

The Wisconsin Department of Commerce proposes an order to repeal ss. Comm 2.34 (3), 20.06 (1) (intro.), 20.09 (5) (c) Note, and 20.11 (1);

to renumber ss. Comm 2.34 (4) to (8), 5.02 - Table 5.02 lines 37 to 65, 5.06 - Table 5.06 lines 37 to 65, 20.02 (1) to (5), and 20.06 (1) (a) to (c);

to renumber and amend ss. Comm 20.02 (intro.), and 20.11 (intro.);

to amend ss. Comm 2.34 (1), 20.06 (title), 20.09 (1) and (2), 20.09 (4) (intro.) and (5) (a), 20.09 (5) (b) 2., 20.09 (5) (c), 20.09 (6) (intro.) and (b), 20.10 (1) (intro.), 20.10 (1) (c) 1. and 2. a., and 20.11 (2);

to repeal and recreate ss. Comm 2.34 (2), 20.06 (1) (c), 20.06 (3), 20.08, 20.09 (3), 20.09 (5) (b) 1. d., and 20.10 (1) (a);

and to create ss. Comm 2.34 (2), 5.02 - Table 5.02 line 37, 5.06 - Table 5.06 line 37, 5.635, 20.02 (1) (b), 20.06 (1) (a), 20.07 (60m), and 20.09 (8).

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Analysis of Proposed Rules

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

Statutes Interpreted: s. 101.651 (2m), Stats.

The last budget bill, 1999 Wisconsin Act 9, created s. 101.651 (2m), Stats., which requires municipalities with less than 2,500 population to adopt and enforce the Uniform Dwelling Code (UDC) unless they take certain specified steps. However, there is no time limit specified for these steps to be taken. Section 101.651 (3) (b), Stats., was created at the same time which requires the department to enforce the UDC and to provide inspection services in those municipalities that have not otherwise provided for enforcement and inspection services under 101.651 (2m) (intro.) and (a), Stats., or that have not adopted an ordinance forgoing all enforcement and inspection as allowed under s. 101.651 (2m) (b), Stats.

The department plans to enforce the UDC and provide inspection services in those municipalities through the use of UDC Inspection Agencies registered with the department. The UDC Inspection Agency would be responsible for the issuance of building permits and UDC seals, and the performance of plan reviews and dwelling inspections. The dwelling owner would be responsible for hiring the UDC Inspection Agency to enforce the UDC for that dwelling.

Treatment sections 5 to 10 of this rule have an earlier effective date than the remainder of the sections to allow the department to register these agencies prior to requiring a homeowner to use them to inspect his or her dwelling.

SECTION 1. Comm 2.34 (1) is amended to read:

Comm 2.34 (1) UNIFORM BUILDING PERMIT SEAL. A fee of \$25.00 shall be remitted to the department ~~or its agent~~ at the time of application for a Wisconsin Uniform Building Permit Seal. Municipalities or UDC inspection agencies administering the Uniform Dwelling Code shall purchase one \$25.00 permit seal for each new dwelling ~~falling within the scope of the Uniform Dwelling Code.~~

SECTION 2. Comm 2.34 (2) is repealed and recreated to read:

Comm 2.34 (2) DEPARTMENTAL INSPECTIONS. Where an employee of the department performs an on-site inspection related to the enforcement of the Uniform Dwelling Code as a result of a consumer complaint or a request by an individual in a municipality where permits are not issued and inspections are not performed, a fee may be assessed to the individual requesting the inspection determined in accordance with s. Comm 2.04 (2), with a minimum fee of \$120.00 per inspection, payable in advance to the department.

SECTION 3. Comm 2.34 (3) is repealed.

SECTION 4. Comm 2.34 (4) to (8) are renumbered Comm 2.34 (3) to (7).

SECTION 5. Comm 5.003 (48m) is created to read:

Comm 5.003 (48m) "UDC" means chs. Comm 20 to 25, the Wisconsin uniform dwelling code.

SECTION 6. Comm 5.02 Table 5.02 lines 37 to 65 are renumbered lines 38 to 66.

SECTION 7. Comm 5.02 Table 5.02 line 37 is created to read:

Table 5.02
FEES
(partial table)

	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
37.	UDC Inspection Agency	Registration	\$10	NA	\$15

SECTION 8. Comm 5.06 Table 5.06 lines 37 to 65 are renumbered lines 38 to 66.

SECTION 9. Comm 5.06 Table 5.06 line 37 is created to read:

Table 5.06
EXPIRATIONS
(partial table)

	License, Certification or Registration Category	Term	Expiration Date	Continuing Education Cycle
37.	UDC Inspection Agency	2 years	Date of Issuance	NA

SECTION 10. Comm 5.635 is created to read:

Comm 5.635 UDC inspection agency. (1) GENERAL. No person may engage in or offer to engage in the activities of facilitating plan review, issuance of Wisconsin uniform building permits, or inspection of one- and 2-family dwellings in a municipality where the department has jurisdiction pursuant to s. 101.651 (3) (b), Stats., unless the person obtains a registration from the department as a registered UDC inspection agency.

Note: Section 990.01 (26), Stats., states that the term "person" includes all partnerships, associations and bodies politic or corporate.

(2) APPLICATION FOR REGISTRATION. A person applying for a UDC inspection agency registration shall submit all of the following:

(a) An application in accordance with s. Comm 5.01.

(b) An application fee and a registration fee in accordance with s. Comm 5.02, Table 5.02.

(3) QUALIFICATIONS FOR REGISTRATION. The person applying for a UDC inspection agency registration shall be the owner of the business, a partner in the business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the corporation.

(4) RESPONSIBILITIES. A person who is responsible for facilitating plan review, issuance of Wisconsin uniform building permits and the inspections for one- and 2-family dwellings as a registered UDC inspection agency shall be responsible for all of the following:

(a) Utilizing persons appropriately certified under s. Comm 5.63 to review the plans, issue the permits and conduct the inspections.

(b) Making the records relative to the plan review, issuance of permits and inspections available to the department upon request.

(c) Providing inspection services for all inspections required under s. Comm 20.10.

(d) Cooperating with the department in any program monitoring, enforcement activities, and investigations.

(e) Following all procedures established by the department for UDC enforcement by inspection agencies.

(f) Reporting to the department in writing when the agency has been dismissed by the owner or builder.

(g) Making any records associated with their permit, plan review and inspection activities available to the permit holder upon request.

(5) RENEWAL. (a) A person may renew his or her registration as a UDC inspection agency.

(b) A UDC inspection agency registration shall be renewed in accordance with s. Comm 5.07.

SECTION 11. Comm 20.02 (1) to (5) are renumbered (2) to (6).

SECTION 12. Comm 20.02 (intro.) is renumbered 20.02 (1) (a) and amended to read:

Comm 20.02 Scope. (1) GENERAL. (a) The design, construction and installation provisions of ~~chapters Comm 20 to 25 shall~~ this code apply to ~~the construction and inspection procedures used for~~ 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 13. Comm 20.02 (1) (b) is created to read:

Comm 20.02 (1) (b) The enforcement provisions of this code apply in municipalities under any of the following conditions:

1. The municipality adopts this code in accordance with s. Comm 20.06.
2. The municipality meets the requirements under s. 101.651 (1) and (2m) (a) or (c), Stats.

Note: See s. Comm 20.06 for a reprint of s. 101.651 (1) and (2m), Stats.

SECTION 14. Comm 20.06 (title) is amended to read:

Comm 20.06 (title) Procedure for municipalities exercising jurisdiction.

SECTION 15. Comm 20.06 (1) (intro.) is repealed.

SECTION 16. Comm 20.06 (1) (a) to (c) are renumbered (1) (b) to (d).

SECTION 17. Comm 20.06 (1) (a) is created to read:

Comm 20.06 (1) (a) *General*. 1. Except as provided in ss. 101.651 (1) and (2m), Stats., cities, villages and towns shall exercise jurisdiction over the construction and inspection of new dwellings.

Note: Sections 101.651 (1) and (2m), Stats., read as follows.

101.651 Certain municipalities exempted. (1) DEFINITION. In this section, “municipality” means a city, village or town with a population of 2,500 or less.

(2m) EXEMPTION BY RESOLUTION. 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).

(b) The municipality adopts a resolution determining not to exercise jurisdiction over the construction and inspection of new one- and 2-family dwellings under 101.65 (1) (a), not to exercise jurisdiction jointly under s. 101.65 (1) (b), not to request under sub. (3) (a) that a county enforce this subchapter or an ordinance enacted under s. 101.65 (1) (a) throughout the municipality and not to request under sub. (3) (a) 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 or an ordinance enacted under s. 101.65 (1) (a) throughout the municipality and provides inspection services in the municipality to administer and enforce this subchapter or an ordinance under s. 101.65 (1) (a).

2. Municipalities intending to exercise jurisdiction shall, by ordinance, adopt this code in its entirety.

3. No additional requirements within the scope of this code may be adopted by a municipality unless approved by the department in accordance with s. Comm 20.20.

SECTION 18. Comm 20.06 (1) (c) (as renumbered) is repealed and recreated to read:

Comm 20.06 (1) (c) *Submission of ordinances and resolutions.* 1. 'Ordinances.' a. Municipalities intending to exercise jurisdiction shall submit all ordinances adopting this code to the department at the same time as the notice of intent.

b. The department shall review and make a determination regarding municipal intent to exercise jurisdiction over new dwellings within 15 business days of receipt of municipal ordinances adopting this code.

c. A municipality may appeal a determination by the department in accordance with the procedure under s. Comm 20.21 (2).

2. 'Resolutions.' Municipalities adopting a resolution under s. 101.651 (2m) (a) or (b), Stats., shall file a certified copy of the resolution with the department within 30 days of adoption.

3. 'Recision of ordinances or resolutions.' Municipalities that rescind an ordinance or a resolution under subd. 1. or 2. shall file a certified copy of the recision with the department within 30 days of adoption.

SECTION 19. Comm 20.06 (3) is repealed and recreated to read:

Comm 20.06 (3) DEPARTMENTAL JURISDICTION. In municipalities not adopting a resolution under s. 101.651 (2m), Stats., and not adopting an ordinance to enforce the code under s. Comm 20.06, the department will oversee enforcement and inspection services for new dwellings, including manufactured buildings used as dwellings.

SECTION 20. Comm 20.07 (60m) is created to read:

Comm 20.07 (60m) "Registered UDC inspection agency" means a person, business or entity that is registered with the department for the purpose of facilitating plan review, issuance

of Wisconsin uniform building permits, and inspection of one- and 2-family dwellings in municipalities where the department has jurisdiction pursuant to s. 101.651 (3) (b), Stats.

SECTION 21. Comm 20.07 (75m) is created to read:

Comm 20.07 (75m) "UDC" means chs. Comm 20 to 25, the Wisconsin uniform dwelling code.

SECTION 22. Comm 20.08 is repealed and recreated to read:

Comm 20.08 Wisconsin uniform building permit. (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.

(2) INSPECTIONS. A person who obtains a Wisconsin uniform building permit from a registered UDC inspection agency shall retain the same agency to conduct the inspections for the project under s. Comm 20.10.

SECTION 23. Comm 20.09 (1) and (2) are amended to read:

Comm 20.09 Procedures for obtaining uniform building permit. (1) APPLICATION FOR A WISCONSIN UNIFORM BUILDING PERMIT. Application for a Wisconsin uniform building permit shall be on the forms obtained from the department, ~~or the municipality~~ or a 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.

Note: See appendix for a copy of the Wisconsin uniform building permit and application.

Note: Any municipality exercising jurisdiction may require reasonable supplementary information not contained on the Wisconsin building permit application.

(2) (title) FILING OF ~~PERMITS~~ PERMIT APPLICATIONS. (a) *Wisconsin uniform building permit application*. 1. The Wisconsin uniform building permit application shall be filed with the

municipality or a registered UDC inspection agency administering and enforcing this code ~~or its authorized representative~~. 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.

~~2. Pursuant to s. 101.65 (1m), Stats., a municipality may not issue a~~ A building permit may not be issued for construction work covered under chs. Comm 21 and 22 to a dwelling contractor unless the contractor has a dwelling contractor financial responsibility certification issued by the department.

~~Note: See s. Comm 20.07 (26) for the definition of "dwelling contractor".~~

(b) *Wisconsin administrative permit*. ~~The~~ Pursuant to s. 101.651 (4), Stats., the Wisconsin administrative permit shall be filed with the municipality and the department when the dwelling is located in a municipality ~~that does not enforce the code~~ which exercises the option to decline any administration and enforcement of this code pursuant to s. 101.651 (2m) (b), Stats.

SECTION 24. Comm 20.09 (3) is repealed and recreated to read:

(3) FEES. (a) *Municipal fees*. 1. The municipality shall, by ordinance, determine fees to cover expenses of plan examination, inspection and the issuance of the Wisconsin uniform building permit.

2. The municipality shall ~~collect and send to the department the fee for purchase a~~ Wisconsin uniform building permit seal from the department for each ~~(SEALS?)~~ new dwelling in accordance with s. Comm 2.34.

(b) *Soil erosion fees*. Counties enforcing the construction site erosion control provisions of this code shall purchase a Wisconsin uniform building permit seal from the department for each new dwelling in accordance with s. Comm 2.34.

(c) *Inspection agency fees*. 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 25. Comm 20.09 (4) (intro.) and (5) (a) are amended to read:

(4) SUBMISSION OF PLANS. At least 2 sets of plans for all one- and 2-family dwellings shall be submitted to the ~~department, or the~~ municipality or the registered UDC inspection agency administering and enforcing this code, for examination and approval at the time the Wisconsin uniform building permit application is filed. ~~A municipality exercising jurisdiction may require a third set of plans at its option.~~

(5) APPROVAL OF PLANS AND ISSUANCE OF PERMITS. (a) *Plan approval.* 1. If the ~~department, or the municipality or the registered UDC inspection agency~~ administering and enforcing ~~the~~ this code, determines that the plans, including the plans indicating the erosion control procedures as ~~specified in sub. (4)~~, submitted for a one- or 2-family dwelling substantially conform to the provisions of this code and other legal requirements, an approval shall be issued.

2. The plans shall be stamped “conditionally approved” by a certified inspector who holds the respective credential for the plans reviewed.

3. One copy shall be returned to the applicant; and one copy shall be retained by the ~~department or the municipality or the registered UDC inspection agency~~ administering and enforcing ~~the~~ this code.

4. The conditions of approval shall be indicated by a letter or on the permit application.

5. All conditions of the approval shall be met during construction.

SECTION 26. Comm 20.09 (5) (b) 1. d. is repealed and recreated to read:

Comm 20.09 (5) (b) 1. d. The name and license number of the Wisconsin master plumber responsible for the installation of plumbing shall be entered on the permit by the issuing entity at the time of issuance.

SECTION 27. Comm 20.09 (5) (b) 2. is amended to read:

Comm 20.09 (5) (b) 2. 'Permit to start construction of footings and foundation.' a. Construction may begin on footings and foundations prior to the issuance of the Wisconsin uniform building permit where a permit to start construction is obtained.

b. Upon submittal of the application for a permit to start construction, a plot plan as ~~specified in sub. (4) (a) 1.~~, complete footing and foundation information including exterior grading, and a fee, the ~~department or the municipality or a registered UDC inspection agency~~ enforcing this code may issue a permit to start construction of the footings and foundation.

c. The issuance of a permit to start construction shall not influence the approval or denial of the Wisconsin uniform building permit application.

SECTION 28. Comm 20.09 (5) (c) is amended to read:

Comm 20.09 (5) (c) *Posting of permit.* 1. The Wisconsin uniform building permit shall be posted in a conspicuous place at the dwelling site.

2. The Wisconsin uniform building permit seal shall be affixed either to the posted permit or to the Wisconsin uniform building permit application. The permit seal number shall appear on both documents.

SECTION 29. Comm 20.09 (5) (c) Note is repealed.

SECTION 30. Comm 20.09 (6) (intro.) and (b) are amended to read:

Comm 20.09 (6) DISAPPROVAL OF PLANS AND DENIAL OF PERMITS. If the ~~department, or the municipality~~ or the registered UDC inspection agency administering and enforcing ~~the this~~ this code; determines that the Wisconsin uniform building permit application or the plans, including the plans indicating the erosion control procedures ~~as specified in sub. (4)~~, do not substantially conform to the provisions of this code or other legal requirements are not met, approval shall be denied.

(b) *Stamping of plans.* Plans which do not substantially conform to the provisions of ~~the~~ this code shall be stamped “not approved.” One copy shall be returned to the person applying for the Wisconsin uniform building permit; and one copy shall be retained by the ~~department or the municipality~~ or the registered UDC inspection agency administering and enforcing ~~the this~~ this code.

SECTION 31. Comm 20.09 (8) is created to read:

Comm 20.09 (8) COUNTY ISSUANCE OF PERMITS FOR EROSION CONTROL. Counties that enforce soil erosion control requirements under s. 101.651 (3m), Stats., shall issue the Wisconsin uniform building permit in accordance with this section.

SECTION 32. Comm 20.10 (1) (intro.) is amended to read:

Comm 20.10 (1) REQUIRED INSPECTIONS. Inspections shall be conducted by the ~~department or the municipality~~ or the registered UDC inspection agency administering and enforcing this code to ~~ascertain whether or not~~ determine if the construction or installations conform to the conditionally approved plans, the Wisconsin uniform building permit application and the provisions of this code ~~and shall notify the permit holder and the owner of any violations to be corrected.~~

SECTION 33. Comm 20.10 (1) (a) is repealed and recreated to read:

Comm 20.10 (1) (a) *Inspection notice.* 1. The applicant or authorized representative shall request inspections from the municipality or the registered UDC inspection agency enforcing this code.

2. Except as provided under subd. 3., construction may not proceed beyond the point of inspection, as described under par (b) 1. to 3., until the inspection has been completed.

3. Construction may proceed if the inspection has not been completed within 2 business days after notification is received or as otherwise agreed between the applicant and the municipality or registered UDC inspection agency.

SECTION 34. Comm 20.10 (1) (c) 1. and 2. a. are amended to read:

Comm 20.10 (1) (c) *Notice of compliance and noncompliance.* 1. 'General.' a. Notice of compliance or noncompliance with this code shall be written on the building permit and posted at the job site.

b. Upon finding of noncompliance, the ~~department or municipality~~ or the registered UDC inspection agency enforcing this code shall also notify the applicant of record and the owner, in writing, of the violations to be corrected.

c. Except as specified in subd. 2., the ~~department or municipality~~ or the registered UDC inspection agency shall order all cited violations corrected within 30 days after written notification, unless an extension of time is granted under s. Comm 20.21.

2. 'Soil erosion control requirements.' a. The ~~department or municipality~~ or the registered UDC inspection agency shall order all cited violations of erosion control requirements under s. Comm 21.125 (1) (a) to (c) and (e) to (f) corrected within 72 hours after notification and may issue a special order directing an immediate cessation of work for failure to comply with the corrective order. Work may continue when the conditions of the cessation order have been met.

SECTION 35. Comm 20.11 (1) is repealed.

SECTION 36. Comm 20.11 (intro.) is renumbered Comm 20.11 (1) and amended to read:

Comm 20.11 Suspension or revocation of Wisconsin uniform building permit. (1) (a) The ~~department, or the municipality~~ or the registered UDC inspection agency administering and enforcing this code, may suspend or revoke any Wisconsin uniform building permit where it appears that the permit or approval was obtained through fraud or deceit, where the applicant has willfully refused to correct a violation order or where the inspector is denied access to the premises.

(b) No construction ~~shall~~ may take place on the dwelling after suspension or revocation of the permit.

SECTION 37. Comm 20.11 (2) is amended to read:

Comm 20.11 (2) Any person aggrieved by a determination made by the department, a municipality or a registered UDC inspection agency may appeal the decision in accordance with s. Comm 20.21.

(END)

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EFFECTIVE DATES

Pursuant to s. 227.22 (2) (intro.), Stats., treatment sections 5 to 10 of these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

Pursuant to s. 227.22 (2) (b), Stats., treatment sections 1 to 4 and 11 to 37 of these rules shall take effect on the first day of the third month following publication in the Wisconsin Administrative Register.

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