complete sets of plans and specifications for manufactured building components shall be submitted to the department on behalf of the manufacturer for examination and approval.

(3) NOTIFICATION OF APPROVAL OR DENIAL OF PLANS AND SPECIFICATIONS. (a) *Conditional approval.* 1. 'Department review.' If the department determines that the plans, specifications, and application for approval submitted for a modular multifamily building system or a building system component substantially conform to the provisions of chs. SPS 361 to 366, the department shall issue a conditional approval. A conditional approval issued by the department may not constitute an assumption of any liability for the design or construction of the manufactured building.

2. 'Written notice.' A conditional approval under subd. 1. shall be in writing and sent to the manufacturer and the person submitting the application for approval. Any noncompliance specified in the conditional approval shall be corrected before the manufacture, sale, or installation of the dwelling, building system, or component.

3. 'Stamping of plans, specifications, and compliance assurance program.' Plans, specifications, and compliance assurance programs that are conditionally approved under subd. 1. shall be stamped "conditionally approved." At least 3 copies shall be returned to the person designated on the application for approval and one copy shall be retained by the department.

(b) *Denial.* 1. 'Department review.' If the department determines that the plans, specifications, or the application for approval do not substantially conform to the provisions of this subchapter and chs. SPS 361 to 366, the application for approval shall be denied.

2. 'Written notice.' A denial under subd. 1. shall be in writing and sent to the manufacturer and the person submitting the application for approval. The notice shall state the reasons for denial.

3. 'Stamping of plans, specifications, and compliance assurance program.' Plans, specifications, and compliance assurance programs for which approval is denied under subd. 1. shall be stamped "not approved." At least 3 copies shall be returned to the person submitting the application for approval and one copy shall be retained by the department.

(4) EVIDENCE OF APPROVAL. At each manufacturing plant where a modular multifamily building system or building system component is manufactured, the manufacturer shall keep one set of plans and specifications bearing the stamp of conditional approval. The conditionally approved plans and specifications shall be available for inspection by an authorized representative of the department during normal working hours.

(5) INSPECTIONS. Manufacturers shall contract with an independent inspection agency to conduct in−plant inspections to assure that the manufactured modular multifamily building system and the building system components are in compliance with the plans and specifications approved by the department and that the manufacturer has established a compliance assurance program, as required under s. SPS 361.46 (2). All inspections, for the purpose of administering and enforcing chs. SPS 361 to 366, shall be performed by a Wisconsin certified commercial building inspector

Note: Plumbing installation inspection criteria can be found in ch. SPS 382.

(6) WISCONSIN INSIGNIA. (a) *Insignia process.* Upon departmental approval of the plans and satisfactory in−plant inspections of the modular multifamily building system and the building system components, a Wisconsin insignia shall be purchased from the department in accordance with the fee established in s. SPS 302.34 (6). A manufacturer shall display a Wisconsin insignia on any approved modular multifamily building system or building system component.

(b) *Lost or damaged insignia.* 1. 'Notification.' If a Wisconsin insignia becomes lost or damaged, the manufacturer or dealer shall immediately notify the department in writing.

2. 'Return of damaged insignias.' If a Wisconsin insignia becomes damaged, the purchaser shall return the insignia to the department with the appropriate fee to obtain a new insignia.

(c) *Affixing Wisconsin insignias.* Each Wisconsin insignia shall be assigned and affixed to a specific manufactured modular multifamily dwelling unit or building system component that is specified by the department before the dwelling is shipped from the manufacturing plant.

(d) *Insignia records.* 1. 'Manufacturer's insignia records.' The manufacturer shall keep permanent records regarding the handling of all Wisconsin insignias, including construction compliance certificates, indicating the number of Wisconsin insignias that have been affixed to a modular multifamily building, building system component, or groups of building components; which Wisconsin insignias have been applied to which manufactured modular multifamily dwelling or manufactured building system component; the disposition of any damaged or rejected Wisconsin insignias; and the location and custody of all unused Wisconsin insignias. The manufacturer or the independent inspection agency shall maintain the records for at least 10 years. The manufacturer shall send a copy of the records to the department upon request.

2. 'Construction compliance certificate.' Within 30 days after receiving the original Wisconsin insignias from the department, and at the end of each month thereafter, the manufacturer shall submit a construction compliance certificate, on a form designated by the department, for each manufactured dwelling intended for sale, use, or installation in the state.

Note: A construction compliance certificate form is available from the department's Division of Industry Services website at dsps.wi.gov.

(e) *Unit identification.* Each modular multifamily dwelling unit and major transportable section or component shall be assigned a serial number.

(f) *Right to Install.* Modular multifamily housing, modular multifamily building systems, and building system components that bear the Wisconsin insignia may be manufactured, offered for sale, and installed anywhere in Wisconsin where the installation site complies with the other provisions of chs. SPS 361 to 366.

History: CR 16–094: cr., Register April 2018 No. 748 eff. 5–1–18.

SPS 361.48 Suspension and revocation of approval. The department shall suspend or revoke its approval of a modular multifamily building system or building system component if it determines that the standards for construction or the manufacture and installation of a modular multifamily building system or modular multifamily building system component do not meet the standards established under chs. SPS 361 to 366 or that those standards are not being enforced as required by chs. SPS 361 to 366. The procedure for suspension and revocation of approval shall be as follows:

(1) FILING OF COMPLAINT. Proceedings to suspend or revoke an approval may be initiated by the department or an independent inspection agency or Wisconsin commercial building certified inspector having a contract with the manufacturer whose approval is sought to be suspended or revoked. Initiation shall be by a signed, written complaint filed with the department. Any alleged violation of the code shall be set forth in the complaint with particular reference to the time, place, and circumstance of the alleged violation.

(2) INVESTIGATION AND NOTIFICATION. The department may investigate alleged violations on its own initiative or upon the filing of a complaint. If the department determines that no further action is warranted, it shall notify the complainant and the respondent, and the municipality, if applicable. If the department determines that there is probable cause, it shall order a hearing and notify the complainant and the respondent, and the municipality, if applicable.

(3) MAILING. Unless otherwise provided by law, all orders, notices, and other papers shall be served by the department by certified mail to the persons affected at their last known address. If the service is refused, service may be made by sheriff without amendment of the original order, notice, or other paper.

(4) RESPONSE. Upon receipt of notification of hearing from the department, the person charged with noncompliance or nonenforcement may submit to the department a written response within 30 days of the date of service. If the person charged files a timely written response, such person shall thereafter be referred to as the respondent.

(5) CONCILIATION AGREEMENT PRIOR TO HEARING. If the department and the respondent are able to reach agreement on the disposition of a complaint prior to a hearing, such agreement shall be transmitted in writing to the secretary. Until the agreement has been accepted by the secretary, it is not considered a waiver of any defense, nor is it considered an admission of any fact, and is not binding upon any party until signed by all parties.

(6) HEARINGS. (a) *Subpoenas; witness fees.* The department or the clerk of any court of record shall sign and issue subpoenas. The respondent shall pay the witness fees and mileage of the witnesses subpoenaed on behalf of the department at the rate prescribed for witnesses in circuit court.

(b) *Conduct of hearings.* All hearings shall be conducted in accordance with s. 101.02, Stats.

(7) FINDINGS. The department shall make findings and enter its order in accordance with s. 101.02, Stats. The findings and order shall be in writing and shall be binding unless appealed.

(8) APPEAL ARGUMENTS. Appeal arguments shall be submitted to the department in writing in accordance with s. 101.02, Stats., unless otherwise ordered. The department shall review and make a determination on an appeal of notification of suspension or revocation of approval in accordance with s. 101.02, Stats.

History: CR 16–094: cr., Register April 2018 No. 748 eff. 5–1–18.

SPS 361.485 Effect of suspension and revocation.

(1) BEARING OF INSIGNIA. Upon suspension or revocation by the department of the approval of any manufactured modular multifamily dwelling or manufactured building component, the manufacturer may not attach a Wisconsin insignia to any modular multifamily dwelling or building component manufactured for which the approval was suspended or revoked. Upon the expiration date of the suspension or revocation, the manufacturer may resume the attachment of insignias to the dwelling or building component manufactured after the date approval is reinstated. If any dwelling or building component was manufactured during the period of suspension or revocation, the manufacturer may not attach the Wisconsin insignia unless the department has inspected, or caused to be inspected, the manufactured modular multifamily dwelling or manufactured building component and is satisfied that all requirements for certification have been met.

(2) RETURN OF INSIGNIAS. The manufacturer shall return to the department all insignias allocated for a manufactured modular multifamily dwelling or manufactured building component no later than 30 days from the effective date of any suspension or revocation of the approval by the department. The manufacturer shall also return to the department all insignias that it determines are no longer needed.

History: CR 16–094: cr., Register April 2018 No. 748 eff. 5–1–18.

Subchapter VI — Product and Standard Review and Approval

SPS 361.50 Building product approvals. **(1)** VOLUNTARY APPROVAL. (a) Materials, equipment, and products regulated under chs. SPS 361 to 366 may receive a written approval from the department indicating code compliance.

(b) 1. Approval of materials, equipment, and products shall be based on sufficient data, tests, and other evidence that prove the material, equipment, or product is in compliance with the standards specified in chs. SPS 361 to 366.

2. Tests, compilation of data, and calculations shall be conducted by a qualified independent third party.

(2) ALTERNATE APPROVAL. (a) Materials, equipment, and products that meet the intent of chs. SPS 361 to 366 and which are not approved under sub. (1) shall be permitted if approved in writing by the department.

(b) 1. Approval of materials, equipment, and products shall be based on sufficient data, tests, and other evidence that prove the material, equipment, or product meets the intent of the standards specified in chs. SPS 361 to 366.

2. Tests, compilation of data, and calculations shall be conducted by a qualified independent third party.

(3) EXPERIMENTAL APPROVAL. (a) The department may allow use of an experimental material, equipment, or product for the purpose of proving compliance with the intent of chs. SPS 361 to 366.

(b) The department may require the submission of any information deemed necessary for review.

(c) The department may limit the number of applications it will accept for approval of experimental materials, equipment or products.

(d) Installations of a material, equipment or product under an experimental approval shall comply with all of the following:

1. Plans detailing the installation for each project where the experimental material, equipment or product is to be used shall be submitted to the department in accordance with s. SPS 361.31.

2. A copy of the experimental approval shall be attached to the submitted plans and approved plans.

3. a. A letter of consent from the owner of the project shall be attached to the submitted plans and approved plans.

b. The letter shall acknowledge that the owner has received and read a copy of the experimental approval and is in compliance with all conditions of the approval.

4. If a supervising professional is not required for the project by s. SPS 361.40, a person responsible for construction of the project shall be designated in writing by the owner.

5. The supervising professional or person designated as responsible for the construction of the project shall, upon completion of construction, certify in writing to the department that the installation is in compliance with the experimental approval, approved plans, specifications and data.

(e) 1. Any onsite inspections shall be performed by the department, or other person approved by the department, at time intervals as specified by the department, but not less than once a year. An inspection report shall be written.

2. The department may assess a fee for each inspection.

(f) Five years and 6 months after the date of the completed installation, the department shall order the removal of the experimental material, equipment or product, or issue an approval for the material, equipment or product.

(g) Paragraphs (e) and (f) do not apply to an experimental system if chs. SPS 361 to 366 are revised to include or enable the experimental system to conform to the intent of chs. SPS 361 to 366.

(4) REVIEW, APPROVAL AND REVOCATION PROCESSES. (a) 1. Upon receipt of a fee and a written request, the department may issue an approval for a material, equipment or product.

2. The department shall review and make a determination on an application for approval after receipt of all forms, fees, plans and information required to complete the review.

3. For voluntary and alternate approvals, a determination shall be made within 40 business days of receipt of all required materials.

4. For an experimental approval, the determination shall be made within 6 months of receipt of all required materials.

(b) 1. The department may include specific conditions in issuing an approval, including an expiration date for the approval.

2. Violations of the conditions under which an approval is issued shall constitute a violation of chs. SPS 361 to 366.

(c) If the department determines that the material, equipment, or product does not comply with chs. SPS 361 to 366 or the intent of chs. SPS 361 to 366, or that an experimental approval will not be issued, the request for approval shall be denied in writing.

(d) If an approved material, equipment or product is modified, the approval shall be considered null and void, unless the material, equipment or product is resubmitted to the department for review and approval is granted.

(e) 1. The department may revoke or deny an approval for any false statements or misrepresentations of relevant facts or data, unacceptability of a third party that provided any information on which the approval was based, or as a result of material, equipment or product failure.

2. The department may reexamine an approved material, equipment or product and issue a revised approval at any time.

(f) The department may revoke an approval if the department determines that the material, equipment, or product does not comply with chs. SPS 361 to 366 or the intent of chs. SPS 361 to 366 due to a change in the code or department interpretation of the code.

(g) An approval issued by the department may not be construed as an assumption of any responsibility for defects in design, construction or performance of the approved material, equipment or product nor for any damages that may result.

(h) Fees for the review of a material, equipment or product under this section and any onsite inspections shall be submitted in accordance with ch. SPS 302.

(5) UNGRADED OR USED PRODUCTS. (a) 1. Except as provided in subd. 2., ungraded or used building products may be used or reused as long as the materials possess the essential properties necessary to achieve the level of performance required by chs. SPS 361 to 366 for the intended use.

2. Ungraded or used products may not be utilized, if specifically prohibited under a specific referenced standard.

(b) The department or the municipality enforcing chs. SPS 361 to 366 may require tests in accordance with sub. (1) or (2). Approval for use of ungraded or used materials may be issued under this section or may be issued for a specific project under s. SPS 361.31.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; CR 04–016: renum. from Comm 61.60 and am. (3) (d) 4. Register December 2004 No. 588, eff. 1–1–05; correction in (3) (d) 1., 4., (4) (h), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; CR 16–094: am. (1) (a), (b) 1., (2) (a), (b) 1., (3) (a), (g), (4) (b) 2., (c), (f), (5) (a) 1., (b), Register April 2018 No. 748 eff. 5–1–18.

SPS 361.51 Alternate standards and model building codes. (1) Alternate standards or model building codes that are equivalent to or more stringent than the standards or model building codes referenced in chs. SPS 361 to 366 may be used in lieu of the referenced standards or model building codes when approved by the department or if written approval is issued by the department in accordance with sub. (2), or as allowed for alternate model building codes under sub. (8).

(2) (a) Except as provided in sub. (8), the department may issue an approval for the use of the alternate standard or model building code upon written request and receipt of a fee in accordance with s. SPS 302.31.

(b) The department shall review and make a determination on an application for approval within 40 business days of receipt of all forms, fees and documents required to complete the review.

(3) Determination of approval shall be based on an analysis of the alternate standard and the standard or model building code referenced in chs. SPS 361 to 366, prepared by a qualified independent third party or the organization that published the standard or model building code contained in chs. SPS 361 to 366.

(4) The department may include specific conditions in issuing an approval, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of chs. SPS 361 to 366.

(5) If the department determines that the alternate standard is not equivalent to or more stringent than the referenced standard, the request for approval shall be denied in writing.

(6) The department may revoke an approval for any false statements or misrepresentations of facts on which the approval was based.

(7) The department may reexamine an approved alternate standard and issue a revised approval at any time.

(8) (a) An owner or a design professional may use a more recent edition of a model building code adopted in s. SPS 361.05 in lieu of the referenced model building code if all of the following apply:

1. The title and edition of the alternate model building code is identified in plan documents as required under s. SPS 361.31 (2) (e) 3.

2. The model building code is used in its entirety, including any standards referenced in the more recent edition.

(b) A plan that includes the use of an alternate model building code submitted for plan review under this subsection is exempt from fee and approval requirements under subs. (2) to (7) and petition for variance requirements under s. SPS 361.22.

(c) Nothing in this subsection shall be interpreted to allow a municipality, county, or the department to require or otherwise compel an owner or design professional to use a more recent edition of a model building code than the edition adopted under s. SPS 361.05, nor shall this subsection be interpreted to authorize a municipality or county to adopt a more recent edition of a model building code than the model building code adopted under s. SPS 361.05.

Note: Nothing in this subsection is intended to prohibit a municipality from contracting with a third–party inspection agency to perform plan review for plans submitted using alternate model building codes.

History: CR 00–179: cr. Register December 2001 No. 552, eff. 7–1–02; reprinted to correct omission of (5) Register November 2002 No. 563; CR 04–016: renum. from Comm 61.61 Register December 2004 No. 588, eff. 1–1–05; CR 16–094: am. (title), (1), (2) (a), (3), (4), cr. (8) Register April 2018 No. 748 eff. 5–1–18.

Subchapter VII — First Class City and Certified Municipality Approvals

SPS 361.60 Certified municipalities and counties.

(1) GENERAL. This section establishes the manner under which cities, villages, towns and counties may examine building plans and inspect buildings under s. 101.12 (3) (a), (am), (b) and (g), Stats.

(2) CONDITIONS OF PARTICIPATION. (a) Before assuming the responsibilities of examining building plans and providing inspection services, cities, villages, towns and counties shall comply with all of the following:

1. Notify the department, in writing, at least 30 days prior to the date upon which the municipality or county intends to assume the plan examination and building inspection responsibilities.

2. Employ certified commercial building inspectors to perform the plan examination and building inspection functions.

3. Adopt chs. SPS 361 to 366 in their entirety by ordinance.

4. Forward to the department a copy of the ordinance adopting chs. SPS 361 to 366 and any subsequent revisions to that ordinance.

5. Forward to the department any information requested by the department relative to the qualifications and ability to perform examination of plans and inspection of buildings.

6. Receive from the department certification to perform plan examination and building inspection.

(b) While certified, a municipality or county shall comply with all of the following:

1. Employ certified commercial building inspectors to perform the plan examination and building inspection functions.

2. Forward to the department any information requested by the department relative to examination of plans and inspection of buildings.

3. Forward to the department any revisions to the ordinance adopting chs. SPS 361 to 366.

4. Notify the department, in writing, at least 30 days prior to the date upon which the municipality or county intends to relinquish the plan examination and building inspection responsibilities.

(c) Second class cities intending to perform the expanded plan examination and inspection specified in sub. (5) (b) shall comply with pars. (a) 1. to 6. and (b) 3. and 4., sub. (7) (b), and all of the following:

1. Employ at least one person who complies with all of the following:

a. Is registered under ch. 443, Stats., as an architect or professional engineer.

b. Is a certified commercial building inspector.

c. Performs or directly supervises the plan examinations specified in sub. (5) (b).

2. Provide a report at least quarterly to the department of all projects completed under this subsection, in an electronic–based format prescribed by the department.

(d) 1. To assume the building inspection responsibility but not the plan examination responsibility for the buildings and structures specified in sub. (5) (c), a municipality or county shall comply with pars. (a) 1. to 6. and (b) 3. and 4., except the plan examination requirements do not apply, and the department may delegate the inspection authority in a written manner other than a certification.

2. To assume the building inspection responsibility but not the plan examination responsibility for the buildings and structures that exceed the limits specified in sub. (5) (c), a municipality or county shall comply with subd.1. and all of the following:

a. Obtain authorization for these inspections from the department.

b. Use an inspection process that is based on the inspection process used by the department.

c. Retain inspection records in a manner that is accessible to the department.

d. Forward to the department any information requested by the department relative to the inspection of buildings.

3. A municipality or county may waive its jurisdiction for the inspection of a specific project, in which case the department shall conduct the inspection.

(e) The department shall review and make a determination on a notification received under par. (a) 1. within 20 business days of that receipt.

(f) The department may revoke the certification or delegation of authority for any municipality or county where the plan examiners or inspectors do not meet the standards specified by the department or where other requirements of this section are not met.

Note: For any certified municipality or county, the department may review the competency of plan examiners on a regular basis, and review the correspondence and inspection reports, to determine if uniformity in code application decisions is being maintained, and to determine if the standards specified by the department are being met. Regular meetings and correspondence may be maintained between a certified municipality or county and the department in order to discuss and resolve any problems.

(3) JURISDICTION. (a) *Departmental.* 1. Nothing in this section shall prevent the department from conducting its own investigations or inspections or issuing orders relative to the administration and enforcement of chs. SPS 361 to 366.

2. The department shall administer and enforce chs. SPS 361 to 366 in any municipality or county that has not assumed the responsibilities for plan examination and building inspection under sub. (2).

(b) *County.* 1. Ordinances enacted by a county under sub. (2) establishing county plan examination and building inspection functions shall apply to all municipalities within that county which have not assumed those functions pursuant to sub. (2).

2. Ordinances enacted by a county under sub. (2) establishing county plan examination and building inspection functions may not prevent or prohibit any municipality within that county from assuming those functions pursuant to sub. (2) at any time.

(4) CERTIFICATION OF INSPECTORS. Inspectors employed by certified municipalities and counties to administer and enforce chs. SPS 361 to 366 under sub. (2) shall be certified by the department in accordance with ch. SPS 305 as certified commercial building inspectors.

(5) PLAN EXAMINATION. (a) *First class cities.* Drawings, specifications and calculations for all the types of buildings and structures specified in s. SPS 361.30, except state–owned buildings and structures, to be constructed within the limits of a first class city shall be submitted to that city, if that city has assumed the

responsibilities of plan examination and building inspection in accordance with sub. (2).

(b) *Second class cities performing expanded plan examination.* Drawings, specifications and calculations for all the types of buildings and structures specified in s. SPS 361.30, except state−owned buildings and structures, to be constructed within the limits of a second class city shall be submitted to either the department or to that city, if that city has assumed the responsibilities of examining those plans and inspecting those buildings and structures in accordance with sub. (2) (c). Second class cities performing these examinations are not subject to the plan examination limits specified in par. (c).

(c) *Other municipalities and counties.* Drawings, specifications and calculations for all the types of buildings and structures specified in s. SPS 361.30, except state−owned buildings and structures, to be constructed within the limits of a municipality or county that is not included in pars. (a) and (b) shall be submitted to either the department or to that municipality or county if the municipality or county has assumed the responsibilities of plan examination and building inspection in accordance with sub. (2) and if the plans are for any of the following:

1. A new building or structure containing less than 50,000 cubic feet of total volume.

2. a. An addition to a building or structure where the area of the addition results in the entire building or structure containing less than 50,000 cubic feet of total volume.

b. An addition containing no more than 2,500 square feet of total floor area and no more than one floor level, provided the largest roof span does not exceed 18 feet and the exterior wall height does not exceed 12 feet.

3. An alteration of a space in a building containing less than 100,000 cubic feet of total building volume.

Note: CR 16−094 amended subd. 3 to conform to s. 101.12 (3) (b), Stats. However, the statute was amended by 2017 Wis. Act 198. The Department will enforce s. 101.12 (3) (b), Stats., and not the language contained in subd. 3.

(d) *Project waiver.* 1. A certified municipality or county may waive its jurisdiction for the plan review of a specific project or types of projects, or components thereof, in which case plans and specifications shall be submitted to the department for review and approval.

2. The department may waive its jurisdiction for the plan review of a specific project, where agreed to by a certified municipality or county, in which case plans and specifications shall be submitted to the certified municipality or county for review and approval.

(e) *Plan submission procedures.* 1. a. A building permit application shall be included with the plan submitted to the municipality or county having jurisdiction for examination.

b. Plans for a building or structure that exceeds the limits specified in par. (c) which are submitted either to a second class city under par. (b) or to an appointed agent under s. 101.12 (3g), Stats., shall include the department's plan approval application form specified in s. SPS 361.31, unless a municipally supplied form is submitted.

2. At least 2 sets of complete building plans and one copy of specifications shall be submitted to the municipality or county having jurisdiction for examination.

3. a. Building plans submitted to a municipality or county for examination shall include the information specified in subd. 3. b. and s. SPS 361.31.

b. Plans that are submitted to a municipality under par. (c) by use of the volumes specified in par. (c) 1. to 3. shall include calculations showing the total volume.

4. After plans and specifications for a project have been submitted to a municipality or county under this section, or to a department office, any subsequent submittal for the purpose of complying with chs. SPS 361 to 366 shall be submitted to that same office, except as provided in subds. 6. to 9.

5. Except as provided in subds. 6. to 9., plans and specifications for all components of a project, including but not limited to trusses, precast concrete, laminated wood, or heating, ventilating and air conditioning, shall be submitted to the same office.

6. For an individual building in a multiple−building complex, the submitter may choose whether to submit plans and specifications to a municipality or county having jurisdiction for examination, or to any of the department's offices, even if a previous building in the complex had been reviewed by another office. A subsequent reviewing office may request of the other office complete copies of all pertinent data, including but not limited to petitions, application forms, preliminaries, staff notes and comments. The applicant may be charged a fee to offset the costs of providing these copies. If plans for some of the buildings are submitted to the department and some are submitted to the municipality or county, and then plans for the building components are submitted for all the buildings, the component submitter shall split the submission and submit the plans to the applicable offices.

7. For multiple−tenant or −owner buildings, including but not limited to shopping centers or office buildings, the plans and specifications for the initial tenant or owner in each space, and the alteration plans and specifications for changing a previously approved space may be submitted either to the municipality or county or to a department office, provided the requirements in s. SPS 361.31 (2) (d) are met.

8. Decisions as to whether plans and specifications for building additions may be submitted to offices other than where the previous approvals occurred shall be handled between the municipality or county, department and submitter on a case−by−case basis. These submittals shall comply with s. SPS 361.31 (2) (e).

9. Departmental review of plans and specifications under this subsection does not satisfy any need for municipal review of these plans and specifications for conformance with local requirements adopted under s. SPS 361.03 (4) that are in addition to or more stringent than chs. SPS 361 to 366, and 375 to 379.

(f) *Plan approval.* 1. If the municipality or county having jurisdiction determines that the plans submitted substantially conform to chs. SPS 361 to 366 and other ordinances and regulations, an approval shall be issued in accordance with all of the following:

a. The plans shall be stamped "CONDITIONALLY APPROVED," signed and dated by a certified commercial building inspector.

b. One set of the conditionally approved plans, and all calculations and correspondence shall be retained in their original form or as readable microfilm− or electronic−based copies for at least 4 years by the municipality or county, and all other approved plans shall be returned to the submitter or their representative.

c. A notice of conditional approval shall be provided, in writing, to the submitter and the building owner stating all conditions of approval. A copy of the notice shall be provided to the department of health services for health care facilities, and to the department of corrections for jails and places of detention.

2. All non−code−complying and other conditions stated in the conditional approval notice shall be corrected or met before or during construction, and before occupancy of the building.

(g) *Denial of plan approval.* If the municipality or county determines that the plans submitted do not substantially conform to chs. SPS 361 to 366 or other legal ordinances and regulations, a denial for plan approval shall be issued in accordance with all of the following:

1. The plans shall be stamped "NOT APPROVED," signed and dated by a certified commercial building inspector.

2. One set of the not−approved plans shall be retained by the municipality or county and all other plans shall be returned to the submitter or their representative.

3. A notice of the not−approved plans shall be provided in writing, to the submitter and the building owner stating the reasons for the denial.

(h) *Liability.* A conditional approval of a plan by a municipality or county may not be construed as an assumption of any responsibility on the part of the municipality, the certified commercial building inspector or the department for the design or construction of the building.

(6) INSPECTION. Inspections shall be conducted by a municipality or county to ascertain whether or not the construction or installation of buildings and structures conforms to the conditionally approved plans, the notice of conditional approval, and chs. SPS 361 to 366 in accordance with all of following:

(a) All inspections for the purpose of administration and enforcement of chs. SPS 361 to 366 shall be performed by a certified commercial building inspector.

(b) A written report of each inspection shall be prepared. The report shall include the name of the certified commercial building inspector.

(c) A copy of each inspection report shall be furnished to the owner and plan submitter.

(d) A copy of each inspection report shall be permanently maintained in the municipal files or county files.

(e) The inspection report shall indicate all items of non−compliance noted during the inspection.

(f) If non−complying items are not corrected, orders to correct shall be issued in accordance with local ordinances.

Note: Certified municipalities are authorized to perform the inspections specified in s. SPS 361.41.

(7) FEES. (a) Municipalities and counties having jurisdiction of plan examination and building inspection may set by ordinance the fees for plan examination and building inspection services.

(b) A second class city that is certified to perform the expanded plan examination specified in sub. (5) (b) shall submit to the department the fees specified in s. SPS 302.31 (1) (g).

Note: A list of municipalities and counties providing plan examination and building inspection under this section is available at the Department's website at www.dsps.wi.gov through links to Division of Industry Services programs.

History: CR 00−179: cr. Register December 2001 No. 552, eff. 7−1−02; CR 04−016: renum. from Comm 61.70 and am. (5) (e) 1. b. Register December 2004 No. 588, eff. 1−1−05; CR 06−120: r. (2) (a) 2. to 4., renum. (2) (a) 5. to 7. to be 2. to 4., Register February 2008 No. 626, eff. 3−1−08; corrections in (2) (c) (intro.) and (d) 1. made under s. 13.92 (4) (b) 7., Stats., Register February 2008 No. 626; correction in (5) (f) 1. c. made under s. 13.92 (4) (b) 6., Stats., Register September 2009 No. 645; CR 09−104: renum. (2) (a) 3., 4., (b) 3. to be (2) (a) 5., 6., (b) 4. and am., cr. (2) (a) 3., 4., (b) 3., (e), am. (2) (c) (intro.), (d) 1., renum. (2) (e) to be (2) (f) Register December 2010 No. 660, eff. 1−1−11; correction in (4), (5) (a), (b), (c) (intro.), (e) 1. b., 3. a., 7., 8., 9., (7) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; correction in (5) (e) 1. b. made under s. 13.92 (4) (b) 7., Stats., Register August 2017 No. 740; CR 16−094: am. (2) (a) 3., 4., (2) (b) 3., (c) 2., (3) (a), (4), (5) (c) 3., (e) 4., (f) 1. (intro.), (g) (intro.), (6) (intro.), (a), Register April 2018 No. 748 eff. 5−1−18; 2017 Wis. Act 198: am. (5) (e) 1. b. Register April 2018 No. 748, eff. 5−1−18.