

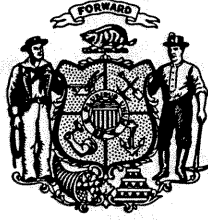
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FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[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 99-143

AN ORDER to . . . , relating to one- and two-family dwellings, commercial buildings and multifamily dwellings.

Submitted by **DEPARTMENT OF COMMERCE**

10-14-99 RECEIVED BY LEGISLATIVE COUNCIL.

11-11-99 REPORT SENT TO AGENCY.

RS:MCP:jal;rv

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

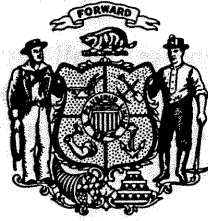
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CLEARINGHOUSE RULE 99-143

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.]

1. Statutory Authority

a. Section 227.21 (2), Stats., provides that an agency may, with the consent of the Revisor of Statutes and the Attorney General, adopt standards established by technical societies and organizations of recognized national standing by incorporating these standards in its rules by reference to the specific issue or issues of the publication in which they appear, without reproducing the standards in full. The Revisor of Statutes and the Attorney General must consent to incorporation by reference only in a rule of limited public interest and in a case where the incorporated standards are readily available in published form. Section Comm 20.24 (3) (a) provides that alternate standards to those apparently consented to by the Revisor of Statutes and Attorney General, and that are equivalent to or more stringent than those standards incorporated by reference, may be used instead of incorporated standards when approved by the Department of Commerce. What statutory authority exists for allowing the Department of Commerce, rather than the Revisor of Statutes and the Attorney General, to consent to the incorporation of standards by reference? [See, also, s. Comm 51.25 (2) (a).]

b. Sections Comm 50.21 (5) (c) and 66.24 (5) (c) require plan submittals for activities in buildings of defined volumes. The Notes to these provisions state that the department will allow use of square footage benchmarks in lieu of the volume thresholds contained in the rule. In view of the volume requirements contained in s. 101.12 (3) (b), Stats., what statutory authority exists for the use of square footage alternatives? If the substance in the Notes is statutorily authorized, the material should be incorporated into the body of the rule.

2. Form, Style and Placement in Administrative Code

- a. The second sentence of s. Comm 3.05 (2) (b) should be placed in a note to the rule.
- b. In s. Comm 3.06 (2) (e), the phrase "shall have the right to" should be replaced by the word "may." In sub. (4) (d), the first sentence should be rewritten to read: "The administrator may electronically record a review conference." In sub. (4) (e), the phrase "has the sole discretion to" should be replaced by the word "may."
- c. Section Comm 20.18 (3) (g) should be rewritten to read: "Paragraphs (e) and (f) do not apply to an experimental system if this code is revised to include or enable the experimental system to conform to the intent of this code." [See, also, s. Comm 66.25 (3) (g).]
- d. In s. Comm 50.04 (6), the second and third sentences appear to be explanatory. Consequently, the sentences should be included in a note to the rule rather than in the body of the rule.
- e. The cross-reference in s. Comm 50.12 (1m) should be to "chs. Comm 50 to 64." [See also s. Comm 50.12 (1) (i) 1.]
- f. In s. Comm 50.21 (2) (a), the word "through" should be replaced by the word "to." [See, also, ss. Comm 50.21 (2) (k) 1., 50.22 (2) (a) and 66.24 (2) (L) 1. and (8) (a).]
- g. The cross-reference in s. Comm 50.22 (1) should use the standard term "under" rather than "relative to." [See, also, the examples after s. Comm Table 54.12-B Note.]
- h. The superfluous comma in the statutory cross-references in s. Comm 50.27 (1) and (2) should be deleted.
- i. SECTION 79 should repeal and recreate s. Comm 51.25 (2). SECTION 80 should repeal s. Comm 51.25 (3).
- j. "Department" should not be capitalized in s. Comm 54.12 (2) (b) 4. d.
- k. In s. Comm 57.001 (1) (k), the notation "Stats.," should be inserted after the statutory cross-reference.
- l. In s. Comm 62.50 (1), the phrase ", as defined in s. Comm 62.051" is unnecessary and should be deleted. In sub. (2), the notation "s." should be replaced by the notation "ss."
- m. The stricken language should precede the new language in s. Comm 66.12 (2). See, also, s. 66.19.
- n. The material in the Note in s. Comm 66.14 (1) (d) appears to establish a substantive requirement and, if so, it should be included in the text of the rule rather than in a note.

o. In s. Comm 66.25 (5) (b), the notation "subs." should be replaced by the notation "sub."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Paragraphs (16) and (17) of the analysis will be clearer if the phrase "is exempted" is replaced by the phrase "is not required." In par. (26), there is a typographical error in the word "occupies."

b. The term "second class city" is used in s. Comm 2.31 (1) (e) and several other places in the rule. It may be appropriate either to define this term in the rule or to refer to the statutory definition in s. 62.05, Stats., in a note.

c. The phrase "may receive" in s. Comm 20.18 (1) (a) is unclear. Is it the intent to prohibit the use of certain materials unless a written approval is received from the department? If this is the intent, the provision should be redrafted accordingly. [Note that this and the following comments regarding s. Comm 20.18 also apply to s. Comm 50.19.]

d. In s. Comm 20.18 (3) (e) 1., the rule should indicate who is required to write the inspection report.

e. In s. Comm 50.12 (5) (a) Note, it appears that the word "are" should be inserted before the word "required."

f. In s. Comm 57.07 (2), it appears that a word such as "constructed" or "placed" should be inserted after the phrase "shall be."

g. In s. Comm 62.505 (2) (b) 5., the second sentence should be expanded to describe who will give the approval and that blower inlets should not be located until approval is given.

h. Does the "implementation" of ch. Comm 66, as referenced in new language in s. Comm 66.02 (1), have a precise date? If so, can that date be used in lieu of April 1, 1995? If not, how is the date of initial applicability of this provision to be determined?



HEARING DRAFT of PROPOSED RULES

Rule No.:

Comm 2, 3, 20, 50 to 64, 66, 70, 75, and 90

Relating to:

One- and Two-Family Dwellings, Commercial Buildings, and Multifamily

Dwellings

The Wisconsin Department of Commerce proposes an order to repeal Comm 3.02 (3) and (6); 3.06 (7) to (10); 50.06 (2) and Note; 51.01 (104a) and Note; 51.167 (1) Note; 51.25 (2); 56.21; 56 Subchapter IV; 57.001 (2) (a), (c), (i), and (j); and 66.14 (1) (d);

renumber Comm 3.02 (4), (5), and (7) to (11); 20.24 (1) to (14); 50.04 (11); 50.06 (1); 50.12 (4) (e); 50.21 (2) (f) and (g); 50.21 (2) (b) and (d); 50.21 (5) (b) to (g); 50.21 (5) (e) 1.; 50.21 (7); 51.01 (1a) and (6m); 51.25 (4); 54.12 (2) (f) 2.; 57.001 (2) (b) to (h); 62.50 and 62.51; 62 Subchapters IV to IX; 66.11 and Note (1); 66.14 (1) (e) to (g); 66.24 (5) (b) to (g); and 66.24 (5) (d);

renumber and amend 50.21 (2) (intro), (a), and (c); 50.21 (5) (d); 50.21 (5) (e) 3.; and 66.24 (7);

amend Comm 2.31 (1) (d); 2.52 (3) (b); 3.02 (1); 3.03 (3) (a), (c), (d), and (e) (intro.), 1., and 3., and (4); 3.03 (6) (a) and (7); 3.04 (1) (intro.), (a) 1. and 3., (b), and (c), (3) (d), (4), (5) (a) to (c), and (d) (intro.) and 1., (6), and (8); 3.05 (2) (a) and (b), (3) (a) to (f), and (4); 50.04 (2) and (6); 50.10 (2) and (3); 50.12 (1) (intro.), (a) (intro.) and 2., (b) to (f) (intro.), (g), and (h); 50.12 (1) (i) 1.; 50.12 (2) (intro.) and (b); 50.12 (3) (intro.); 50.12 (5) (intro.) and (a) and (6) (a) 1. and 2.; 50.13 (1) (intro.) and (2); 50.14 (1) (intro.) and (c); 50.15; 50.175; 50.21 (1), (2) (i), (5) (f) 1. b. and c., and (6) (intro.); 51.01 (11a) and (11a) Note (intro.); 51.015; 51.15 (4); 51.25 (1); 52.02 (1) (b); 52.22 Note; 52.60 (3) (a); 54.05 (1) (intro.); 54.12 (1) (a); Table 54.12-A and Footnotes 1 and 2; Table 54.12-B Notes (2) and (3); Table 55.32; Table 55.32 Note (2); 57.001 (2) Note; 60.001 (1) (a); 60.36 (1) (a); 60.40 (3); 62.34 (2); 62.40; 64.22 (3) (e) 1.; 66.02 (1) (a) to (d); 66.09 (3) and (4); 66.12 (2); 66.14 (1) (intro.) and (b); 66.14 (2) (a) 1.; 66.15; 66.165 (1); 66.17 (1) (a); 66.18 (1) (a); 66.19; 66.22 (and title); 66.24 (title), (2) (b), and (5) (e) 3. b. and Note; 66.345 (3) (a); 66.45 (2) (b) 2.; 70.03 (1) (a) 3.; 70.07 (1) (a) and (b); 70.17 (2); and 90.16 (1);

repeal and recreate Comm 2.51, 3.06 (2) to (6), 20 Subchapter VI, 20.24 (intro.), 50.12 (1) (i) 2., 50.12 (2) (c), 50.19, 50.21 (5) (c) and Note, 50.25, 51.065 (1) (b) and (c), 51.25 (3), 57.07 (2), 64.21, 50 to 64 Appendix Section A-50.21, 66.24 (5) (c) and Note, 66.25, 66 Appendix Section A-66.24, and 70.14; and

create Comm 2.31 (1) (e) to (g) and Table 2.31-3; 2.52 (3) (d); 20.24 (2) and (3); 50.03 (5) and (6); 50.04 (11), (11) Note, (12), (14), (15), and Note; 50.055; 50.12 (1) (i) (intro.); 50.12 (1m) and (1t); 50.12 (2) (d) Note and (k); 50.12 (3) (g); 50.12 (4) (e); 50.12 (5) (a) Note; 50.21 (2) (g); 50.21 (2) (j) to (l) and Note; 50.21 (5) (b); 50.21 (5) (d) 2.; 50.21 (5) (e) 1. b.; 50.21 (5) (e) 3. b. and 4. to 9.; 50.21 (7) (b); 50.22; 50.27; 51.01 (6m); 51.01 (13m) and Note; 51.25 (1) Note; Table 51.25-17 Line 17; 54.05 (4); 54.12 (1) (c) Note; 54.12 (2) (b) 4.; 54.12 (2) (f) 2. b.; 55.32 (2) Note; Table 55.32 Footnote 4; Table 55.32 Note (5); 57.001 (1) (k); 62 Subchapter IV; 66.03 (1m); 66.14 (1) (d) Note and (1t); 66.14 (2) (f); 66.24 (2) (k) to (m) and Note; 66.24 (5) (b); 66.24 (5) (d) 2.; 66.24 (5) (e) 4. to 7.; 66.24 (7) (b) and (8); 66.41 (4) (d); and 75.001 (1) (e) and Note.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and (15), 101.121 (3), 101.63 (1), and 101.973 (1)

Statutes Interpreted: ss. 101.02 (5) and (15), 101.05, 101.12, 101.121, 101.63 (9), 101.64 (4) and (6), 101.973 (1) and (7), and 101.974 (3) and (4)

Under the statutes cited, the Department protects public health, safety, and welfare by promulgating construction requirements for commercial buildings and structures, historic buildings, one- and two-family dwellings, and multifamily dwellings. These requirements are currently contained in chapters Comm 50 to 64, Comm 70, Comm 20 to 25, and Comm 66, respectively.

The proposed revisions are primarily intended to update the administration and enforcement elements of the commercial building code and the multifamily dwelling code to make them consistent with current policies and practices, and to increase the opportunities under those two codes for building designers to receive plan approvals and inspections from local governments rather than from the Department. Minor changes are also included to update the material approval process for those two codes and for the one- and two-family dwelling code.

The revisions would also repeal the life-safety requirements for public schools constructed before 1950, and clarify some problematic, minor technical provisions.

The following list is a detailed summary of the major revisions included in this proposal. The sequence of the list generally corresponds to the numerical sequence of the affected existing code sections, and the existing or proposed code sections are noted.

1. Fees are established for the Division's role in administering plan review by second class cities and appointed agents. [Comm 2.31 (1) (e) and (f)]
2. Fees are established for notifying the Department of election to use a registered individual for design and supervision for certain types of small buildings in lieu of Departmental plan approval. [Comm 2.31 (1) (g)]
3. Fees are established for approvals of alternate and experimental materials, and approvals of alternate standards. [Comm 2.51]
4. An option is established that allows including more than one building in a petition for variance. [Comm 2.52 (3) (b) and (d)]
5. The petition for variance procedures are revised to remove the reference to specific staff, except for the Division Administrator and Department Secretary, from the formal review process. [Comm 3.02 (3) and (6); Comm 3.03 (3) (a), (c), (d), and (e) (intro.), 1., and 3.; (4); (6) (a); and (7); Comm 3.04 (1) (intro.), (a) 1. and 3., (b), and (c); (3) (d); (4); (5) (a) to (c), and (d) (intro.) and 1.; (6); and (8); Comm 3.05 (2) (a) and (b) and (3) (a) to (f); and Comm 3.06 (2) (a)]

6. The process for appealing a decision on a petition for variance is changed to clarify the appropriate functions performed at the division and department levels. [Comm 3.06 (2) to (10)]
7. The process for issuing building material approvals is changed to address approval of products that comply with the intent but not the text of the code, and to authorize experimental approvals of unproven products for the purpose of determining compliance with the code. The process change also includes repealing a requirement to obtain Departmental approval for light-transmitting plastics and direct-vent sealed-combustion-chamber appliances, and repealing an optional procedure for independent testing laboratories to obtain Departmental recognition. This process change is proposed for all three of the major building codes – the commercial building code, the multifamily dwelling code, and the one- and two-family dwelling code. [Comm 20 Subchapter VI, 50.19, and 66.25]
8. A process is codified in all three of the Department's major building codes for allowing use of a standard specification that is equivalent to or more stringent than a standard which is incorporated by reference in the code. [Comm 20.24 (3) and 51.25 (3)].
9. Language is created that requires compliance with the code in effect at the time of construction in the event a commercial building is converted from being exempt from the code to being not exempt. [Comm 50.03 (5)]
10. A process is codified for local officials to use in allowing temporary use of commercial buildings. [Comm 50.03 (6)]
11. The current language exempting farm buildings from the commercial building code is clarified. [Comm 50.04 (2)]
12. Buildings leased exclusively to the federal government are exempted from the commercial building code. Buildings leased in part to the federal government are exempted only if the lease provides for long-term federal control of the design and operating decisions. Owners of buildings exempted under this criteria are required to record notification of the exemption and notification of the applicability of the commercial building code in the event other use ensues. [Comm 50.04 (6)]
13. The list of buildings exempt from the commercial building code is expanded to include (A) a one- or two-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; (B) a one- or two-family dwelling in which a public or private day care center for 8 or fewer children is located; (C) a one-classroom school building operated by and for members of a bona fide religious denomination that has teachings and beliefs prohibiting use of products, devices, or designs which are needed to comply with the code; and (D) any building or portion of a building that is exempted from the code by federal or state law. [Comm 50.04 (11), (12), (14), and (15)]

14. The current language is expanded and clarified for electing to comply with the historic building code, rather than the commercial building code or the existing buildings code, for qualified historic buildings. [Comm 50.055, 70.03 (1) (a) 3., and 75.001 (1) (e)]
15. References to sample Departmental forms in the Appendix are deleted, the sample forms are deleted from the Appendix, and Notes are added stating that some forms are available from the Division's web site. [Comm 50.10 (3), 50.25, 50 to 64 Appendix, 66.09 to 66.26, and 66 Appendix.]
16. Departmental plan examination is exempted for small greenhouses and mini-storage buildings, which are specified as containing less than 25,000 cubic feet total volume. [Comm 50.12 (1) (i) 1.]
17. Departmental plan examination is exempted for antenna structures. [Comm 50.12 (1) (i) 2.]
18. An option is created that allows substituting Department plan approval with design and construction supervision by a registered design professional, for (A) buildings which contain from 25,000 to 50,000 cubic feet of volume and which are storage garages, greenhouses, mini-storage buildings, or within the scope of ch. Comm 54, such as factories and office buildings; and (B) buildings which contain less than 25,000 cubic feet and which are within the scopes of chs. Comm 55 to 61 and 66, such as theaters, assembly halls, schools, hotels, motels, multifamily dwellings, health care facilities, places of detention, airplane hangers, child day care facilities, and community-based residential facilities. Where this option is elected, a written notice and filing fee must be sent to the Department. [Comm 50.12 (1t) and 66.14 (1t)]
19. Language is created for commercial buildings and multifamily dwellings that requires submittal of structural component plans to the Department, and requires the design to be by a registered professional for buildings containing volumes exceeding 50,000 cubic feet. [Comm 50.12 (3) (g) and 66.14 (2) (f)]
20. Language is created for commercial buildings that clarifies submittal requirements for individually-owned or leased spaces within multiple-tenant or-owner buildings, or for additions to existing buildings, particularly for buildings where previous submittals were to another review office. [Comm 50.12 (4) (e)]
21. Language is created for commercial buildings and multifamily dwellings that allows 2nd class cities, under specified conditions, to review plans for the large buildings which formerly were reviewed only by the Department and first class cities. The specified conditions include (A) having a registered architect or engineer supervise the review, (B) collecting the same building and owner application information as required by the Department, and (C) providing program administration fees and monthly activity reports to the Department. The language includes submittal instructions for projects with multiple submittals that are not directed to the same review office. [Comm 50.21 (2) (j), and (5) (b) and (e) 1. b. and 4. to 9.; and 66.24 (2) (k), and (5) (b) and (e) 3. b. and 4. to 7.]

22. Language is created for commercial buildings and multifamily dwellings that allows a municipality to choose to assume only the Department's inspection responsibilities, rather than assume both inspection and plan review responsibilities. [Comm 50.21 (2) (k) and 66.24 (2) (l)]
23. Language is created for commercial buildings and multifamily dwellings that allows a certified municipality to review plans for any building 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. [Comm 50.21 (5) (c) 3. b. and 66.24 (5) (c) 3. b.]
24. Language is created for commercial buildings that allows a municipality to retain its plan approval records in an electronic-based format rather than retain the original documents, and allows disposal of the records or documents after four years. [Comm 50.21 (5) (f) 1. b.]
25. Language is created for commercial buildings and multifamily dwellings that allows a municipality, under specified conditions, to become an appointed agent of the Department, for reviewing plans and performing inspections for any building which would otherwise be the responsibility of the Department. The specified conditions include (A) documenting the qualifications of the municipality, (B) documenting the Department's responsibilities that are desired by the municipality, (C) collecting the same building and owner application information as required by the Department, and (C) providing program administration fees and monthly activity reports to the Department. The language includes submittal instructions for projects with multiple submittals that are not directed to the same review office. [Comm 50.22 and 66.24 (8)]
26. Language is created describing the appeal process for any person who owns or occupies property that is affected by an order of the Department. [Comm 50.27]
27. A national standard for testing flame-resistant textiles and films is incorporated into the commercial building code. [Comm Table 51.25-17 Line 17]
28. Language is created that allows omitting toilet rooms in retail or mercantile buildings which accommodate no more than 25 occupants, provided (A) other restrooms are conveniently available, (B) the omission is approved in writing by the local unit of government, and (C) the written local approval is filed with the Department. [Comm 54.12 (1) (a) and (2) (b) 4.]
29. Language for the number of sanitary fixtures at public swimming facilities is clarified to more clearly convey the minimum number of fixtures that are required by the commercial building code, the multifamily dwelling code, or the public swimming pool code. [Comm 54.05 (4); 54.12 (1) (c) Note; Table 54.12-A and Footnotes 1 and 2; 54.12-B Notes (2) and (3); 55.32 (2) Note; Table 55.32, Footnote 4, and Notes (2) and (5); 66.45 (2) (b) 2; and 90.16 (1)]

30. Language is created for self-service gasoline stations that use a key- or card-operated fuel dispensing device, which allows toilet rooms to be unavailable during periods when the station is unattended by an employee. [Comm 54.12 (2) (f) 2. b.]
31. Language is repealed that allows only the Department or 1st class cities to perform statutorily required maintenance inspections of public schools. [Comm 56.21]
32. Life-safety requirements for public schools constructed before 1950 are repealed. [Comm 56 Subchapter IV]
33. The scope sections of Comm 57 and 66 are clarified to more clearly convey that Comm 57, rather than Comm 66, applies to an addition or alteration for multifamily dwellings that were approved prior to the implementation of Comm 66 in 1995. [Comm 57.001 (1) (k) and 66.02 (1) (a) to (d)]
34. Language is created that allows supporting an antenna system with a structure that is used for electric power or communication systems, provided a registered architect or engineer determines the support system will sustain all the live, dead, and special loads imposed on it. [Comm 62.40]
35. Language is created that codifies the design and construction requirements which are currently applied to membrane structures. [Comm 62 Subchapter IV]
36. A previous cross-reference is reinserted requiring only one means of egress from a loft. [Comm 66.345 (3) (a)]
37. Language is created clarifying how the Comm 52.07 atrium requirements apply to multifamily dwellings. [Comm 66.41 (4) (d)]

File ref: analysis of rules 5

SECTION 1. Comm 2.31 (1) (d) is amended to read:

Comm 2.31 (1) (d) Revisions. The fee for revisions to previously approved plans and plans that have been previously reviewed but not denied, shall be as specified in Table 2.31-1. ~~This paragraph applies when the plans are revised for reasons other than those which were requested by the department. No revision fee will be charged for plans requested by the department as a condition of original plan approval.~~

SECTION 2. Comm 2.31 (1) (e) to (g) and Table 2.31-3 are created to read:

Comm 2.31 (1) (e) *Second class city.* A second class city that is certified to perform the expanded plan examinations specified in s. Comm 50.21 (5) (b) or 66.24 (5) (b) shall submit to the department the fee specified in Table 2.31-3 for each building or structure reviewed which exceeds the limits specified in s. Comm 50.21 (5) (c) or 66.24 (5) (c).

(f) *Appointed agent.* An agent that is appointed by the department under s. Comm 50.22 or 66.24 (8) to perform plan examinations shall submit to the department the fees specified in Table 2.31-3 for each building or structure reviewed under s. Comm 50.22 or 66.24 (8).

(g) *Notice fee.* The fee for notifying the department of electing to use a registered individual for building design and supervision in lieu of departmental plan approval, under s. Comm 50.12 (1t) or 66.14 (1t), shall be \$20 for the building plans and \$20 for the heating, ventilating and air conditioning plans.

Table 2.31-3

Area (Square Feet)	Fees		
	Building & HVAC	Building Area Only	HVAC Area Only
Less than 2,500	\$ 50	\$ 40	\$ 30
2,501-5,000	65	50	35
5,001-10,000	90	70	40
10,001-20,000	135	95	55
20,001-30,000	190	135	70
30,001-40,000	255	185	105
40,001-50,000	340	240	135
50,001-75,000	460	320	185
75,001-100,000	580	390	255
100,001-200,000	890	640	320
200,001-300,000	1830	1110	715
300,001-400,000	2580	1670	1030
400,001-500,000	3180	2070	1350
Over 500,000	3420	2230	1510

SECTION 3. Comm 2.51 is repealed and recreated to read:

Comm 2.51 Material approvals. (1) The fee for an approval number issued by the department for the approval of a material, equipment or product, other than a plumbing product, or for approval of an alternate standard, shall be determined in accordance with Table 2.51.

(2) The fee for a special inspection of an installation of a material, equipment or product for which an experimental approval has been issued in accordance with s. Comm 20.18, 50.19 or 66.25 shall be determined in accordance with s. Comm 2.03.

Table 2.51

Action	Fee per Approval			
	Type of Approval			
	Voluntary	Alternate Product	Experimental	Alternate Standard
New approval	\$ 800	\$ 1200	\$ 2000	\$ 1200
Renewal of approval with no changes	600	900	1500	NA*
Renewal with changes	800	1200	2000	NA
Manufacturer's request for minor revision (no extension of approval period)	200	200	200	NA
Manufacturer's request for major revision (new 5-year period)	800	1200	2000	NA

*NA means not applicable

SECTION 4. Comm 2.52 (3) (b) is amended to read:

Comm 2.52 (3) (b) ~~A~~ Except as provided in par. (d), a separate petition shall be submitted for each building. If, after review, it is determined that some or all of the petitions may be processed using a precedent, a portion of the variance fee may be refunded in accordance with sub. (10) (b).

SECTION 5. Comm 2.52 (3) (d) is created to read:

Comm 2.52 (3) (d) Where an identical variance is sought for identical buildings with a common owner in a single municipality, and all of the buildings are listed on one submitted petition, the fee for the first building shall be \$490.00, and the fee for each subsequent building shall be \$50.

SECTION 6. Comm 3.02 (1) is amended to read:

Comm 3.02 (1) "Administrator" means the administrator of the division of safety and buildings in the department of industry, labor and human relations commerce, or his or her designee.

SECTION 7. Comm 3.02 (3) and (6) are repealed.

SECTION 8. Comm 3.02 (4), (5), and (7) to (11) are renumbered Comm 3.02 (3), (4), and (5) to (9).

SECTION 9. Comm 3.03 (3) (a), (c), (d), and (e) (intro.), 1., and 3.; and (4) are amended to read:

Comm 3.03 (3) (a) Upon receipt of the petition for variance form, the applicable fee and the position statement, and any other documents the petitioner may wish to submit, the office division shall evaluate the petition for variance and determine if the petition for variance provides for an equivalency which meets the intent of the rule being petitioned.

(c) If additional information is needed by the office division to review the petition for variance and make a determination, the office division shall notify the owner in writing of the specific information required.

(d) If it is determined that the petition for variance provides an equivalency, the petition for variance shall be approved by the director division.

(e) If it is determined that the petition for variance does not provide an equivalency, the director division may:

1. Approve the petition for variance subject to specific conditions determined by the office division which shall establish an equivalency which meets the intent of the rule;

3. Grant an experimental variance to allow the petitioner to participate in an experiment approved by the office division to demonstrate or validate new or improved techniques to safeguard the health or safety of the public and employees; or

(4) NOTIFICATION OF PETITION FOR VARIANCE DETERMINATION. The office division shall notify the petitioner in writing of the petition for variance determination, including any conditions of approval. Any denial shall include the reason for denial, and information on the appeals procedure.

SECTION 10. Comm 3.03 (6) (a) and (7) are amended to read:

Comm 3.03 (6) (a) If a petition for variance is initially denied by the director division, the petitioner may, in writing, modify the request for variance by submitting additional or other alternatives in order to provide an equivalency and resubmit the application for the petition for variance.

(7) REVOCATION. The director division may revoke any petition for variance where it is determined that the variance was obtained through fraud or deceit or where the petitioner has violated the specific conditions on which the variance was approved.

SECTION 11. Comm 3.04 (1) (intro.), (a) 1. and 3., (b), and (c); (3) (d); (4); (5) (a) to (c), and (d) (intro.) and 1.; (6); and (8) are amended to read:

Comm 3.04 (1) (intro.) TYPES OF VARIANCES. Pursuant to s. 101.055 (4), Stats., a public employer may apply to the office division for a temporary, experimental or permanent variance on occupational safety and health rules affecting public employees.

(a) 1. The director division may grant a temporary variance before a rule goes into effect if the public employer complies with subs. (2) and (3) and establishes that it is unable to comply with a rule by the rule's effective date because of unavailability of professional or technical personnel or of necessary materials or equipment or because necessary construction or alteration of facilities cannot be completed by the effective date.

3. If a hearing on the application for variance is requested, the director division may state in writing that non-compliance with the rule is permitted for 180 calendar days or until a decision is made after the hearing, whichever is earlier.

(b) *Experimental variance.* The director division may grant an experimental variance if the public employer complies with subs. (2) and (3) and it is determined that the variance is necessary to permit the employer to participate in an experiment approved by the director division to demonstrate or validate new or improved techniques to safeguard the health or safety of employees.

(c) *Permanent variance.* The director division may grant a permanent variance if the public employer complies with subs. (2) and (3) and it is determined that the employer has demonstrated by a preponderance of the evidence that the conditions and methods the employer uses or proposes to use provide employment or a place of employment which is as safe and healthful as that provided under the rule from which the employer seeks a permanent variance. A permanent variance may be modified or revoked upon application by the employer, an affected employe, a public employe representative or the department and after opportunity for a hearing on the application, but not sooner than 6 months after issuance of the permanent variance.

(3) (d) The public employer shall furnish evidence to the office division that conditions specified in par. (c) have been satisfied and that public employes have no interest in requesting a hearing from the office division.

(4) HEARING. (a) Upon receipt of a written request for a hearing from a public employer, an affected public employe or a public employe representative, the office division shall schedule a hearing on the petition and inform the parties in writing about the date, time and place for the hearing. The office division shall hold the hearing within 30 business days from receipt of the request, unless the person requesting the hearing asks for an extension.

(b) Where a hearing is requested, no decision may be made by the director division until a hearing has been held.

(5) (a) Unless a hearing is requested upon receipt of the petition for variance form, the office division shall evaluate the petition for variance and determine if the petition for variance provides for an equivalent degree of safety or health. The petition shall prescribe the methods and conditions which the employer must adopt and maintain while the variance is in effect.

(b) If additional information is needed by the office division to review the petition for variance and make a determination, the office division shall notify the owner in writing of the specific information requested.

(c) If it is determined that the petition for variance provides an equivalent degree of safety or health, the petition for variance shall be approved by the director division.

(d) If it is determined that the petition for variance does not provide an equivalent degree of safety or health, the director division may:

1. Approve the petition for variance subject to specific conditions determined by the office division which will establish an equivalent degree of safety or health as specified in the rule;

(6) NOTIFICATION OF PETITION FOR VARIANCE DETERMINATION. The office division shall notify the petitioner and affected parties in writing of the petition for variance determination. Any denial shall include the reason for denial, and information on appeals procedure.

(8) REVOCATION. The director division may revoke any petition for variance where it is determined that the variance was obtained through fraud or deceit or where the petitioner has violated the specific conditions on which the variance was approved.

SECTION 12. Comm 3.05 (2) (a) and (b), (3) (a) to (f), and (4) are amended to read:

Comm 3.05 (2) (a) Pursuant to s. 101.598 (2), Stats., an employer may petition the office division for an exemption from retaining a data sheet or maintaining an identification list as specified in s. 101.583 (1), Stats., regarding any mixture containing a toxic substance.

(b) A petition for the exemption shall be in writing. Petitions for exemption shall be sent to: Division of Safety and Buildings, ~~Office of Division Codes and Application~~, P.O. Box 2658, Madison, Wisconsin 53707.

(3) (a) Upon receipt of a petition for exemption, the applicable fee and any other documents the employer may wish to submit, the office division shall evaluate the petition and determine if the exemption may be granted.

(b) If additional information is needed by the office division to review the petition in order to make a determination, the office division shall notify the employer in writing of the specific information required.

(c) Upon receipt of a written request for a hearing from the employer, an affected employee or employee representative, the office division shall schedule a hearing on the petition and inform the interested parties in writing about the date, time and place for the hearing. If a hearing has been requested, the director division shall not act on the petition for exemption until the hearing has been held. The office division shall hold the hearing within 30 business days from receipt of the request, unless the person requesting the hearing asks for an extension.

(d) The office division shall review and make a determination on a petition for exemption within 60 business days, but no sooner than 15 business days, after receipt of the petition and any additional information which may be required by the office division or after a hearing is held in accordance with par. (c).

(e) The office division shall notify the employer and any interested parties as to the determination of the petition.

(f) The director division may grant the petition for exemption subject to specific conditions.

(4) REVOCATION. The director division may revoke an exemption when it is determined that the exemption was obtained through fraud or deceit, where the employer has violated the specific conditions of the exemption or new information repudiates the original information on which the exemption was granted.

SECTION 13. Comm 3.06 (2) to (6) are repealed and recreated to read:

Comm 3.06 (2) REQUEST FOR REVIEW BY THE ADMINISTRATOR. (a) Any person whose petition for variance is denied, approved with conditions, approved as a temporary variance, or approved as an experimental variance or any person whose rights are affected by the granting of a petition for variance may request a review by the administrator. The review by the administrator shall not be considered as a contested case hearing.

(b) A person otherwise entitled to review by the administrator under par. (a) may waive a review by submitting to the secretary a written request clearly indicating the intent to waive review and requesting to proceed to a contested case hearing under sub. (6).

(c) The request for review by the administrator shall be in writing and shall include a statement of the specific reasons why the person believes the division's decision on the petition for variance is incorrect.

Note: Requests for a review by the administrator may be forwarded to Administrator, Safety and Buildings Division, P.O. Box 2599, Madison, WI 53707-2599.

(d) A review by the administrator shall be denied if the request for review is received more than 30 days after the date of the decision on the petition for variance.

(e) A review shall be denied, and the petition remanded to staff in the division, if the request for review contains significant new information not considered by the division in making the decision on the petition for variance. The administrator may remand the petition to staff in the division at any point in the review process if significant new information is presented by the petitioner or other persons seeking review by the administrator, and that information was not available to the division at the time of its decision on the petition for variance. Following a remand, the division shall issue a decision on the petition for variance within 30 days after the date the petition for variance is remanded by the administrator. Petitioners and other persons affected by a petition for variance shall have the right to request a review by the administrator or a hearing by the secretary under this section following a decision by the division on remand.

(3) DECISION. (a) If the administrator determines that insufficient reasons are provided in the request for review, the request may be denied. The denial shall be in writing and shall provide the petitioner with the reason for denial and with information about the right to appeal the decision on the petition to the secretary.

(b) If the administrator grants the request for review, the petitioner shall be notified of the date, time and place where the review will be conducted. The administrator shall schedule the review within 30 business days after the request for review, unless the person requesting the review asks for an extension.

(4) REVIEW CONFERENCE. (a) If a review is granted, the person requesting the review and any other interested persons shall be provided an opportunity to meet with the administrator to present statements and documents regarding the petition for variance. The administrator may require the attendance of division staff familiar with the basis for the decision on the petition for variance to explain the decision, to comment on the testimony and documents presented by the person requesting review, and to answer questions from the person requesting review.

(b) The administrator may conduct the review conference personally or may designate one or more persons to review the division's decision on the petition for variance. If a designation is made, the person requesting review shall be notified prior to the review conference who will conduct the conference and who will make the decision following the review conference.

(c) At the request of the person requesting review, the administrator may issue subpoenas under s. 101.02 (5) (c), Stats., to compel the attendance and testimony of witnesses and the

production of documents. The administrator may refuse to issue a subpoena if the information to be provided by the witness or the documents identified in the subpoena will not contribute materially to an effective review of the decision on the petition for variance.

The admin may el. record
(d) At the discretion of the administrator, an electronic recording of the review conference may be made. No transcript shall be prepared by the administrator. A person requesting review may, at his or her own expense, provide a court reporter to transcribe the proceedings or any portion thereof.

(e) The person requesting review, department staff responsible for the decision on the petition for variance, and witnesses called by the person requesting review or department staff shall provide informal statements. There shall be no sworn testimony. The person requesting review and staff designated by the administrator may ask questions of any person making a statement in a review conference. The administrator ~~has the sole discretion to~~ limit questions and statements if the information being requested or provided does not contribute substantially to an understanding of the issues involved in the review. *may*

(5) DECISION OF THE ADMINISTRATOR. The administrator shall issue a written decision within 30 business days following the review conference that shall affirm, vacate, or modify the division's decision on the petition for review. The written decision shall inform the person requesting review of the right to appeal to the secretary under this section.

(6) HEARING BY THE SECRETARY. (a) Any person adversely affected by a decision on a petition for variance may request a hearing by the secretary whether or not that person has first requested a review by the administrator.

(b) The appeal to the secretary shall be in writing and shall indicate the nature of the person's interest in the petition for variance, the identity of all other known parties who may have an interest in the decision on the petition for variance, and a statement of the reasons why the person believes the division's decision on the petition for variance is incorrect. An appeal may be returned to the petitioner for additional information, however the date the appeal was first received by the secretary shall be the date used to determine the timeliness of the appeal.

(c) No hearing by the secretary may be held if the request for hearing is received more than 30 days after the date of the division's decision on the petition for variance or the date of the administrator's decision following a review conference, whichever is later. A request for hearing may be denied under the provision of s. 101.02 (6) (g), Stats. A denial of a hearing shall be in writing and shall contain the reasons for the denial and a statement of the person's appeal rights, if any. ?

(d) The hearing by the secretary shall be a contested case hearing. The hearing and decision issued after the hearing shall be governed by the provisions of ch. 227, Stats.

Note: Requests for a contested case hearing may be forwarded to the department of commerce legal counsel, P.O. Box 7970, Madison, WI 53707-7970.

SECTION 14. Comm 3.06 (7) to (10) are repealed.

SECTION 15. Comm 20 Subchapter VI is repealed and recreated to read:

SUBCHAPTER VI – APPROVAL OF PRODUCTS

Comm 20.18 Building product approvals. (1) **VOLUNTARY APPROVAL.** (a) Materials, equipment and products regulated by this code 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 this code.

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

(2) **ALTERNATE APPROVAL.** (a) Materials, equipment and products which meet the intent of this code and which are not approved under sub. (1) shall be permitted if approved in writing by the department. X

(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 this code.

2. Tests, compilation of data, and calculations for materials, equipment and products 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 this code.

(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.

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 installation shall be attached to the submitted plans and approved plans.

b. The letter under subpar. a. 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. the owner?

4. A person responsible for construction of the project shall be designated in writing by the owner.

5. The 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 authorized 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 conducted under subd. 1.

(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) If this code is revised to include or to enable an experimental system to conform to the intent of this code, the department shall waive the requirements as specified in pars. (e) and (f).
Pars (e) & (f) do not apply / too...

(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, a 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 this code.

(c) If the department determines that the material, equipment or product does not comply with this code or the intent of this code, 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 of a material, equipment or product for any false statements or misrepresentations of relevant facts or data, unacceptability of a third party providing information, or as a result of material, equipment or product failure.

2. The department may re-examine 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 this code or the intent of this code 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. Comm 2.

(5) **UNGRADED OR USED MATERIALS.** (a) Ungraded or used building materials may be used or reused as long as the material possesses the essential properties necessary to achieve the level of performance required by the code for the intended use.

(b) The department or the municipality enforcing this code may require tests in accordance with subs. (1) or (2).

SECTION 16. Comm 20.24 (1) to (14) are renumbered Comm 20.24 (4) to (17).

SECTION 17. Comm 20.24 (intro.) is repealed and recreated to read:

Comm 20.24 (1) **CONSENT.** Pursuant to s. 227.21 (2), Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of the standards listed in subs. (4) to (17).

SECTION 18. Comm 20.24 (2) and (3) are created to read:

Comm 20.24 (2) ADOPTION OF STANDARDS. The standards referenced in subs. (4) to (17) are incorporated by reference into this chapter.

Note: Copies of the adopted standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies of the standards may be purchased through the respective organizations listed in subs. (4) to (17).

(3) ALTERNATE STANDARDS. (a) Alternate standards that are equivalent to or more stringent than the standards incorporated by reference in this chapter may be used in lieu of incorporated standards when approved by the department or if written approval is issued by the department in accordance with par. (b).

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(b) 1. a. Upon receipt of a fee and a written request, the department may issue an approval for the use of the alternate standard.

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.

2. Determination of approval shall be based on an analysis of the alternate standard and the incorporated standard, prepared by a qualified independent third party or the organization that published the incorporated standard.

3. 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 this code.

4. If the department determines that the alternate standard is not equivalent to or more stringent than the standards incorporated by reference, the request for approval shall be denied in writing.

5. The department may revoke an approval for any false statements or misrepresentations of facts on which the approval was based. The department may re-examine an approved alternate standard and issue a revised approval at any time.

6. Fees for review of standards under this paragraph shall be submitted in accordance with ch. Comm 2.

SECTION 19. Comm 50.03 (5) and (6) are created to read:

Comm 50.03 (5) CONVERSION TO NONEXEMPT STATUS. A building previously exempt from this code under s. Comm 50.04 and that is being converted to a building which is not

exempt shall conform to the version of this code that was in effect when the building was constructed, except as provided in sub. (3).

(6) TEMPORARY USE. A city, village, town or county fire or building code official may allow a building to be used temporarily in a manner that differs from the approved use for the building, or may approve a temporary building to be used by the public, subject to 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 considered for temporary use shall conform to the structural strength, fire safety, means of egress, light, ventilation, and sanitary requirements of this code as necessary to ensure the public safety, health and general welfare.

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(c) The official may require additional safety requirements for a temporary use as a trade-off 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.

SECTION 20. Comm 50.04 (2) and (6) are amended to read:

Comm 50.04 (2) Buildings on a farm premises that are used exclusively principally for the farming purposes purpose of producing food and farm plants, provided any use of the building 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, "principally" means at least 90 percent of the use is for farming, and "substantially all" means at least 90 percent of the commodities were planted or produced on the farm premises.

note

(6) Buildings owned by or leased exclusively to the federal government. Buildings ~~owned by other than the federal government and leased only in part to the federal government~~ are not usually exempt unless the lease specifically provides for the long-term federal control of design and operating decisions. Buildings owned or controlled by other entities, such as the Postal Service or foreign governments, may also be exempt by operation of federal statutes or treaties. A nonfederal owner of a building that is exempt from this code under this subsection shall file a statement with the register of deeds which describes the exemption and describes the need for code compliance in the event the building is converted to a nonexempt use. The owner shall cause the statement to be 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. The owner shall submit a copy of the recorded document to the department or its authorized representative.

SECTION 21. Comm 50.04 (11) is renumbered Comm 50.04 (13).

SECTION 22. Comm 50.04 (11), (11) Note, (12), (14), (15), and Note are created to read:

Comm 50.04 (11) 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.

Note: The definitions in s. 48.02, Stats., limit foster homes to no more than 4 children unless all the children are siblings, limit treatment foster homes to no more than 4 children, and limit group homes to no more than 8 children. Where permitted by the department of health and family services, a group home or a child caring institution having a capacity for 8 or fewer children may be located in a one- and 2-family dwelling as a community living arrangement, as defined in s. 46.03 (22), Stats.

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

(14) A one-classroom school building operated by and for members of a bona fide religious denomination that has teachings and beliefs prohibiting use of products, devices, or designs which are needed to comply with this code.

(15) Any building or portion of a building that is exempted from this code by federal or state law.

Note: See s. Comm 50.03 (5) for the requirements that apply when an exempt building is converted to a nonexempt building.

SECTION 23. Comm 50.055 is created to read:

Comm 50.055 Historic buildings code. Qualified historic buildings for which the owner has elected to use ch. Comm 70 are not required to comply with any of the provisions of chs. Comm 50 to 64 that are addressed by ch. Comm 70.

Note: The owner of a qualified historic building may select which code will apply to the building. The options include (1) complying with ch. Comm 70 - Historic Buildings Code; (2) complying with chs. Comm 50 to 64 - Building and Heating, Ventilating and Air Conditioning Code; (3) complying with the Building and Heating, Ventilating and Air Conditioning Code that was in effect at the time of the last approved addition, alteration, or change in use, provided the building and use have remained unchanged since then; or (4) complying with chs. Comm 75 to 79 - Existing Buildings Code, provided the building was constructed prior to October 9, 1914, and continues to have the same use as on that date.

SECTION 24. Comm 50.06 (1) is renumbered Comm 50.06.

SECTION 25. Comm 50.06 (2) and Note are repealed.

SECTION 26. Comm 50.10 (2) and (3) are amended to read:

Comm 50.10 (2) NAME OF SUPERVISING ARCHITECT, ENGINEER OR DESIGNER. Prior to the start of construction, the owner of the building or structure, whose name must shall be a part of, or accompany, all plans submitted for approval, as required by Comm 50.12 or an authorized agent, shall designate in writing to the department, in writing, authority that issues plan approval the name and Wisconsin registration number of the architect, engineer or designer retained to supervise construction of the building or structure.

(3) 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 department 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 on a form prescribed by the department.

[NOTE TO REVISOR: Please change the applicable Notes after ss. Comm 50.10 (3), 50.12 (5) (intro.), and 50.18 (2) to all read as follows: "Note: The department forms required in this chapter are available from the Safety and Buildings Division at P.O. Box 7162, Madison, WI 53707, or at telephone 608/266-1818. Some of the department forms are also available from the Division's web site at www.commerce.state.wi.us/SB-Forms.html."]

SECTION 27. Comm 50.12 (1) (intro.), (a) (intro.) and 2., (b) to (f) (intro.), (g), and (h) are amended to read:

Comm 50.12 (1) (intro.) TYPES OF BUILDINGS. Plans Except as provided in sub. (1t), plans and specifications for all buildings and structures in the following classifications shall be submitted to the department or its authorized representative, as provided in s. Comm 50.21 or 50.22, for examination and be approved before commencing work:

(a) Factories, All buildings within the scope of ch. Comm 54, such as factories and office and mercantile buildings (ch. Comm 54), unless waived as follows:

2. Upon written request, the department may conduct an examination of preliminary mausoleum plans for compliance with the provisions of this code. Results of this examination will be in writing. A fee may be charged for this type of examination. Complete plans and specifications as specified in sub. (3) shall be submitted in accordance with sub. (5) prior to construction.

(b) ~~Theaters~~ All buildings within the scope of ch. Comm 55, such as theaters and assembly halls (ch. Comm 55).

(c) ~~Schools~~ All buildings within the scope of ch. Comm 56, such as schools and other places of instruction (ch. Comm 56).

(d) ~~Apartment~~ All buildings within the scope of ch. Comm 57, such as apartment buildings that exceed 60 feet in height or 6 stories, hotels, motels and other places of abode (ch. Comm 57).

(e) ~~Health~~ All buildings within the scope of ch. Comm 58, such as health care facilities and places of detention, (ch. Comm 58). Plans except that plans shall be submitted for double-celling in existing places of detention only where other alterations are being made that affect exiting, natural lighting, fire hazard or structural components. If the increased occupant load does not require physical alteration to the existing structure, plans are not required to be submitted.

(f) ~~Hazardous~~ All buildings having occupancies within the scope of ch. Comm 59, which are hazardous occupancies, (ch. Comm 59), unless waived as follows:

(g) ~~Day~~ All buildings within the scope of ch. Comm 60, which are child day care facilities (ch. Comm 60).

(h) ~~Community~~ All buildings within the scope of ch. Comm 61, which are community-based residential facilities (CBRF) (ch. Comm 61).

SECTION 28. Comm 50.12 (1) (i) (intro.) is created to read:

Comm 50.12 (1) (i) (intro.) All structures or buildings having occupancies within the scope of ch. Comm 62, which are specialty occupancies, unless waived as follows:

SECTION 29. Comm 50.12 (1) (i) 1. is amended to read:

Comm 50.12 (1) (i) 1. Except as provided in subd. 2., department plan examination and approval is waived for television and radio transmitting and receiving antennas, tents, outdoor theater screens, water tanks, display signs, observation towers, docks, piers, wharves, tents or inflatable structures used temporarily, and other similar structures assembly seating facilities that are 5 rows or less in height, greenhouses containing less than 25,000 cubic feet of total volume, and mini-storage buildings containing less than 25,000 cubic feet of total volume; however, these structures and ~~temporary tents~~ buildings shall comply with the applicable structural and other requirements of chs. Comm 50-64.

SECTION 30. Comm 50.12 (1) (i) 2. is repealed and recreated to read:

Comm 50.12 (1) (i) 2. Plan examination and approval is required for the installation of an assembly seating facility within a building. The plans shall consider loadings that include, but are not limited to, effects on structural components, class of construction, room capacity, exit width, and plumbing fixtures. For an assembly seating facility that is 5 rows or less in height, the plans need not include the structural details for the seating facility.

SECTION 31. Comm 50.12 (1m) and (1t) are created to read:

Comm 50.12 (1m) APPROVAL WAIVED. Department plan examination and approval is waived for water tanks, display signs, observation towers, docks, piers, wharves, and other similar structures and buildings; however, these structures and buildings shall comply with the applicable structural and other requirements of chs. Comm 50-64.

(1t) EXEMPTION THROUGH DESIGN AND SUPERVISION BY REGISTERED PROFESSIONALS. (a) Department plan examination and approval is waived for the following buildings or components thereof if the plans and specifications are designed by a registered individual in accordance with s. Comm 50.07 (2) or 50.08, and if the construction or installation of the building or components thereof is supervised by a registered individual in accordance with s. Comm 50.10:

1. Buildings containing 25,000 to less than 50,000 cubic feet total volume and occupied as a storage garage, greenhouse, mini-storage, or any other use under the scope of ch. Comm 54,

2. Buildings specified in sub. (1) (b) to (f)1., (g) and (h) that contain less than 25,000 cubic feet total volume.

(b) Where the exemption in par. (a) is elected, a notice shall be filed with the department or its authorized representative, that identifies the building location, the name and address of the building owner, and the name and Wisconsin registration number for the designer and supervising professional. A notice filed with the department under this paragraph shall include the fee specified in s. Comm 2.31 (1) (g).

SECTION 32. Comm 50.12 (2) (intro.) and (b) are amended to read:

Comm 50.12 (2) (intro.) TYPES OF PLAN APPROVAL. The Except as provided in sub. (3) (g), the following types of plans shall be submitted to the department or its authorized representative, as provided in s. Comm 50.21 and 50.22, for examination and approval be approved before construction is commenced:

(b) Structural plans and structural component plans.

SECTION 33. Comm 50.12 (2) (c) is repealed and recreated to read:

Comm 50.12 (2) (c) Heating and ventilating plans.

SECTION 34. Comm 50.12 (2) (d) Note and (k) are created to read:

Comm 50.12 (2) (d) Note: Replacing a major piece of heating, ventilating, or air conditioning equipment with an identical or closely similar piece of equipment is not considered to be an alteration.

(k) Fire prevention, detection and suppression systems as required by the department.

SECTION 35. Comm 50.12 (3) (intro.) is amended to read:

Comm 50.12 (3) (intro.) **PLANS AND SPECIFICATIONS.** ~~At~~ Except as provided in par. (g), at least 4 complete bound sets of plans, which are clear, legible and permanent copies, and one copy of specifications shall be submitted for examination and approval be approved before commencing construction. The plans shall be bound in a manner that enables them to be reviewed without removing the binding. The plans and specifications shall contain at least the following information:

SECTION 36. Comm 50.12 (3) (g) is created to read:

Comm 50.12 (3) (g) *Structural component plans.* 1. One set of plans for structural components, as specified in sub. (4) (a), shall be submitted for examination before commencing construction, and one set shall be kept at the building site during construction.

2. Structural component plans for buildings containing more than 50,000 cubic feet total volume, or for additions in which the volume of the addition results in the entire building containing more than 50,000 cubic feet total volume, shall comply with all of the following:

a. Each set of plans shall be signed and sealed in accordance with s. Comm 50.07 (2).

b. Plans that are signed and sealed by someone other than the building designer of record shall include a signed or initialed indication from the building designer that the component plans are compatible with the building plans.

SECTION 37. Comm 50.12 (4) (e) is renumbered Comm 50.12 (4) (f).

SECTION 38. Comm 50.12 (4) (e) is created to read:

Comm 50.12 (4) (e) *Data for multiple-tenant or -owner buildings, or for additions to existing buildings.* Submittals for individually owned or leased spaces within multiple-tenant or -

owner buildings, or for additions to existing buildings, shall either be complete enough to be reviewed independently from other records, or be filed with an office having a copy of such other records. These other records include but are not limited to the following:

1. A building shell plan.
2. An exiting plan showing all common exits and stairways.
3. A plan showing all fire division walls.
4. A plan showing the location and number of public drinking water and sanitary facilities.
5. A plan showing the location of individual spaces within the building.
6. All conditions of previous plan and variance approvals, either for the building shell or for other spaces within the building, that restrict or otherwise affect any construction aspects regulated by this code or ch. ILHR 69, for the individual spaces included in the submittal.

SECTION 39. Comm 50.12 (5) (intro.) and (a) are amended to read:

Comm 50.12 (5) (intro.) APPLICATION FOR APPROVAL. A ~~plans~~ plan approval application form shall be included with the plans submitted to the department for examination and approval. The department shall review and make a determination on an application for plan review within 15 business days of receipt of the application and all forms, fees, plans and documents required to complete the review as specified in s. Comm 2.07 (3).

(a) *Conditional approval.* If, upon examination, the department determines that the plans and the application for approval substantially conform to the provisions of this code, a conditional approval, in writing, will be granted. All non-code-complying conditions stated in the conditional approval shall be corrected before or during construction. ~~A conditional approval issued by the department shall not be construed as an assumption of any responsibility for the design or construction of the building.~~

SECTION 40. Comm 50.12 (5) (a) Note is created to read:

Comm 50.12 (5) (a) 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 required by a local unit of government.

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SECTION 41. Comm 50.12 (6) (a) 1. and 2. are amended to read:

Comm 50.12 (6) (a) 1. All revisions and modifications, which involve provisions of this code, and which are made to plans or specifications, ~~which~~ that have previously been granted

approval by the department or its authorized representative, shall be submitted ~~to the department~~ 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.

SECTION 42. Comm 50.13 (1) (intro.) and (2) are amended to read:

Comm 50.13 (1) (intro.) The department or its authorized representative, as provided in s. Comm 50.21 and 50.22, may conditionally approve footing and foundation plans to permit construction of footings and foundations prior to the examination and approval of the complete plans upon submission of:

(2) The department or its authorized representative shall review and make a determination on an application for footing and foundation approval within 15 business days of receipt of the application and all forms, fees, plans, and documents required to complete the review.

SECTION 43. Comm 50.14 (1) (intro.) and (c) are amended to read:

Comm 50.14 (1) (intro.) The department or its authorized representative, as provided in s. Comm 50.21 or 50.22, may issue a permission to start construction ~~form~~ for the footings and foundations upon submission of:

(c) A written request by the owner to start construction, ~~form SBD-198~~; and

SECTION 44. Comm 50.15 is amended to read:

Comm 50.15 **Evidence of plan approval.** The architect, engineer, designer, builder, manufacturer or owner shall keep at the building site one set of plans bearing the stamp of conditional approval and a copy of the specifications. The plans shall be open to inspection by ~~an~~ the department, its authorized representative of the department or the municipality.

SECTION 45. Comm 50.175 is amended to read:

Comm 50.175 Department limitation. A conditional approval of a plan by the department shall not be construed as an assumption of any responsibility for the design responsibility or construction of the building.

SECTION 46. Comm 50.19 is repealed and recreated to read:

Comm 50.19 Building product approvals. (1) VOLUNTARY APPROVAL. (a) Materials, equipment and products regulated by this code 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 this code.

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

(2) ALTERNATE APPROVAL. (a) Materials, equipment and products which meet the intent of this code 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 this code.

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 this code.

(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. Comm 50.12.

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 installation shall be attached to the submitted plans and approved plans.

b. The letter under subpar. a 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. Comm 50.10, 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) If this code is revised to include or to enable an experimental system to conform to the intent of this code, the department shall waive the requirements specified in pars. (e) and (f).

(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 this code.

(c) If the department determines that the material, equipment or product does not comply with this code or the intent of this code, 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 providing information, or as a result of material, equipment or product failure.

2. The department may re-examine 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 this code or the intent of this code 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. Comm 2.

SECTION 47. Comm 50.21 (1) is amended to read:

Comm 50.21 (1) GENERAL. This section ~~shall establish~~ establishes the manner under which cities, villages, towns and counties may examine building plans and inspect buildings relative to s. 101.12 (3) (a), (am), (b) and (g), Stats.

SECTION 48. Comm 50.21 (2) (f) and (g) are renumbered Comm 50.21 (2) (h) and (i).

SECTION 49. Comm 50.21 (2) (intro) and (a) to (e) are renumbered Comm 50.21 (2) (a) to (f) and Comm 50.21 (2) (a), (b), (d), and (f), as renumbered, are amended to read:

Comm 50.21 (2) (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 conditions: pars. (b) through (h). While certified, a municipality or county shall comply with pars. (f), (h) and (i).

(b) 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.

(d) Adopt by ordinance or regulation chs. Comm 50 to 64 in its their entirety.

SECTION 50. Comm 50.21 (2) (g) is created to read:

Comm 50.21 (2) (g) Receive from the department certification to perform plan examinations and building inspections.

SECTION 51. Comm 50.21 (2) (i) is amended to read:

Comm 50.21 (2) (i) 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.

SECTION 52. Comm 50.21 (2) (j) to (l) and Note are created to read:

Comm 50.21 (2) (j) Second class cities intending to perform the expanded plan examinations and inspections specified in sub. (5) (b) shall comply with pars. (b) to (i), 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 monthly report to the department of all projects completed under this subsection, in an electronic-based format prescribed by the department.

(k) 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. (b) through (i), 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.

(l) 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.

SECTION 53. Comm 50.21 (5) (b) to (g) are renumbered Comm 50.21 (5) (c) to (h).

SECTION 54. Comm 50.21 (5) (b) is created to read:

Comm 50.21 (5) (b) *Second class cities performing expanded plan examination.* Drawings, specifications and calculations for all the types of buildings and structures specified in s. Comm 50.12 (1), 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) (j). Second class cities performing these examinations are not subject to the plan examination limits specified in par. (c).

SECTION 55. Comm 50.21 (5) (c) and Note are repealed and recreated to read:

Comm 50.21 (5) (c) *Other municipalities and counties.* 1. Drawings, specifications and calculations for all the types of buildings and structures specified in s. Comm 50.12 (1), 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 construction specified in this paragraph.

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

3. 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.

4. An alteration of a space involving less than 100,000 cubic feet of total volume.

Note: The department will allow use of 5,000 and 10,000 square feet of total floor area in lieu of the thresholds of 50,000 and 100,000 cubic feet of total volume, respectively.

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SECTION 56. Comm 50.21 (5) (d) is renumbered Comm 50.21 (5) (d) 1. and amended to read:

Comm 50.21 (5) (d) 1. ~~An agent~~ 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.

SECTION 57. Comm 50.21 (5) (d) 2. is created to read:

Comm 50.21 (5) (d) 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.

SECTION 58. Comm 50.21 (5) (e) 1. is renumbered Comm 50.21 (5) (e) 1. a.

SECTION 59. Comm 50.21 (5) (e) 1. b. is created to read:

Comm 50.21 (5) (e) 1. 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. Comm 50.22 shall include the department's plan approval application form specified in s. Comm 50.12 (5), unless a municipally supplied form is submitted that includes the owner's, designer's and supervising professional's statements and signatures which are required on the department's form.

SECTION 60. Comm 50.21 (5) (e) 3. is renumbered Comm 50.21 (5) (e) 3. a. and amended to read:

Comm 50.21 (5) (e) 3. a. Building plans submitted to a municipality or county for examination shall include the information specified in subd. 3. b. and s. Comm 50.12 (3) and (4).

SECTION 61. Comm 50.21 (5) (e) 3. b. and 4. to 9. are created to read:

Comm 50.21 (5) (e) 3. b. Plans that are submitted to a municipality under par. (c) by use of the volumes specified in pars. (c) 2. to 4., rather than use of the floor areas listed in par. (c) Note, 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 this code 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. The submitter may choose whether the municipality or county or any of the department's offices is to review plans and specifications for an individual building in a multiple-building complex, 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. Comm 50.12 (4) (e) 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. Comm 50.12 (4) (f).

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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. Comm 50.06 that are in addition to or more stringent than chs. Comm 50 to 64, 70, and 75 to 79.

SECTION 62. Comm 50.21 (5) (f) 1. b. and c. and (6) (intro.) are amended to read:

Comm 50.21 (5) (f) 1. 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 and family services for health care facilities, and to the department of corrections for jails and places of detention.

(6) (intro.) INSPECTION. Inspections shall be conducted by ~~an agent~~ a certified municipality or county to ascertain whether or not the construction or installation for buildings and structures conforms to the conditionally approved plans, the notice of conditional approval and chs. Comm 50 to 64 as follows:

SECTION 63. Comm 50.21 (7) is renumbered Comm 50.21 (7) (a).

SECTION 64. Comm 50.21 (7) (b) is created to read:

Comm 50.21 (7) (b) A second class city that is certified to perform the expanded plan examinations specified in sub. (5) (b) shall submit to the department the fees specified in s. Comm 2.31 (1) (e) or (g).

SECTION 65. Comm 50.22 is created to read:

Comm 50.22 Appointed agents. (1) GENERAL. This section establishes the manner under which cities, villages, towns and counties may examine building plans and inspect buildings as appointed agents for the department relative to s. 101.02 (5) (b), Stats.

(2) CONDITIONS OF PARTICIPATION. (a) Before assuming any of the department's plan examination or building inspection responsibilities that are not listed in s. Comm 50.21 (5), a city, village, town or county shall comply with pars. (b) through (e). While appointed, a municipality or county shall comply with pars. (f) to (i).

(b) Submit a written request to the department, at least 30 days prior to the date upon which the municipality or county desires to assume agent responsibilities for plan examination or building inspection.

(c) Include in the request a description of the desired responsibilities, such as plan examination for buildings that are not within the municipality or county, or plan examination for building additions or alterations that are beyond the limits specified in s. Comm 50.21 (5) (c).

(d) Include in the request a description of the qualifications the municipality or county has for assuming the desired responsibilities.

(e) Receive from the department a written statement prescribing the responsibilities that are to be assumed.

(f) Apply the corresponding requirements in s. Comm 50.21 (5) (d) to (h) and (6).

(g) Collect the plan examination fees that the department would otherwise collect, as specified in s. Comm 2.31, and submit to the department the fees specified in s. Comm 2.31 (1) (f) or (g).

(h) Provide a monthly report to the department of all projects completed under this section, in an electronic-based format prescribed by the department.

(i) Notify the department, in writing, at least 30 days prior to the date upon which the municipality or county intends to relinquish the responsibilities assumed under this section.

(3) **REVOCAATION.** The department may revoke the agent appointment of 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.

SECTION 66. Comm 50.25 is repealed and recreated to read:

Comm 50.25 Petition for variance. The department shall consider and may grant a variance to a provision of this code in accordance with ch. Comm 3. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

Note: Chapter Comm 3 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 Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

Note: The department forms required in this chapter are available from the Safety and Buildings Division at P.O. Box 7162, Madison, WI 53707, or at telephone 608/266-1818. Some of the department forms are also available from the Division's web site at www.commerce.state.wi.us/SB-Forms.html.

SECTION 67. Comm 50.27 is created to read:

Comm 50.27 Appeals. (1) 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, as specified in ss., 101.02 (6) (e) to (i), Stats.

(2) Any person affected by a local order that is in conflict with a rule of the department may petition the department for a hearing on the local order, as specified in ss., 101.02 (6) (e) to (i) and (7) (b), Stats.

(3) 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.

SECTION 68. Comm 51.01 (1a) and (6m) are renumbered Comm 51.01 (1m) and (1g).

SECTION 69. Comm 51.01 (6m) is created to read:

Comm 51.01 (6m) "Authorized representative" means any certified municipality or county as specified in s. Comm 50.21, and any appointed agent as specified in s. Comm 50.22.

SECTION 70. Comm 51.01 (11a) and (11a) Note (intro.) are amended to read:

Comm 51.01 (11a) "Bed and breakfast establishment", has the meaning given in s. ~~246 (1)~~ 254.61, Stats.

(11a) Note (intro.): Section ~~246 (1)~~ 254.61, Stats., reads: "Bed and breakfast establishment" means any place of lodging that:

SECTION 71. Comm 51.01 (13m) and Note are created to read:

Comm 51.01 (13m) "Building, public" has the meaning given in s. 101.01 (12), Stats.

Note: Section 101.01 (12), Stats., reads: "Public building" means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer residents who are not related to the operator or administrator or an adult family home, as defined in s. 50.01 (1)

SECTION 72. Comm 51.01 (104a) and Note are repealed

SECTION 73. Comm 51.015 is amended to read:

Comm 51.015 Scope. This chapter covers minimum standards for common types of building designs being constructed. This chapter does not specifically include standards for uncommon building designs such as shells, domes, space frames, ~~inflatable~~ and similar types of designs. The standards contained in this chapter shall be used as a guide for uncommon building designs to achieve the degrees of safety intended by these standards.

SECTION 74. Comm 51.065 (1) (b) and (c) are repealed and recreated to read:

Comm 51.065 (1) (b) Light-transmitting plastic shall meet one of the following combustibility classifications:

1. Classification CC 1 for plastic materials that have a burning rate of one inch per minute or less when tested in a nominal 0.060-inch thickness or in the thickness intended for use, in accordance with ASTM D 635.

2. Classification CC 2 for plastic materials that have a burning rate of 2.5 inches per minute or less when tested in a nominal 0.060-inch thickness or in the thickness intended for use, in accordance with ASTM D 635.

(c) Each unit or package of light-transmitting plastic shall be identified with a mark or decal satisfactory to the department that includes identification as to the material classification.

SECTION 75. Comm 51.15 (4) is amended to read:

Comm 51.15 (4) A standard exit door shall not be less than 6 feet 4 inches high by 3 feet 0 inches wide, except where especially provided under occupancy classifications and in s. ~~ILHR~~ Comm 51.20. Where double doors are provided with or without mullions, the width of each single door may be reduced to 2 feet 6 inches, except double doors utilized to provide accessibility in accordance with s. ~~ILHR 52.04 ch. Comm 69~~ shall have the clear width of at least one single door increased to ~~2 feet 8~~ 32 inches.

SECTION 76. Comm 51.167 (1) Note is repealed

SECTION 77. Comm 51.25 (1) is amended to read:

Comm 51.25 (1) CONSENT. Pursuant to s. 227.21 (2), Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of the standards listed in sub. (4) (3).

SECTION 78. Comm 51.25 (1) Note is created to read:

Note: Copies of the adopted standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies of the standards may be purchased through the respective organizations listed in sub. (3).

SECTION 79. Comm 51.25 (2) is repealed.

SECTION 80. Comm 51.25 (3) is repealed and recreated to read:

Comm 51.25 (2) ALTERNATE STANDARDS. (a) Alternate standards that are equivalent to or more stringent than the standards incorporated by reference in this code may be used in lieu of incorporated standards when approved by the department or if written approval is issued by the department in accordance with par. (b).

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(b) 1. a. Upon receipt of a fee and a written request, the department may issue an approval for the use of the alternate standard.

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.

2. Determination of approval shall be based on an analysis of the alternate standard and the incorporated standard, prepared by a qualified independent third party or the organization that published the incorporated standard.

3. 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 this code.

4. If the department determines that the alternate standard is not equivalent to or more stringent than the standards incorporated by reference, the request for approval shall be denied in writing.

5. The department may revoke an approval for any false statements or misrepresentations of facts on which the approval was based. The department may re-examine an approved alternate standard and issue a revised approval at any time.

6. Fees for review of standards under this paragraph shall be submitted in accordance with ch. Comm 2.

SECTION 81. Comm 51.25 (4) is renumbered Comm 51.25 (3).

SECTION 82. Comm Table 51.25-17 Line 17 is created to read:

Comm Table 51.25-17 Line 17. 701-1996 Standard Methods of Fire Tests for Flame-Resistant Textiles and Films.

SECTION 83. Comm 52.02 (1) (b) is amended to read:

Comm 52.02 (1) (b) Windows shall not be required in storage rooms, factories, offices, mercantile facilities, educational facilities, or areas where the nature of occupancy will not permit windows, provided artificial lighting as specified in ch. ~~Ind 19~~ Comm 73 is provided.

SECTION 84. Comm 52.22 Note is amended to read:

Comm 52.22 Note: Public schools are required by s. 120.12 (5), Stats., to have annual building maintenance schedules, and are required by s. 121.02 (1) (i), Stats., to be safe and healthful. ~~The inspections conducted by the department under s. Comm 56.21 include a review of these maintenance schedules.~~

SECTION 85. Comm 52.60 (3) (a) is amended to read:

Comm 52.60 (3) (a) *Lavatories*. Except as provided in sub. (6), lavatories shall be of an approved type and shall be provided with hot and cold running water. ~~The faucets of such lavatories shall be of a type which limits the flow of water through the faucet, after the handle is released, to not more than one gallon.~~ Lavatories in toilet rooms of private living units shall be equipped to limit the flow of water to not more than 3 gallons per minute. The lavatories may be equipped with a hot and cold regulating device. If a multiple-use lavatory is installed, 24 lineal inches of wash sink or 20 inches measured along the edge of a circular basin will be considered equivalent to one lavatory. At least one lavatory shall be provided either in each toilet room or in a sex-designated lounge adjacent to the toilet room.

SECTION 86. Comm 54.05 (1) (intro.) is amended to read:

Comm 54.05 (1) (intro.) In calculating the aggregate width of exits, the capacity of ~~the buildings~~ a building shall be established as follows:

SECTION 87. Comm 54.05 (4) is created to read:

Comm 54.05 (4) For determining the number of sanitary fixtures required in all uses covered by this chapter, the number of occupants determined in accordance with subs. (1), (2), or

(3) shall be used, unless a different number of occupants is approved by the department or its authorized representative.

SECTION 88. Comm 54.12 (1) (a) is amended to read:

Comm 54.12 (1) (a) The toilet rooms shall be available for all occupants and employees during all hours of operation, except as provided in subs. (2) (b) 4. and (f) 2. b., and shall be located as specified in sub. (2) (b) 2.

SECTION 89. Comm 54.12 (1) (c) Note is created to read:

Comm 54.12 (1) (c) Note: Chapter Comm 90 also has requirements for minimum numbers of sanitary fixtures for a public swimming pool, ~~as~~ based on the pool area. For some buildings, the minimum number of sanitary fixtures determined in that manner may be larger than the minimum number determined in accordance with this paragraph. Compliance with this paragraph does not relieve an owner from complying with ch. Comm 90.

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SECTION 90. Comm Table 54.12-A and Footnotes 1 and 2 are amended to read:

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55.324

Table 54.12-A
NUMBER OF SANITARY FIXTURES REQUIRED FOR
PATRONS/OCCUPANTS FOR PUBLIC BUILDINGS
(Partial Table, column headings are provided for reference only)

Number of Patrons/Occupants of Each Sex	(WC) Males (M)	(WC) Females (F)	(U) Urinals	Drinking Facilities (DF)	Lavatories (L)
Over 600	One (WC) for each additional 600 (M) or 275 (F) or fraction		One (U) for each additional 500 (M) or fraction	One additional (DF) for each additional 3000 occupants or fraction	
<u>1-50</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>1</u>	<u>1</u>

¹Showers shall be ~~required only in~~ provided for public swimming pool facilities as required by ch. Comm 90, and for occupants exposed to occupational hazards such as poisonous, infectious or irritating materials.

²The determination of the number of each sex shall be based on an equal number of each sex unless other information is made available to the department and accepted. Where a single toilet room designated as UNISEX is provided, it shall be considered as accommodating no more than 10 employees ~~and~~ or 25 patrons/occupants. In determining the number of sanitary fixtures, including showers, employees shall be counted as patrons.

SECTION 91. Comm Table 54.12-B Notes (2) and (3) are amended to read:

Comm Table 54.12-B Note: As illustrated in the following two examples, fixtures must be provided based on the greater number that is determined by comparing occupants and employees against both Tables 54.12-A and 54.12-B. When referring to Table 54.12-A, employees are considered occupants. Examples:

Example 1: Mercantile building with 300 patrons and 50 employees = 350 total occupants; equally divided between the sexes = 175 males, 175 females. From Table 54.12-A, 101-200 occupants of each sex: males require one water closet, one urinal, one lavatory; females require 2 water closets, one lavatory. Check for compliance with Table 54.12-B for employees: 50 employees, equally divided between sexes = 25 males, 25 females; 16-35 employees of each sex, males require one water closet, one urinal, one lavatory; females require 2 water closets, one lavatory. Therefore, the number of fixtures required by Table 54.12-A also satisfies the requirements of Table 54.12-B for employees and governs.

Example 2: Office building with 300 employees and 50 patrons = 350 total occupants; equally divided between sexes = 175 males, 175 females. From Table 54.12-A, 101-200 occupants of each sex: males require one water closet, one urinal, one lavatory; females require 2 water closets, one lavatory. Check for compliance with Table 54.12-B for employees: 300 employees, equally divided between sexes = 150 males, 150 females; 111-150 employees for each sex, males require 4 water closets, 2 urinals, 3 lavatories; females require 6 water closets, 3 lavatories. Therefore, the number of fixtures required by Table 54.12-B for employees is more restrictive and governs.

Note: See also rules of the department of health and family services for sanitary fixtures for ~~public swimming places~~, mobile home parks, camping grounds, camping resorts, recreational camps and educational camps.

SECTION 92. Comm 54.12 (2) (b) 4. is created to read:

Comm 54.12 (2) (b) 4. Toilet facilities may be omitted in a small retail or mercantile building where all of the following requirements are met:

- a. No more than 25 occupants are accommodated.
- b. Other restrooms are conveniently located and available to the patrons and employees during all hours of operation.
- c. The omission is approved in writing by the local unit of government.

d. A copy of the written approval from the local unit of government is provided to the Department or its authorized representative upon request.

SECTION 93. Comm 54.12 (2) (f) 2. is renumbered Comm 54.12 (2) (f) 2. a.

SECTION 94. Comm 54.12 (2) (f) 2. b. is created to read:

Comm 54.12 (2) (f) 2. b. A self-service filling station that has a key- or card-operated fuel dispensing device which can be used while the station is unattended by an employe is not required to have toilet rooms available during the unattended periods.

SECTION 95. Comm 55.32 (2) Note is created to read:

Comm 55.32 (2) Note: Chapter Comm 90 also has requirements for minimum numbers of sanitary fixtures for a public swimming pool, as based on the pool area. For some buildings, the minimum number of sanitary fixtures determined in that manner may be larger than the minimum number determined in accordance with this subsection. Compliance with this subsection does not relieve an owner from complying with ch. Comm 90.

SECTION 96. Comm Table 55.32 is amended to read:

Table 55.32
NUMBER OF FIXTURES REQUIRED FOR
PATRONS/OCCUPANTS IN PLACES OF ASSEMBLY
(Partial Table, column headings are provided for reference only)

Number of Patrons/Occupants of Each Sex	(WC) Males (M)	(WC) Females (F)	(U) Urinals	Drinking Facilities (DF)	Lavatories (L)
Taverns and Restaurants¹					
One (WC) for each 75 (M) or fraction; one (WC) or for each 30 (F) or fraction			One (U) ² for each 50 (M) or fraction	0	
Swimming Pools⁴					
1-100	1	2	1	One (DF) for each 150 occupants or fraction up to 600; one additional (DF) for each additional 3000 occupants or fraction	1
101-200	1	3	2		2
201-400	2	4	2		2
401-700	2	4	3		3
700+	3	5	3		3

SECTION 97. Comm Table 55.32 Footnote 4 is created to read:

Comm Table 55.32 ⁴Showers shall be provided for public swimming pool facilities as required by ch. Comm 90.

SECTION 98. Comm Table 55.32 Note (2) is amended to read:

Comm 55.32 Note: See also rules of the department of health and family services for sanitary fixtures for ~~public swimming places~~, mobile home parks, camping grounds, camping resorts, recreational camps and educational camps.

SECTION 99. Comm Table 55.32 Note (5) is created to read:

Comm 55.32 Note: For a multi-use building, as illustrated in the following example, fixtures must be provided as required for each of the differing uses represented in Table 55.32 and in the rules of other agencies. The requirements in other codes pertaining to sanitary facilities must be considered when determining fixture counts and the proximity of toilet rooms to users. When referring to the upper portion of Table 55.32, the total number of occupants/patrons of each sex in various restaurant, tavern, or pool areas of a building must be used in determining the total number of fixtures for the building.

Example: A multi-use recreation center located at a resort has 6 exercise rooms, each with a capacity of 50 patrons; 5 racquetball courts, each with a capacity of 2 persons; an aquatic area having several pools and play areas, with a combined capacity of 200 persons; and a small restaurant with a capacity of 100 persons. There are 50 employees in the building. Two sets of toilet rooms are proposed – one immediately adjacent to the restaurant to satisfy the licensing rules of another agency, and the second centrally located between the exercise rooms, racquetball courts, and aquatic area. To determine the fixtures that are required in these toilet rooms, the designer proceeds to Table 55.32. The restaurant capacity of 100 persons, when equally divided between the sexes, is 50 males and 50 females. From the part of the table applying to restaurants and males, 50 males divided by 75 = 1 water closet male, 50 males divided by 50 = 1 urinal, and 2 total fixtures divided by 2 = 1 lavatory male. For the females, 50 divided by 30 = 2 water closets female, and 2 total fixtures divided by 2 = 1 lavatory female. The aquatic area is then compared to the part of the table applying to swimming pools. For the capacity of 200 persons, using 100 patrons of each sex, males must have 1 water closet, 1 urinal, and 1 lavatory; and females must have 2 water closets and 1 lavatory. The fixtures provided in the toilet rooms for the restaurant and the aquatic area then provide the building with the following total number of fixtures. Male water closets = 1 (restaurant) + 1 (aquatic area) = 2 water closets male. Urinals = 1 (restaurant) + 1 (aquatic area) = 2 urinals. Male lavatories = 1 (restaurant) + 1 (aquatic area) = 2 lavatories male. Female water closets = 2 (restaurant) + 2 (aquatic area) = 4 water closets female. Female lavatories = 1 (restaurant) + 1 (aquatic area) = 2 lavatories female. The designer must now determine if the entire building has adequate fixtures. The total building capacity of 610 persons, when equally divided between the sexes, is 305 males and 305 females. From the upper part of Table 55.32, for 301-350 occupants of each sex, males must have 2 water closets, 2 urinals, and 2 lavatories. Therefore, the total number of fixtures initially determined for males is adequate. But,

since females must have 5 water closets and 3 lavatories, the total number of fixtures initially determined for females is inadequate. An additional water closet and lavatory are needed for the females, and for ease of use, the designer chooses to locate the additional fixtures in the women's room that is by the exercise rooms and aquatic area. In a final check for compliance with Table 54.12-B for employees, 50 employees equally divided between sexes is 25 males and 25 females. In that table's row for 16-35 employees of each sex, males must have 1 water closet, 1 urinal, and 1 lavatory; and females must have 2 water closets and 1 lavatory. Therefore, the number of fixtures provided to satisfy Table 55.32 also satisfies the requirements of Table 54.12-B for employees.

SECTION 100. Comm 56.21 is repealed.

SECTION 101. Comm 56 Subchapter IV is repealed.

SECTION 102. Comm 57.001 (1) (intro.) is amended to read:

Comm 57.001 (1) (intro.) GENERAL. Except as provided in sub. (2) and s. Comm 50.04, this subchapter applies to all places of abode, including, but not limited to:

SECTION 103. Comm 57.001 (1) (k) is created to read:

Comm 57.001 (1) (k) Any alterations or additions to an apartment building, rowhouse, town house, condominium, or manufactured building as defined in s. 101.71 (6), that was approved under this code prior to the implementation of ch. Comm 66 in 1995.

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SECTION 104. Comm 57.001 (2) (a), (c), (i), and (j) are repealed.

SECTION 105. Comm 57.001 (2) (b) to (h) are renumbered Comm 57.001 (2) (a) to (f).

SECTION 106. Comm 57.001 (2) Note is amended to read:

Comm 57.001 (2) Note: See ch. ~~ILHR~~ DWD 301, for requirements regarding migrant labor camps.

SECTION 107. Comm 57.07 (2) is repealed and recreated to read:

Comm 57.07 (2) INTERIOR STAIRS. Interior stairs shall be as specified in s. Comm 51.16, except those used by up to 25 people shall have a width of at least 3 feet.

? constructed placed