

# ☞ 07hr\_CRule\_06-120\_AC-Ho\_pt01



Details:

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Housing (AC-Ho)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                      (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (Aug/2010)



#### Appearances Against

- Brad Boycks, Madison — Wisconsin Builders Association
- Lori Lubinsky, Madison — Wisconsin Builders Association
- Leon Church, Appleton
- Mike Twohig, Waterloo — Madison Area Builders- Twohig Construction
- Michael Coello, Waukesha — Coello & Association, Inc.
- Don Esposito, Madison — MABA/WBA
- Paul Kosmoski, Green Bay — Kos Management
- Mary Schrososh, Brookfield
- Jim Reif, Two Rivers — Jim Reif Builders
- Patricia Stone, Waukesha — Metro Builders Association of Greater Milwaukee
- Terry Larson, East Troy
- Bill Berndt, River Falls

#### Appearances for Information Only

- Sheryl Albers, Madison — Representative, 50th Assembly District
- John Eagon, Oregon — Wisconsin Builders Association

#### Registrations For

- Chris Schoenbeck, Richfield
- Corey Gau, West Bend
- Gordon Jepsen, Franklin — Franklin Fire Department
- James Martins, Franklin — Franklin Fire Department
- Brian Glassel, Milwaukee — Milwaukee Fire Department
- Bob Lideu, Waubeka — Waubeka Fire Department
- Donald Truebenbach, Fredonia — Waubeka Fire Department
- Joe Strohl, Madison — Professional Fire Fighters
- Martin King, West Allis — West Allis Fire Department
- James Schmidt, Marshfield — Marshfield Fire Department
- Brent Ellis, Columbus — Columbus Fire/Resue
- Fred Dartt, Columbus — Columbus Fire/Rescue
- Thomas Clark, Baraboo — Baraboo Fire Department
- Patrick Weber, Eagle River — Eagle River Area Fire Department
- Annfry Blank, Juneau — Hartford Fire & Rescue
- Harlan Hettrick, McFarland — McFarland Fire Department
- Elroy Scheer, Grafton — Grafton Fire Department
- Jay Salvo, Madison — Blooming Grove Fire Department
- Joe Gruer, Donsmen — Wisconsin State Fire Chiefs
- Russ Stern, Madison — JF Ahern

- Mark Barnes , Stevens Point — Stevens Point Fire Department
- Doug Holton , Milwaukee — City of Milwaukee Fire Department

Registrations Against

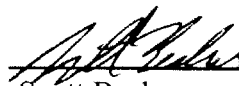
- Tom Larson , Madison — Wisconsin Realtors Association
- Rene Gagner , Mt. Horeb — WBA
- Kent Disch , Sun Prairie — Madison Area Builders Association
- Adam Delikowski — Valley Home Builders Association
- Gregory Wells , Green Bay — Lexington Homes Inc.
- David Johnson , Valders — Manitowoc Co. Home Builders
- Bill Wendle , Madison — Wisconsin Builders Association
- Kate Blavat , Madison — Wisconsin Builders Association
- Bryan Brooks , Madison — Wisconsin Builders Association
- Christine Schwanke , Appleton — Valley Homebuilders Association
- Jason Franzen , Cross Plains — MABA
- Greg Lukas , Madison — MABA
- Monique Olson , Stoughton — MABA
- Pat Schafer , Madison — MABA
- Keith Holmes — MABA
- Steve Anderson — MABA
- Vic Pulvermacher, Waunakee
- David Borski — MABA
- Pat Baldwin , Cottage Grove — Madison Area Builders Association
- Mike Vilstreup , Cross Plains — Timberlane Builders LLC
- Peter Stebbins — MABA
- Kevin Dittmar , Milwaukee
- Chad Woebben , Sun Prairie
- Tim Semmann , Madison — Wisconsin Builders Association
- Heather Robinson , Waunakee — Central States Inc.

Moved by Representative Young, seconded by Representative Roth that **Clearinghouse Rule 06-120** be recommended for objection.

Ayes: (5) Representatives Wieckert, Roth, Townsend, Honadel and Young.

Noes: (2) Representatives Hebl and A. Williams.

OBJECTION RECOMMENDED, Ayes 5, Noes 2

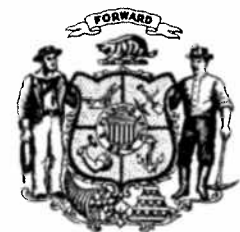


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Scott Becher  
Committee Clerk



# WISCONSIN STATE LEGISLATURE



## Vote Record Committee on Housing

Date: 8/21/07

Moved by: YOUNG

Seconded by: ROTH

AB \_\_\_\_\_

SB \_\_\_\_\_

Clearinghouse Rule 06-120

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

Committee Member

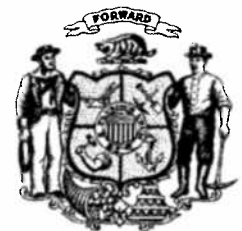
	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Representative Steve Wieckert, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Roger Roth</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative John Townsend</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Mark Honadel</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Gary Hebl</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Leon Young</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Annette Polly Williams</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>5</u>	<u>2</u>	_____	_____

Motion Carried

Motion Failed



# WISCONSIN STATE LEGISLATURE





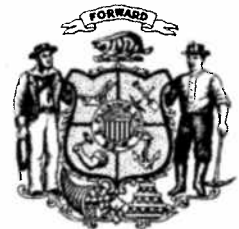
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SPRINKLER RULE

CRule  
06-120



# WISCONSIN STATE LEGISLATURE



December 21, 2006

Wisconsin Department of Commerce

Re: Building Sprinkler Code

CRule  
06-120  
?

As a developer of many 3-unit and 4-unit condominium buildings around the State of Wisconsin, our company would like to comment on the severity of this code change. Although we are very concerned about our owner's safety, we are also concerned that if this code is changed, it will make it very difficult for developers and builders to build affordable housing in the state of Wisconsin.

In addition to 2-hour fire walls and hard-wired fire alarms in all of our units, some of our buildings have been equipped with sprinkler systems. The cost to install these systems in a 3-unit or 4-unit building has ranged from \$14,000 per building up to almost \$50,000 depending on location. It is especially expensive in more rural areas where there is no local contractor and we need to install a high-capacity well or pump. This increased cost has a great effect on the affordability of the condominium housing we build. This is especially true in areas where we are building condominiums for empty-nesters or the elderly who are on a fixed income. In more rural areas where the average home price is under \$100,000, and there is not a lot of new development in the area, its difficult for developers to even compete when costs alone for a base condominium unit is over \$100,000. More and more people, especially empty-nesters and the elderly want to live in an apartment or condominium because they don't want to worry about the outside maintenance on a house. However, by making units less affordable by requiring this expensive code change, these units will be priced out of our typical buyer's price range.

In addition, there is a cost to the unit owners to maintain the system once it is built. As a developer we are required to manage the condominium association until 75% of the units are sold. However, I have had several of our buyers tell us that once we no longer manage the system, and the authority and control moves into their hands, they would like to cancel the system. The cost to maintain the system ends up being a significant portion of their condominium budget, and they do not want to pay for these costs. In one example, a two building, 10-unit condominium association averages \$720 a month in association dues, but pays \$120 a month in telephone lines to monitor a system. In another development that we currently control, besides the average telephone lines, 2 per building, that we must maintain to monitor the fire sprinkler system, this particular community requires us to hire a outside fire monitoring system to manage the development. In the past two years, this has cost the association, 22 units, \$2,106.84 in fire monitoring costs and \$3,297.75 in telephone fees for this system.

Again, as a company we want to look out the best for the safety of our buyers. However, we feel there are much better ways to promote fire safety rather then requiring a costly monitoring system. In the end the average homeowner loses because they can not afford to by new housing due to the high costs.

Respectfully submitted,

Heather Robinson  
Director of Sales & Marketing  
Central States Inc.

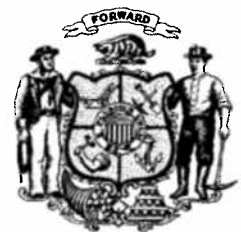
BRANCH OFFICE:

21135 HIGHWAY 151  
VALDERS, WI 54245

PH: 920-775-3861  
FAX: 920-775-3864



# WISCONSIN STATE LEGISLATURE





P. O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD #: (608) 264-8777  
Jim Doyle, Governor  
Mary P. Burke, Secretary

May 2, 2007

Honorable Representative Steve Wieckert  
P.O. Box 8953  
Madison, Wisconsin 53708-8953

Dear Representative Wieckert:

Thank you for letter inquiring about the Department's proposed changes to the Wisconsin Commercial Building Code and specifically regarding fire sprinkler protection for residential buildings.

The Department is in the process of updating the Wisconsin Commercial Building Code, chapters Comm 60 to 65. The Legislative Clearinghouse number assigned to the proposal is CR 06-120. Currently, the building code references and adopts the 2000 edition of the International Building Code (IBC), a national model code developed by the International Code Council. The Department is proposing to update the Wisconsin Commercial Building Code by referencing and adopting the 2006 edition of the IBC. The International Building Code has required automatic fire sprinkler systems in all residential occupancies since 2002.

The Department believes that sufficient statutory authority has been granted to promulgate rules regarding sprinkler protection under several statutory citations including ss. 101.02 (1), 101.02(15)(j), and 101.14(4)(a) and (c), Stats. The Department's chief legal counsel has reviewed the matter and has provided his conclusions regarding statutory authority. A copy of his review is attached.

If you have further questions regarding this matter or other issues concerning the Wisconsin Commercial Building Code, we would be happy to meet with you at your convenience. Please contact Greg Jones, Administrator, Safety and Buildings Division at 266-1816 to facilitate a meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "M. P. Burke". The signature is written in a cursive style.

Mary P. Burke  
SECRETARY

Att: March 27, 2006 Thomas Memo re: Proposed Rule Modification to Chapters Comm 61-66

pc: Greg Jones  
Bob DuPont

**MEMORANDUM**

**DATE:** March 27, 2006

**TO:** Robert DuPont  
Bureau Director

**FROM:** Joseph R. Thomas  
Chief Legal Counsel

**SUBJECT:** Proposed Rule Modification to Chapters Comm. 61-66

You have requested a legal opinion in response to the opinion rendered in the memorandum dated December 5, 2005, from Chad R. Taylor, Esquire, of the law firm of Michael, Best & Friedrich, LLP, addressed to Jerry Deschane, Deputy Executive Vice President, Wisconsin Builders Association.

The issue presented, and that which will be addressed herein, is whether the Department may promulgate and/or amend an administrative rule that requires automated fire sprinkler systems to be installed in all multifamily buildings regardless of floor area square footage or number of units.

**SHORT ANSWER**

Yes. Not only does Wisconsin Law authorize the Department to promulgate administrative rules for the purposes of implementing state statutes under its purview, it also charges the Department with the responsibility to "...ascertain, fix, and order such reasonable standards or rules for the construction, repair and maintenance of places of employment and public buildings, as shall make them safe."

**APPLICABLE SECTIONS OF WISCONSIN STATUTES**

§ 101.02(1), Wis. Stats., reads as follows:

(1) The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and regulate the mode and manner of all investigative hearings.

§ 101.02(15)(j), Wis. Stats, provides that:

(j) The department shall ascertain, fix, and order such reasonable standards or rules for the construction, repair and maintenance of places of employment and public buildings, as shall make them safe." (Emphasis added).

§ 101.14(4)(a), Wis. Stats states that:

The department shall make rules, pursuant to ch. 227, requiring owners of places of employment and public buildings to install such fire detection, prevention or suppression devices as will protect the health, welfare and safety of all employers, employees and frequenters of places of employment and public buildings. (Emphasis added).

§ 101.14(4)(c), Wis. Stats., states that:

(c) The rules of the department governing such places and buildings under 60 feet in height shall be based upon but may vary from those provisions in the Building Officials and Code Administrators International, Inc. building code which relate to fire detection, prevention and suppression in public buildings and places of employment.

**[NOTE: The following statute is the only statute discussed by Mr. Taylor, but is by no means the only authorizing statute granting the department authority to promulgate rules for the construction or inspection of multifamily dwellings.]**

§ 101.14(4m)(b), Wis. Stats., provides that:

(b) The department shall require an automatic sprinkler system or a 2-hour fire resistance in every multifamily dwelling that contains any of the following:

- (1) Total floor area, for all individual dwelling units, exceeding 16,000 square feet.
- (2) More than 20 dwelling units.

§ 101.973(1), Wis. Stats, provides that;

**Departmental Duties.** The department shall:

- (1) Promulgate rules that establish standards for the construction of multifamily dwellings and their components.

### ANALYSIS

While Mr. Taylor has gone to great lengths to explain what authority the department lacks to promulgate the proposed changes to § Comm. 61-66, it is my opinion that the department should focus on the very broad authority granted by the legislature to promulgate rules to "...protect the, health, welfare and safety of all employers, employees and frequenters of places of employment and public buildings."

§101.(14)(4)(a), Wis. Stats. Under §101.01(12), Wis. Stats., "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 ...lodging, or use by the public or three or more tenants."

The essence of Mr. Taylor's argument is that "The Department is prohibited from adopting an administrative rule requiring fire sprinkler systems in all multifamily buildings since the State Legislature in the underlying legislation neither expressly nor impliedly authorized such action." (Taylor Short Answer p. 1).

Since it is clear and unambiguous on its face, I agree with Mr. Taylor that §101.02(14)(4m)(b) establishes the criteria for requiring an automatic fire sprinkler system or a 2-hour fire resistance in every multifamily dwelling where: (1) Total floor area, for all individual dwelling units, exceeds 16,000 square feet and (2) there are more than 20 dwelling units. However, I do not agree with his statement that "As eventually agreed to by the state legislature and as expressed in the statutory language, buildings with 20 units or more or greater than 16,000 square feet in size would need fire sprinkler systems or two-hour fire walls, while those with fewer than 20 units or less than 16,000 square feet in size would not." (Emphasis added). [Taylor Facts p. 2].

Mr. Taylor has stated as that the "intended effect of the rule would be to require fire sprinkler systems in all multifamily buildings except townhouses of three stories or less." (Taylor Analysis p. 2). While it is true that the ultimate effect of the rule change would be to require fire sprinkler systems in all multifamily buildings except townhouses of three stories or less, the purpose of the rule change is for the department to comply with its responsibility as charged in §101.02(15)(j) and §101.14(4)(a) and, Wis. Stats., to §101.14(4)(c).

Mr. Taylor has interpreted, or rendered his opinion, as if the legislature's enactment of §101.14(4m)(b), Wis. Stats., was the only statute enacted authorizing the department to require the installation of automatic sprinkler systems. I agree with his statement that "The precise language in Wis. Stats. § 101.14(4m)(b) is deliberate, clear and unambiguous...", but only to the matters contained therein. That statute sets the criteria for the installation of automatic sprinkler systems in multifamily dwellings where: (1) Total floor area, for all individual dwelling units exceeds 16,000 square feet and (2) there are more than 20 dwelling units. However, that statute is silent on the issue of what rules the department may promulgate for multifamily dwellings that are smaller in total square footage or unit size. It does not state expressly, or otherwise, that the department is prohibited from extending the requirement of the installation of automatic sprinkler systems to other multifamily dwellings that are smaller in total square footage or unit size.

Notwithstanding Mr. Taylor's opinion that the legislature did not authorize the department to promulgate rules for the requirement to install automatic sprinkler systems in all multifamily dwelling outside of the purview of §101.14(4m)(b), Wis. Stats., the legislature has granted the department broad authority to promulgate rules relating to the construction, safety and inspection of dwellings.

Under §101.02(6)(a)&(b), Wis. Stats., entitled "**Powers, duties and jurisdiction of department**":

(6) (a) All orders of the department in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to ch. 227 or until altered or revoked by the department. (Emphasis added).

(b) All general orders shall take effect as provided in s. 227.22. Special orders shall take effect as therein ordered.

Under §101.01(9), Wis. Stats., the term "Order" means any decision, rule, regulation, direction, requirement or standard of the department, or any determination arrived at or decision made by the department. (Emphasis added).

The department has exercised its broad authority under 101.02(15)(j) to promulgate a number of rules that in content have not exactly matched the specific statutory directions. (See attached list). However, pursuant to §101.02(6)(a), those rules are presumed to be "...in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable



and lawful...”, since none have been “...found otherwise upon judicial review thereof pursuant to ch. 227 or until altered or revoked by the department. (Emphasis added).

Among those rules, the current Comm 62.0001 adopts Section 503 of the IBC that regulates automatic sprinkler systems to address construction features, including construction types and height limitations, regardless of aggregate area or number of dwelling units. The underlying authorization was § 101.02(15)(j) and 101.14(a) & (c), Wis. Stats.

The final confirmation that the department is vested with the aforementioned authority to promulgate the proposed rule in question is manifested in the extraordinary system of checks and balances the legislature has put in place to guarantee that the department does not exceed that authority.

Under § 101.02(6)(e), Wis. Stats., “Any employer or any other person interested either because of ownership in or occupation, of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the department in the manner provided in this subchapter.”

§.101.02(10), Wis. Stats., provides that “Orders of the department under this subchapter shall be subject to review in the manner provided in ch. 227.”

In his memorandum opinion, Mr. Taylor correctly quotes Wis. Stat. 227.10(2) by stating that “No agency may promulgate a rule which conflicts with state law.” and Wis. Stat. 227.11(2)(a), which that states:

“Each agency may promulgate rules interpreting the provision of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if it exceeds the bounds of correct interpretation. (Emphasis added).

He also cited several cases in which various rules of certain agencies were challenged as having exceeded the underlying authorizing statutes. Most noteworthy of those cited cases was that of *Mallo v. Department of Revenue*, 253 Wis. 12d 391, 645 N. W. 2d 853. In *Mallo*, the court held that an “Administrative agency may not issue a rule that is not expressly or impliedly authorize by the legislature.” The above-referenced statutes either expressly, or by implication, grant the department the authority to promulgate rules to effectuate the purpose of the statutes. The court in *Mallo* also held that “It is not necessary for an enabling statute to spell out every detail of a rule in order to expressly authorize it; accordingly, whether the exact words used in an administrative rule appear in the statute is not the question.” As stated previously, the department has promulgated several rules in which the language in the rule has not exactly matched the specific statutory directions or the exact language of the statutes.

Finally, the department faced a similar challenge to its authority to promulgate a rule in the case of *League of Wisconsin Municipalities, et al. v. Wisconsin Department of Commerce*, No. 01-1035, dated May 2, 2002 (Ct. of App. Dist. IV). Ironically, the Wisconsin Builders Association intervened as a party defendant in that matter. In this case, the plaintiffs brought an action to obtain a declaratory judgment invalidating Wis. Admin. Code §Comm 83. The department comprehensively revised ch. Comm 83, which regulates “private onsite wastewater treatment systems,” effective July 1, 2000. Under § 227.40(4), “the court shall declare the rule invalid if it finds it violates constitutional provisions or exceeds the statutory authority of the agency or was promulgated without compliance with statutory rule-making procedures.” The court held that it was not persuaded by the plaintiff’s argument that “...the department somehow exceeded its authority in promulgating Wis. Admin. Code § Comm 83.” The court went on the say that “We agree with the department that its general authority to grant exceptions or variances from its rules and regulations derives from Wis. Stats. §101.02(60)(e)-(h). See, e.g., §101.02(6)(h) (“[I]f it shall be found that the order complained of is unjust or unreasonable the department shall substitute thereof such other order as shall be just and reasonable.” §101.01(9) (“Orders’ means any decision, rule, [or]

regulation...of the department.') Further indication that the department's general authority to grant variance extends to provisions of the plumbing code are found in Wis. Stat. §§145.02(2) and 145.13. The former statute directs the department to establish and enforce plumbing standards 'which shall be uniform and of statewide concern so far as practical,' 145.02(2) (emphasis added), and it grants the department 'such powers as are reasonably necessary to carry out the provisions of this chapter.'"

Likewise, the authority of the department to promulgate rules to "...ascertain, fix, and order such reasonable standards or rules for the construction, repair and maintenance of places of employment and public buildings, as shall make them safe.", is found in §101.02(15)(j), Wis. Stats.

### CONCLUSION

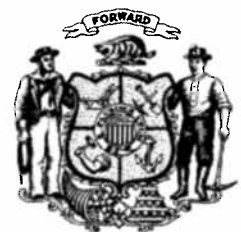
The authority of the department to promulgate rules and adopt reasonable and proper standards and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings is clearly granted in the above-referenced statute sections. The proposed rule change of § Comm 61-66 is no different from other rules previously promulgated by the department, which remain in effect and deemed to be valid. It does not conflict with § 101.02(14)(4m)(b), Wis. Stats., or any other statute section which authorizes the department to promulgate rules to protect the safety, health and welfare of the citizens of Wisconsin.

**Comparison of  
Specific Statutory Direction  
And  
Administrative Rules Promulgated under General Statutory Authority**

Specific Statutory Directions		Administrative Rules Promulgated under "General" Statutory Authority [101.02 (15) (j), 101.63 (1), 101.973 (1)]	
Stat. Ref.	Summary of Statutory Details	Adm. Rule Ref.	Summary of Rules
101.145(4) 1977 c. 388	Requires smoke detectors in each sleeping room or elsewhere within 6 feet of each sleeping area in residential buildings. This provision was retroactive.	Comm 57.16(1)(b) 4/1/2000  Comm 62.0001 [IBC 907.2.10.1.2] 7/1/2002	Required a single station smoke alarm (smoke detector) in each sleeping room even if there is a detector directly outside of the sleeping room in residential buildings.  Requires a single station smoke alarm (smoke detector) in each sleeping room and outside of the sleeping room but in the immediate vicinity of the bedrooms in residential buildings.
101.145(4) 1977 c. 388	Requires smoke detectors in the basement and the head of stairways in residential buildings. The law does not require the use of multi-station detectors that are interconnected.	Comm 57.16(1)(c) 4/1/2000	Required detectors in stairways, corridors and other public areas of residential buildings to be wired and interconnected to the fire alarm system.
101.14(4)(b)1. 1975 c. 39, 94	Requires sprinklers in most buildings over 60 feet in height. This provision is retroactive to July 3, 1974.	Ind 54.01, 54.02 1/1/1976  Comm 62.0001 [IBC 503, IBC 1004] 7/1/2002	Requires sprinkler protection for many buildings that are under the 60 foot height threshold of the high rise sprinkler law to address various construction features since 1914, including construction types and area/height limitations, exit travel distance.
101.14(4m)(b) 1995 a. 27	Requires sprinklers in multifamily dwelling buildings when aggregate dwelling unit area exceeds 16,000 sq. ft. or contains more than 20 dwelling units.	Comm 62.0001 [IBC 503] 7/1/2002	Requires sprinklers for multifamily buildings to address various construction features, including construction types and height limitations, regardless of aggregate area or the number of dwellings units.
101.125 1975 c. 293	Specifies specific locations where safety glazing is required to be utilized.	Ind 51.14(3) 1/1/1975  Comm 62.0001 [IBC s. 2406] 7/1/2002	Required safety glazing in some areas subject to human impact if not adequately protected by guards.  Requires safety glazing in additional locations not specified within the statutes (i.e. bifold closet door assemblies and glazing in areas not that can be adequately protected by guards).
101.645 1977 c. 388	Requires smoke detectors in the basement and each floor in one- and 2-family dwellings. The law does not require the use of multi-station detectors that are interconnected.	Comm 21.09 4/1/2001	Requires smoke alarms (detectors) in each sleeping room and outside of sleeping rooms where more than one sleeping room is located on a floor level. Requires alarms to be interconnected.



# WISCONSIN STATE LEGISLATURE



C-Rule  
06-120  
?

5-15-07

Hi, Karl -

The proposed change to the State Bldg. Code to require fire sprinklers in new small apts. is an economic disaster to affordable rentals in Wisconsin - and it is irrational, given the fire safety record of newer small apts. Why can't it be stopped?

Thanks,  
Pat M.

P.S. There are also annual maintenance, licensing, testing, and inspection costs to each system!



PATRICK and ANN MURPHY  
Owners

(920) 337-6373

\* (Work) 780 Parkview Rd, GB, WI 54304

www.thebusinessnewsline.com

## COMMENTARY

## State needs more than just another council

Last year, a Legislative Audit Bureau study found that Wisconsin offers 152 different economic development programs. They total over \$150 million, and are administered by eight separate agencies and 26 different councils, task forces, and other bodies. According to one report, half the Wisconsin businesses that reached out to the state in 2005 for assistance got inaccurate or misleading information.

That's why Gov. Jim Doyle's plan to create a new "Governor's Business Council" is well-intended, but also well short of what Wisconsin really needs.

There's a lot that's right with the idea of a policy council made up of leaders from the State's regional economic development organizations as well as the secretaries of Commerce and Workforce Development.

But it's not enough. Simply adding another council — another layer — to economic development policy-making falls short of the modernization and overhaul that's really needed.

Everyone is talking about the "new economy," and the hope that Wisconsin can be on its leading edge.

The problem is that the new economy is moving much too fast for our current decision making structures. Each and every day, new entrepreneurial opportunities are emerging from literally all over the world. Each and every day,

**MARK GREEN**  
GUEST  
COLUMNIST



“  
To keep pace with reforms taking place in other parts of the country, we should replace the Department of Commerce with a new public/private economic development corporation that moves swiftly and in a more innovative, entrepreneurial fashion.  
”

again from all over, economic development leaders are trying to reach out and grab onto those opportunities.

What Wisconsin really needs is salesmanship and policy making that move at the speed of business, not the speed of bureaucracy. We need to give our economic development professionals the tools and authority to respond to challenges and opportunities as they arise, not force them to wait for ideas to filter up and then back down through numerous administrative layers and programs.

What should we do? Well, to keep pace with reforms taking place in other parts of the country, we should replace the Department of Commerce with a new public/private economic development corporation that moves swiftly and in a more innovative, entrepreneurial fashion.

This new body should be guided by a board of directors that represents not just regulatory bodies, but also those that create the resources that power business — like higher education. While the board needs to include public sector professionals, it should be driven by entrepreneurs — business leaders who represent Wisconsin's key economic sectors. How else can the board stay on top of market trends and changing economic conditions?

Job One for the board should be looking for ways to consolidate and streamline those 152 programs. Not only would that make program dollars go much further, but it would give state

economic development representatives greater flexibility in designing tools to assist entrepreneurs.

By definition, new businesses arise from new ideas — or at least new applications of current ideas and practices. Many won't fit into the neat programs and categories that old style programs represent.

One of the best parts of Governor Doyle's proposal is that he makes the Wisconsin governor chairman of the council. Entrepreneurs need to know that our state's CEO is directly responsible for economic development policy making and decision making. They want to see a hands on leader, not an innocent bystander, in economic development.

In short, Gov. Doyle's plan is a recognition that Wisconsin can't stand pat when it comes to economic development. He's to be commended.

Now, we should take that plan and dramatically strengthen it. Our entrepreneurs wake up everyday poised to chase ideas and opportunities. We shouldn't let them down by preserving a bureaucracy that holds them back.

Mark Green is an attorney with the law firm of Godfrey & Kahn, S.C., and a former four-term congressman from Northeastern Wisconsin.

## Letter to the Editor

## State fire-sprinkler regulation not needed, area contractor says

If you built a new house, would you put a fire sprinkler system in your garage? It could save lives — garage fires have resulted in large property losses and deaths.

If you're honest, though, you likely would say "no" to the garage fire-sprinkler idea. Let's face it, nobody we know has ever voluntarily installed a fire sprinkler system in their garage, even though we would agree there is a small amount of risk.

It's a risk versus cost decision, and we don't want to incur the cost.

That leads to the following scenario. For 20 years, all new apartments in Wisconsin have been built with excellent fire-safety features. Larger buildings (basically, 17 units and up) have a required fire sprinkler system. Smaller apartment buildings have an elaborate system of fire safety features, which include easy exits, smoke detectors, alarms, fire-retardant materials, and fire-rated walls, floors, and ceilings.

As a result of these features, it is very rare that a person dies in a fire in a small apartment building.

The safety record is impressive. It can be proven by statistics and historical data.

However, on July 1, the State Building Code is being changed. Department of Commerce leadership, supported by Gov. Jim Doyle, insists

that new small apartment buildings must have fire sprinklers. Ignore the cost, ignore the fire-safety record, and ignore the impact on affordability for our lower-income renters. Just do it.

This change in the Building Code that adds construction cost and operating costs will actually "burn" the citizens we should be protecting.

By adding \$20 or more dollars a month to the rent of new apartments, lower-incomes may be forced to live in older rentals — those built before the fire-safety features were required.

There are numerous fire injuries and deaths in apartments and homes built before 1985.

In addition, this unnecessary new requirement will reduce the investment value of new apartments — more costs will not produce adequate greater rental income. Ask any landlord in Wisconsin

for confirmation.

Finally, most investors will concentrate on the existing rentals for purchase rather than speculate on a new project. Thus, fewer new apartments will be built and existing buildings will be able to raise rents, which will worsen the affordability crisis that already exists for our lower-income renters.

One other result of this new fire-sprinkler requirement is that Wisconsin will move one step closer to a rule that fire-sprinkler proponents really want. That is, the requirement for all new single family homes to have a fire sprinkler system.

Patrick Murphy, president of Murphy Development, Green Bay.



**Kim E. Van Osdol**

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## Building Code change adds to our costs

If you built a new house, would you put a fire sprinkler system in your garage? You know it could save lives; garage fires have resulted in large property losses and deaths.

If you're honest, you would say "no" to the garage fire sprinkler idea. Let's face it, nobody we know has ever voluntarily installed a fire sprinkler system in their garage, even though we would agree there is a small amount of risk. It's a risk vs. cost decision; and we don't want to incur the cost.

Here's why this scenario was presented. For 20 years, all new apartments in Wisconsin have been built with excellent fire safety features. Larger buildings (basically, 17 units and up) have a required fire sprinkler system. Smaller apartments have an elaborate system of fire safety features which include easy exits, detectors, alarms, fire retardant materials, and fire-rated walls, floors and ceilings. As a result of these features, it is very rare that a person dies in a fire in a small apartment building. The safety record is impressive. It can be proven by statistics and historical data. However, on July 1, the State Building Code is being changed. Department of Commerce leadership, supported by Governor Doyle, insist that new small apartment buildings must have fire sprinklers. Ignore the cost, ignore the fire safety record, and ignore the impact on affordability for our lower income renters. Just do it!

This change in the Building Code that adds construction cost and operating costs will actually "burn" the citizens we should be protecting. By adding \$20 or more dollars a month to the rent of new apartments, lower in-

comes will be forced to live in older rentals - those built before the fire-safety features were required. There are numerous fire injuries and deaths in apartments and homes built before 1985. In addition, this unnecessary new requirement will reduce the investment value of new apartments - more costs will not produce adequate greater rental income. Ask any landlord in Wisconsin for confirmation. Finally, most investors will concentrate on the existing rentals for purchase rather than speculate on a new project. Thus, less new apartments will be built and existing buildings will be able to raise rents, which will worsen the "affordability" crisis that already exists for our lower income renters. One other result of this new fire sprinkler requirement: Wisconsin moves one step closer to the rule that fire sprinkler proponents really want. That is, the requirement for all new single family homes to have a fire sprinkler system.

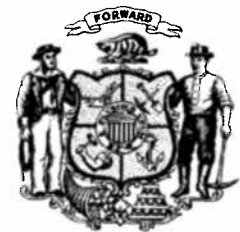
Sincerely,  
PATRICK MURPHY  
President

*Patrick Murphy has been a building contractor for over 30 years, specializing in 8 and 16 unit apartment buildings. He served as the first president of the Brown County Multifamily Association and has had particular interest in the fire safety features in the State Building Code and in the instances of fires in Multifamily Buildings. In the early 1980's, he served on the State of Wisconsin Committee on Classes of Construction and Fire Resistive Standards.*

*Patrick and Ann Murphy own Murphy Development, Inc., a company that builds approximately 140 units per year and currently manages 1400 units.*



# WISCONSIN STATE LEGISLATURE





DATE: June 27, 2007

TO: Scott Becher

Committee on Housing

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

### **CLEARINGHOUSE RULE 06-120**

AN ORDER to ..., relating to construction, use and maintenance of public buildings and places of employment and affecting small businesses.

Submitted by **Department of Commerce.**

Report received from Agency on **June 13, 2007.**

To committee on **Housing.**

Referred on **Wednesday, June 27, 2007.**

Last day for action - **Friday, July 27, 2007.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. (**Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.**) Please put a copy of your official notification memo in the rule jacket.

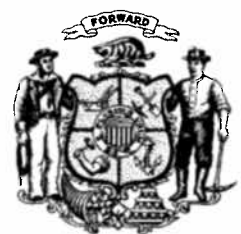
Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.



# WISCONSIN STATE LEGISLATURE





# STEVE WIECKERT

## STATE REPRESENTATIVE

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June 27, 2007

TO: Members of the Assembly Committee on Housing

FROM: Representative Steve Wieckert

RE: Clearinghouse Rules 06-120

The following clearinghouse rules has been referred to the Assembly Committee on Housing:

### **Clearinghouse Rule 06-120**

Relating to construction, use and maintenance of public buildings and places of employment and affecting small businesses.

Submitted by the Department of Commerce

Received by Committee: June 27, 2007

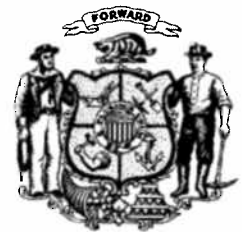
**Jurisdiction ends: July 27, 2007**

If you would like a copy of this rule, submit comments or request a hearing, please contact Scott Becher in my office. The deadline for committee action is listed above. Thank you.

**IDEALS, PRINCIPLES, PATRIOTISM**



# WISCONSIN STATE LEGISLATURE



**Becher, Scott**

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**From:** William M. Babcock, Hon. AIA [Bill@aiaw.org]  
**Sent:** Friday, July 06, 2007 3:05 PM  
**To:** Becher, Scott  
**Subject:** CR06-120 - Commercial Building Code

Scott:

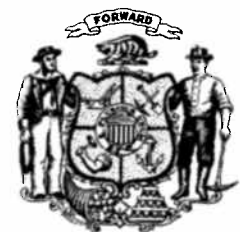
I see that the proposed Wisconsin Commercial Building Code rule package (CR06-120) has been referred to the Assembly Housing Committee. Is it possible to be notified when a hearing is scheduled on this proposed administrative rule? Thanks.

William M. Babcock, Hon. AIA  
Executive Director  
AIA Wisconsin  
321 S. Hamilton St.  
Madison, WI 53703-4000  
Phone: (608) 257-8477  
Toll Free (WI): 800-ARCHITECT  
Fax: (608) 257-0242  
email: [bill@aiaw.org](mailto:bill@aiaw.org)

AIA Wisconsin is a Society of The American Institute of Architects.



WISCONSIN STATE LEGISLATURE





# JOHN TOWNSEND

STATE REPRESENTATIVE • 52ND DISTRICT

July 6, 2007

Steve Wieckert, Chairman  
Assembly Committee on Housing  
16 West, State Capitol  
Madison, WI

INTER-DEPARTMENTAL MAIL

Dear Chairman Wieckert:

I am writing to request that Clearinghouse Rule 06-120 be heard by the Assembly Committee on Housing.

I understand the intent of this rule is to adopt updated code in a variety of areas regulated by the Department of Commerce. The broad scope and enormity of Clearinghouse Rule 06-120 invites a review by the legislative branch and general public via the hearing process.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Townsend', written over a circular stamp.

John Townsend  
State Representative  
52<sup>nd</sup> Assembly District

JFT:jpf