

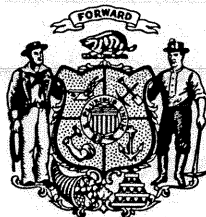
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FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-098**

AN ORDER to repeal Comm 20.06 (1) (intro.); to renumber Comm 20.02 (1) to (5) and 20.06 (1) (a) to (c); to renumber and amend Comm 20.02 (intro.); to amend Comm 20.06 (title); to repeal and recreate Comm 20.06 (1) (c) and 20.06 (3); and to create Comm 20.02 (1) (b) and 20.06 (1) (a), relating to municipal inspection requirements under the uniform dwelling code.

Submitted by **DEPARTMENT OF COMMERCE**

05-26-00 RECEIVED BY LEGISLATIVE COUNCIL.

06-26-00 REPORT SENT TO AGENCY.

RNS:DF;jal;tlu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached

YES

NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

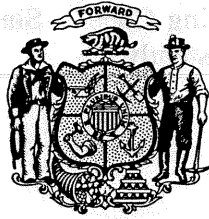
NO

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## CLEARINGHOUSE RULE 00-098

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

a. The introductory clause of this rule-making order should include a relating clause. [See s. 1.02, Manual.]

b. The material contained in SECTION 8 is inappropriately drafted. A rule provision should not be renumbered and then repealed and recreated. SECTIONS 6, 7 and 8 should be redrafted as follows:

SECTION 6. Comm 20.06 (1) (a) and (c) are renumbered Comm 20.06 (1) (b) and (d).

SECTION 7. Comm 20.06 (1) (b) is repealed.

SECTION 8. Comm 20.06 (1) (a) and (c) are created to read:

...

c. In s. Comm 20.06 (3), "shall" should be substituted for "will."

d. The rule should include an effective date clause. [See s. 1.02 (4), Manual.]

**4. Adequacy of References to Related Statutes, Rules and Forms**

Several provisions of the rule refer to "this code" while others refer to "the uniform dwelling code" or "the Uniform Dwelling Code." Since "code" is defined in s. Comm 20.07 (16), it is suggested that it be used consistently.



State of Wisconsin \ Department of Commerce

# HEARING DRAFT of PROPOSED RULES

**Rule No.:**

Chs. Comm 20-25

**Relating to:**

Municipal Inspection Requirements Under the Uniform

Dwelling Code

The Wisconsin Department of Commerce proposes an order to repeal s. Comm20.06 (1) (intro.);  
to renumber ss. Comm 20.02 (1) to (5), and 20.06 (1) (a) to (c);  
to renumber and amend s. Comm 20.02 (intro.);  
to amend s. Comm 20.06 (title);  
to repeal and recreate ss. Comm 20.06 (1) (c), and 20.06 (3);  
and to create ss. Comm 20.02 (1) (b), and 20.06 (1) (a).

.....

### 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.

1999 Wisconsin Act 9 altered requirements in s. 101.651, Stats., and expanded the Uniform Dwelling Code (UDC) permit and inspection program to apply mandatorily to cities, villages and towns with populations of 2,500 or less. Effective May 1, 2000, the Department of Commerce will be required to operate a UDC permit and inspection program for newly constructed homes in municipalities with populations of 2,500 or less in which the county or the municipality does not take action. Cities, villages and towns with populations of 2,500 or less would be able to opt out of the county or state permit and inspection program by resolution of the governing board filed with the Department.


This law gives four options for municipalities with populations of 2,500 or less:

1. The city, village or town can run the program.
2. The county can run the program, with approval from the municipality.
3. The state can run the program.
4. The city, village or town can opt out of a county or state run program, thus having no program.

Cities, villages and towns with populations greater than 2,500 must have a permit and inspection program. If these larger municipalities do not provide a permit and inspection program, the county government can conduct a program. If municipalities with populations greater than 2,500 fail to adopt a program and there is no county ordinance, the State must run the program.

The proposed rules will clarify requirements for municipalities that choose to take on the new inspection and permitting duties and will clarify the Department's procedures for municipalities that choose to have the state run their programs.

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

 SECTION 2. Comm 20.02 (intro.) is renumbered 20.02 (1) (a) and amended to read:

**Comm 20.02 Scope. (1) GENERAL.** (a) The 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 3. 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 (2m), Stats.

SECTION 4. ~~Comm~~ 20.06 (title) is amended to read:

**Comm 20.06 (title) Procedure for municipalities exercising jurisdiction.**

SECTION 5. Comm 20.06 (1) (intro.) is repealed.

SECTION 6. Comm 20.06 (1) (a) to (c) are renumbered (1) (b) to (d).

SECTION 7. 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 the ~~Uniform Dwelling 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 8. Comm 20.06 (1) (c) (as renumbered) is repealed and recreated to read:

see  
add  
JCC.6  
Comm 20.06 (1) (c) *Submission of ordinances and resolutions.* 1. 'Ordinances.' a. Municipalities intending to exercise jurisdiction shall submit all ordinances adopting the uniform dwelling 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 the uniform dwelling 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.

SECTION 9. 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 provide enforcement and inspection services for all new dwellings, including manufactured buildings used as dwellings.

*eff. date ?*