

The Wisconsin Department of Commerce proposes an order to repeal ss. Comm 20.06 (1) (b) 5., 20.06 (2) (Notes), 20.09 (2) (a) 2. and 20.09 (2) (b), 20.09 (3) (b), and 20.09 (8);

to renumber and amend s. Comm 20.09 (3) (c);

to amend ss. Comm 20.06 (1) (c) 2., 20.08 (1), 20.09 (1), 20.09 (2) (a) and (title), 21.03 (1) (h) 1., 21.04 (2) (f), 21.04 (3) (a) 3., 21.04 (3) (c) 3., 21.045 (3) (c), 21.17 (1) (b) 1., and 21.17 (2) (a) 1. and (3) (a);

to repeal and recreate ss. Comm 20.02 (1), 20.06 (1) (Note), and 21.17 (2) (title);

and to create ss. Comm 20.06 (4), 20.09 (2) (b), and 20.09 (5) (b) 3. (title).

.....

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1), 101.63 (1), 101.64 (3), 101.651, 101.72 and 101.74 Stats.

Statutes Interpreted: ss. 101.02 (1), 101.63 (1), 101.64 (3), 101.651, 101.72 and 101.74 Stats.

Under the statute sections listed above, the Department of Commerce has the responsibility to adopt rules that establish standards for the construction of 1- and 2-family dwellings. During the last biennial review of these rules, the department developed a proposal to decrease the maximum open space between rail spindles on stairways and other elevated areas such that a 4-inch sphere cannot fit through to be in agreement with national standards as specified under s. 101.63 (1), Stats. At the request of the Chair of the Assembly Committee on Housing, the Commerce Secretary withdrew that proposal pending further study by the Uniform Dwelling Code (UDC) Council. The UDC Council then reviewed safety data and body-dimension data for children used by the US Consumer Product Safety Commission and the model building code agencies to establish spindle spacing limits. After studying this safety data and additional cost data, the UDC Council unanimously reaffirmed its recommendation to adopt these rules.

Also during the last review, the department developed less stringent rules for exiting from small dwellings. After implementation, the department became aware that the size threshold had been set too low for many cabins located at campgrounds. The department believes the size threshold should be increased to avoid imposing a burden on such cabins. The department believes this change to section Comm 21.03 (1) (h), will not adversely affect safety in those dwellings.

Finally, 2003 Wisconsin Act 90, the Home Safety Act, was signed into law with an effective date of December 18, 2003. This act requires all dwellings constructed in the state to undergo inspection under the UDC. The remaining changes under this order are for the purpose of implementing this act. The delayed effective date of 1/1/05 is intended to facilitate the delay for implementing the Home Safety Act in certain municipalities as allowed under 2003 Act 295.

Federal Comparison An internet-based search of the *Code of Federal Regulations* and the *Federal Register* did not find any rules or proposed regulations comparable or applicable to the rules proposed in this order.

Adjacent States Comparison An internet-based search of similar regulations in adjacent states found no statewide requirements for one- and 2-family dwellings in Iowa or Illinois. Minnesota adopts the 2000 edition of the International Residential Code (IRC) to regulate the construction and inspection of one- and 2-family dwellings. Michigan adopts the 2003 edition of the IRC. The IRC requires the same 4-inch rail-spindle spacing for stairways and elevated areas as in this proposal. The IRC does not specify a minimum dwelling size relating to exiting requirements.

Advisory Council The proposed rules have been developed with the assistance of the statutorily-constituted Uniform Dwelling Code Council with membership as follows:

<u>Name</u>	<u>Representing</u>
Jeff Bechard	Labor
Mark Benkowski	Remodelers
Jim Cauley	Public
Mike Check	Dwelling Contractors
Mike Green	Inspectors
Kevin Guillory	Material Suppliers
Harold Last	Designers
Len Linzmeier	Dwelling Manufacturers
Dan Nowak	Inspectors
Dennis O'Loughlin	Public
Bill Roehr	Labor
Kurt Smith	Dwelling Manufacturers
Randy Thelen	Dwelling Contractors
John Vande Castle	Material Suppliers
Brian Walter	Inspectors
Paul Welnak	Labor
Christine Wilson	Inspectors

SECTION 1. Comm 20.02 (1) is repealed and recreated to read:

Comm 20.02 (1) GENERAL. The provisions of this code apply to all new one- and 2-family dwellings, manufactured buildings for dwellings and newly constructed community-based residential facilities providing care, treatment and services for 3 to 8 unrelated adults.

SECTION 2. Comm 20.06 (1) Note is repealed and recreated to read:

Note: Sections 101.651 (1) and (2m), Stats., read as follows: **101.651 Special requirements for smaller municipalities.** (1) DEFINITION. In this section, “municipality” means a city, village or town with a population of 2,500 or less.

(2m) ENFORCEMENT OPTIONS. A municipality shall exercise jurisdiction over the construction and inspection of new one- and 2-family dwellings by enacting ordinances under s. 101.65 (1) (a) or shall exercise the jurisdiction granted under s. 101.65 (1) (a) jointly under s. 101.65 (1) (b), unless any of the following conditions are met:

(a) The municipality adopts a resolution requesting under sub. (3) (a) that a county enforce this subchapter or an ordinance enacted under s. 101.65 (1) (a) throughout the municipality and that a county provide inspection services in the municipality to administer and enforce this subchapter or an ordinance enacted under s. 101.65 (1) (a).

(c) Under sub. (3) (b), the department enforces this subchapter throughout the municipality and provides inspection services in the municipality to administer and enforce this subchapter.

SECTION 3. Comm 20.06 (1) (b) 5. is repealed.

SECTION 4. Comm 20.06 (1) (c) 2. is amended to read:

Comm 20.06 (1) (c) 2. ‘Resolutions.’ Municipalities adopting a resolution under s. 101.651 (2m) (a) ~~or (b)~~, Stats., for enforcement by the county, shall file a certified copy of the resolution with the department within 30 days of adoption.

SECTION 5. Comm 20.06 (2) Notes are repealed.

SECTION 6. Comm 20.06 (4) is created to read:

(4) CONTINUING JURISDICTION FOR PERMIT ISSUERS. Any dwelling, for which a permit is issued by a municipality or registered UDC inspection agency prior to a municipal action under (1) (c) 2. or 3. shall have all required inspections completed by the municipality or agency that issued the permit.

SECTION 7. Comm 20.08 (1) is amended to read:

Comm 20.08 (1) WHERE REQUIRED. ~~(a)~~ Except as provided under ~~par. (b) and~~ s. Comm 20.09 (5) (b) 2., a Wisconsin uniform building permit shall be obtained from the municipality administering and enforcing this code or from a registered UDC inspection agency administering and enforcing this code in a municipality where the department has jurisdiction pursuant to s. 101.651 (3) (b), Stats. before any on-site construction, including excavation for a structure, may begin.

~~(b) 1. A Wisconsin uniform building permit is not required for any activity or situation exempt from the code under s. Comm 20.05.~~

~~2. A Wisconsin uniform building permit is not required in a municipality which exercises the option to decline any administration and enforcement of this code pursuant to s. 101.651 (2m)(b), Stats., unless the county enforces the soil erosion control requirements under s. 101.651 (3m), Stats.~~

SECTION 8. Comm 20.09 (1) is amended to read:

Comm 20.09 (1) APPLICATION FOR A WISCONSIN UNIFORM BUILDING PERMIT. Application for a Wisconsin uniform building permit shall be on the forms obtained from the department, the municipality or a an authorized registered UDC inspection agency administering and enforcing this code. No application shall be accepted that does not contain all the information requested on the form.

SECTION 9. Comm 20.09 (2) (a) 2. and Comm 20.09 (2) (b) are repealed.

SECTION 10. Comm 20.09 (2) (a) and (title) are amended to read:

(2) FILING OF PERMIT APPLICATIONS. (a) (title) ~~Wisconsin uniform building permit application.~~ ~~1. New dwelling construction.~~ 1. The Wisconsin uniform building permit application shall be filed with the municipality or a registered UDC inspection agency administering and enforcing this code.

2. The municipality or the registered UDC inspection agency shall forward a copy of all applications for new dwelling construction to the department within 30 business days after permit issuance.

SECTION 11. Comm 20.09 (2) (b) is created to read:

(b) *Additions, alterations and repairs.* 1. Permits for additions, alterations and repairs shall be filed with municipalities and counties in accordance with their adopted ordinances.

Note: The Department of Commerce requires copies of permits that are filed for new dwelling construction only. Any permits issued for additions, alterations, repairs, garage construction, etc. are not required to be filed with the department.

2. Permits for additions, alterations and repairs are not required in municipalities where the department has jurisdiction under s. 101.651 (3) (b), Stats.

SECTION 12. Comm 20.09 (3) (b) is repealed.

SECTION 13. Comm 20.09 (3) (c) is renumbered Comm 20.09 (3) (b) and amended to read:

(b) *Inspection agency fees.* 1. Inspection agency fees shall be determined by contract between the municipality and the agency or between the department and the agency, where the agency has been authorized to conduct inspections on behalf of the department.

2. A registered UDC inspection agency shall purchase a Wisconsin uniform building permit seal from the department for each new dwelling in accordance with s. Comm 2.34.

SECTION 14. Comm 20.09 (5) (b) 3. (title) is created to read:

3. (title) 'Private onsite wastewater treatment systems.'

SECTION 15. Comm 20.09 (8) is repealed.

SECTION 16. Comm 21.03 (1) (h) 1. is amended to read:

Comm 21.03 (1) (h) 1. Dwellings consisting of no more than a first floor with a maximum floor area of ~~250~~ 400 square feet and a loft area not exceeding half of the first floor area, shall be provided with at least one exit door leading directly to the exterior and at least one egress window that complies with sub. (6).

SECTION 17. Comm 21.04 (2) (f) is amended to read:

Comm 21.04 (2) (f) *Open risers.* Stairways with open risers shall be constructed to prevent the through-passage of a sphere with a diameter of ~~6~~ 4 inches or larger between any 2 adjacent treads.

SECTION 18. Comm 21.04 (3) (a) 3. is amended to read:

Comm 21.04 (3) (a) 3. a. Handrails Except as provided in subpar. b., handrails and guardrails shall be constructed to prevent the through-passage of a sphere with a diameter of ~~6~~ 4 inches or larger.

b. The triangular area formed by the tread, riser and bottom rail shall have an opening size that prevents the through-passage of a sphere with a diameter of 6 inches or larger.

SECTION 19. Comm 21.04 (3) (c) 3. is amended to read:

Comm 21.04 (3) (c) 3. 'Opening size.' Guardrails shall be constructed to prevent the through-passage of a sphere with a diameter of ~~6~~ 4 inches or larger.

SECTION 20. Comm 21.045 (3) (c) is amended to read:

Comm 21.045 (3) (c) Open-sided ramps shall have the area below the handrail protected by intermediate rails or an ornamental pattern to prevent the passage of a sphere with a diameter of ~~6~~ 4 inches or larger.

SECTION 21. Comm 21.17 (1) (b) 1. is amended to read:

Comm 21.17 (1) (b) 1. If a complete drain tile or pipe system is not required by natural conditions under par. (a) or by a municipality ~~exercising jurisdiction under sub. (2) (a)~~ or registered UDC inspection agency, a partial drain tile or pipe system may be installed.

SECTION 22. Comm 21.17 (2) (title) is repealed and recreated to read:

Comm 21.17 (2) (title) OPTIONAL SYSTEMS.

SECTION 23. Comm 21.17 (2) (a) 1. and (3) (a) are amended to read:

Comm 21.17 (2) (a) 1. For new dwelling construction, a municipality ~~exercising jurisdiction under this code~~ or registered UDC inspection agency may determine the soil types and natural or seasonal groundwater levels for which a complete drain tile or pipe system is required.

Comm 21.17 (3) (a) *General*. Complete drain tile or pipe systems required by natural conditions under sub. (1) (a) or by a municipality ~~exercising jurisdiction under~~

~~sub. (2)(a)~~ or registered UDC inspection agency shall comply with the requirements of this subsection.

END

*

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (b), Stats., these rules shall take effect on January 1, 2005.

*