

Chapter ILHR 50

ADMINISTRATION AND ENFORCEMENT

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Note: Chapter Ind 50 as it existed on December 31, 1976, was repealed and a new chapter Ind 50 was created effective January 1, 1977; chapter Ind 50 was renumbered to be chapter ILHR 50, effective January 1, 1984.

Subchapter I — Purpose and Scope

ILHR 50.01 Purpose of code. The purpose of this code is to protect the health, safety and welfare of the public and employes by establishing minimum standards for the design, construction, structural strength, quality of materials, adequate egress facilities, sanitary facilities, natural lighting, heating and ventilating, energy conservation, and fire safety for all public buildings and places of employment.

Note: The purpose as stated can be traced to the terms used in the "safe place" statutes, ch. 101, Stats.

Note: This code is intended for the protection of the public and is not intended as a design manual, a textbook or a construction manual.

Note: The code cannot address every conceivable design option; points of code application and clarification will be addressed and issued from time to time and will be published in the Wisconsin Building Codes Report available from the Safety and Buildings Division, P. O. Box 7969, Madison, Wisconsin 53707.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77.

ILHR 50.02 Scope. The provisions of chs. ILHR 50-64 apply to all public buildings and places of employment, except those indicated in s. ILHR 50.04. The provisions of these chapters are not retroactive unless specifically stated in the administrative rule. Where different sections of these chapters specify different requirements, the most restrictive requirement shall govern, except as specified in ss. ILHR 51.02 (11) (b) 4., 52.012, 52.013, 58.001 (2) (c), 62.93 and 64.57 (4). No part of this code is intended to prohibit or discourage the design and construction of innovative buildings or the use of new materials or systems provided written approval from the department is obtained. Under this section, written approval from the de-

partment shall include, but is not limited to, an acceptance through preliminary design consultation, plan review, petition for variance, official code interpretation, material approval or other written forms of communication.

Note: For a definition of "public building" and "place of employment," see ss. ILHR 51.01 (102b) and 51.01 (104a) or s. 101.01 (2), Stats.

Note: Other state agencies and local municipalities may have adopted building or construction requirements that are either more restrictive or address other issues than those specified in this code.

Note: The overall enforcement responsibility for this code is equally shared by the building inspector and the fire inspector. Normally, the building inspector has primary responsibility during construction of the building, while the fire inspector has primary responsibility after the building is completed. The enforcement of many of the provisions of the code is the primary responsibility of the fire inspector, and compliance with these provisions should be of primary concern while conducting the fire prevention inspections mandated by s. 101.14, Stats. See Appendix B for a listing of the code sections for which the fire inspector has the primary enforcement responsibility.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; am. Register, December, 1981, No. 312, eff. 1-1-82; am. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, December, 1983, No. 336, eff. 1-1-84; am. Register, August, 1985, No. 356, eff. 1-1-86; emerg. am. eff. 9-6-86; am. Register, November, 1986, No. 371, eff. 12-1-86; am. Register, March, 1991, No. 423, eff. 4-1-91; am., Register, March, 1995, No. 471, eff. 4-1-95.

Subchapter II — Application of Building Code

ILHR 50.03 Application. (1) NEW BUILDINGS AND ADDITIONS. The provisions of this code shall apply to all new buildings and structures, and also to additions to existing buildings and structures, except those indicated in s. ILHR 50.04.

(2) ALTERATIONS TO BUILDINGS. The provisions of this code shall apply to all remodeling or alterations in any building or structure which affect the structural strength, fire hazard, exits, required natural lighting or replacement of major equipment. These provisions do not apply to

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minor repairs necessary for the maintenance of any building or structure nor to buildings exempt, as listed in s. ILHR 50.04.

(3) **CHANGE OF USE.** (a) If the use of an existing building or structure is changed in accordance with the definition of s. ILHR 51.01 (87), and the requirements for the new use are more stringent than those for the previous use, the building or structure shall be made to comply with the requirements for the new use as provided in this code.

1. Exception. Unless the requirements for the new use are modified subject to the written approval by the department.

2. Exception. An existing building undergoing a change of use shall comply with the accessibility requirements specified in s. ILHR 69.03 (3).

(b) If, upon inspection of an existing building or structure, it is found that its use has changed and that it does not comply with the requirements of the building code in effect at the time of change, it shall be made to comply with the code requirements in effect at the time of change in use.

(4) **REST ROOM PARITY.** Rest room parity applies to any facility where the public congregates which has a general capacity or seating capacity of 500 or more persons and meets the following conditions:

(a) A new structural facility;

(b) A new facility without a permanent structure;

(c) An existing structural facility with alterations that affect 50% or more of the square footage of the facility;

(d) An existing structural facility in which an addition has a square footage equal to or greater than 51% of the square footage of the existing structure; and

(e) An existing facility with no permanent structure with an addition of land to the facility equal to or greater than 51% of the existing facility acreage.

Note: The percentage requirements established in this subsection shall apply to the accumulative sum of any remodeling or additions, or both undertaken after March 1, 1994. The addition of land applies only to that portion of added land which is specified as the expansion of the facility or event on that parcel and may not mean the total added land area to an existing facility or event.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; am. (2), Register, August, 1985, No. 366 eff. 1-1-86; cr. (4), Register, August, 1993, No. 452, eff. 3-1-94; r. and recr. (3) (a) 2., Register, November, 1994, No. 467, eff. 12-1-94.

ILHR 50.04 Buildings exempt from code requirements. This code does not apply to the following types of buildings:

(1) One- and 2-family dwellings and outbuildings in connection therewith such as barns and private garages.

(2) Buildings used exclusively for farming purposes.

Note: For a definition of "farming," see s. 102.04 (3), Stats.

(3) Buildings used primarily for housing livestock or for other agricultural purposes, located on research or laboratory farms of public universities or other state institutions.

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(4) Temporary buildings, used exclusively for construction purposes, not exceeding 2 stories in height, and not used as living quarters.

(5) Buildings located on Indian reservation land held in trust by the United States.

(6) Buildings owned by the federal government. Buildings owned by other than the federal government and leased to the federal government are not exempt.

(7) Bed and breakfast establishments as defined in s. ILHR 51.01 (11a).

(8) Community-based residential facilities located in existing buildings and providing care, treatment and services to 3 to 8 unrelated adults.

(9) An adult family home certified under s. 50.032 (1) (b), Stats.

(10) A one- or 2-family dwelling in which a home occupation is located.

(11) Multifamily dwellings within the scope of ch. ILHR 66, except as provided in s. ILHR 66.60.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; am. (2) and cr. (5), Register, December, 1977, No. 264, eff. 1-1-78; cr. (6) to (8), Register, August, 1985, No. 366 eff. 1-1-86; cr. (9) and (10), Register, March, 1991, No. 423, eff. 4-1-91; cr. (11), Register, March, 1995, No. 471, eff. 4-1-95.

ILHR 50.05 Existing buildings code. Buildings and structures erected prior to the effective date of the first building code (October 9, 1914) shall comply with the general orders on existing buildings, chs. Ind 160-164, issued by the department. Buildings and structures constructed after October 9, 1914, shall comply with the code in effect at the time.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77.

ILHR 50.06 Local regulations. (1) **AUTHORITY.** This code shall not limit the power of cities, villages and towns to make, or enforce, additional or more stringent regulations, provided the regulations do not conflict with this code, or with any other rule of the department, or law.

(2) **EXCEPTION.** Pursuant to s. 101.75 (2), Stats., all manufactured multi-family dwellings approved by the department shall be deemed to comply with the requirements of all building ordinances and regulations of any local government except those related to zoning and siting requirements including, but not limited to, building setback, side and rear yard requirements and property line requirements.

Note: This exception applies only to those building elements and building parts covered under the provisions of s. ILHR 50.125 Wisconsin insignnia. The exception does not apply to on-site constructed elements such as, but not limited to, footings, foundations, attached porches, steps, concrete floor slabs and on-site constructed mechanical systems.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; cr. (1), Register, May, 1980, No. 293, eff. 6-1-80.

Subchapter III — Design and Supervision

ILHR 50.07 Design. Every new building, or alteration to a building, shall be designed in compliance with this code.

(1) **BUILDINGS CONTAINING NOT MORE THAN 50,000 CUBIC FEET TOTAL VOLUME.** The plans and specifications for

every new building, or alteration to a building, containing not more than 50,000 cubic feet total volume, or addition to a building in which the volume of the addition results in the entire building containing not more than 50,000 cubic feet total volume, may be prepared by a registered architect, engineer, designer, contractor or an authorized agent.

(2) **BUILDINGS CONTAINING MORE THAN 50,000 CUBIC FEET TOTAL VOLUME.** The plans and specifications for every new building, or alteration to a building, containing more than 50,000 cubic feet total volume, or addition to a building in which the volume of the addition results in the entire building containing more than 50,000 cubic feet total volume, shall be designed as follows:

(a) *Building or structural design.* The plans and specifications for the design of the building or structure shall be prepared, signed and sealed by a Wisconsin registered architect or engineer.

(b) *Heating, ventilating and air conditioning design.* The plans and specifications for the heating, ventilating and air conditioning system shall be prepared, signed and sealed by a Wisconsin registered architect, engineer or designer.

(c) *Energy conservation design.* The plans and specifications for energy conservation design shall be prepared, signed and sealed by a Wisconsin registered architect, engineer or designer.

Note: See s. ILHR 51.01 (139a) for definition of total volume.

Note: The above terms "registered architect, engineer or designer" mean registered architect, registered professional engineer or designer as defined by laws regulating the practice of engineering and architecture found in ch. 443, Stats. Designers are limited to the specific limitations outlined in s. A-E 5.06. See s. A-E 2.02 for rules pertaining to signing, sealing and dating of plans prepared by a registered architect, engineer or designer.

Note: According to s. 87.30, Stats., the construction or placement of every building, structure, fill or development placed or maintained within any flood plain is required to satisfy local or state regulations.

(3) **ANTENNAS AND SUPPORTING TOWERS EXCEEDING 200 FEET IN HEIGHT.** The plans and specifications for antennas and supporting towers exceeding 200 feet in height shall be prepared, signed and sealed by a Wisconsin registered architect or engineer.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; am. (2) (a) and (b), cr. (2) (c), Register, December, 1978, No. 276, eff. 1-1-79; am. (1), Register, December, 1981, No. 312, eff. 1-1-82; cr. (3), Register, December, 1983, No. 336, eff. 1-1-84; am. (2) (c), Register, December, 1985, No. 360, eff. 1-1-86.

ILHR 50.08 Plans, specifications and calculations prepared outside Wisconsin. Plans, specifications and calculations for buildings and structures under s. ILHR 50.07 (2) and (3), may be prepared by an architect or engineer registered outside of the state of Wisconsin, provided the following conditions are satisfied:

(1) **REGISTRATION.** The state agency or entity which registers the architect or engineer shall be an agency or entity recognized by the department of regulation and licensing as having equivalent standards for registration.

(2) **SEAL.** The plans, specifications and calculations shall bear the signature and seal or stamp of a registered architect or registered engineer.

(3) **CERTIFICATE.** A certificate, dated, signed and sealed by an architect or engineer registered in Wisconsin, shall be attached to the plans, specifications and calculations. The certificate shall indicate that the plans, specifications and calculations were prepared in a state other than Wisconsin by an architect or professional engineer registered in that state; describe the work performed by the Wisconsin registered architect or engineer; and include statements to the effect that the plans and specifications have been reviewed and comply with all applicable local and state buildings codes, and that the reviewing architect or engineer will be responsible for the supervision of construction in accordance with the requirements of s. ILHR 50.10.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; am. (intro.), Register, December, 1983, No. 336, eff. 1-1-84; renum. (1) and (2) to be (2) and (3) and am. (2), cr. (1), Register, March, 1991, No. 423, eff. 4-1-91.

ILHR 50.10 Supervision. All constructions or installations under s. ILHR 50.07 (2) and (3) shall be supervised by a Wisconsin registered architect or engineer, except that a Wisconsin registered designer may supervise the installation of heating, ventilating and air conditioning systems and illumination systems. The person responsible for supervision shall also be responsible for the construction and installation being in substantial compliance with the approved plans and specifications. Should the supervising architect, engineer, designer, or the department, be confronted with a nonconformance to the code during, or at the end of, construction, said parties, together with the designing architect, engineer or designer shall effect compliance or shall notify the department of the noncompliance.

(1) **DEFINITION.** Supervision of construction is a professional service, as distinguished from superintending of construction by a contractor, and means the performance, or the supervision thereof, of reasonable on-the-site observations to determine that the construction is in substantial compliance with the approved plans and specifications.

(2) **NAME OF SUPERVISING ARCHITECT, ENGINEER OR DESIGNER.** Prior to the start of construction, the owner of the building or structure, whose name must be a part of, or accompany, all plans submitted for approval, as required by s. ILHR 50.12 or an authorized agent, shall designate to the department, in writing, 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 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 provided on a form prescribed by the department.

Note: See Appendix A for an example of the compliance statement form (SBD-4927).

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; am. (intro.) and (2), Register, December, 1981, No. 312, eff. 1-1-82; am. (intro.), Register, August, 1995, No. 476

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ter, December, 1983, No. 336, eff. 1-1-84; am. (2) and (3), Register, January, 1994, No. 457, eff. 2-1-94.

ILHR 50.11 Owner's responsibility. No owner may construct or alter any building or structure, or portion of a building or structure, or permit any building or structure to be constructed or altered except in compliance with the provisions of chs. ILHR 50 to 64. Compliance with the provisions of this section does not relieve the owner from compliance with the administrative rules established in other related codes.

Note: For definition of owner, refer to s. 101.01 (2) (e), Stats.

Note: Section ILHR 50.07 specifies which plans and specifications must be prepared by a registered architect, engineer or designer. Section ILHR 50.10 specifies which construction must be supervised by a registered architect, engineer or designer. Section ILHR 50.10 (2) specifies the owner's responsibilities in informing the department of the construction supervisor. Section ILHR 50.10 (3) specifies the requirements for filing completion statements prior to occupancy. Section ILHR 50.12 specifies the requirements for plan submittal and approval. Section ILHR 50.12 (5) requires submittal of a plan approval application form, and that form must be signed by the owner.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; am. Register, January, 1994, No. 457, eff. 2-1-94.

ILHR 50.115 Notice of intent. (1) A notice of intent for coverage under a Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-0067831-1 for storm water discharges associated with construction activities as required by 40 CFR part 122 shall be filed by the landowner for the construction project of a public building or a building that is a place of employment disturbing 5 or more acres of land. A construction site soil erosion control plan and storm water management plan shall be prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the Wisconsin Construction Site Best Management Practices Handbook published by the department of natural resources (WDNR Pub. WR-222 November 1993 Revision).

Note: Copies of the Wisconsin Construction Best Management Practice Handbook are available through Wisconsin Department of Administration, Document Sales, 202 S. Thornton Ave., Madison, WI 53707.

(a) Prior to filing a notice of intent, a site specific soil erosion control plan and storm water management plan shall be prepared in accordance with ss. NR 216.46 and 216.47, respectively. If the soil erosion control plan or actions required by the plan fail to control the construction site soil erosion, the plan shall be amended or other actions taken to control construction site soil erosion.

(b) The landowner shall implement the soil erosion control plan throughout the construction period. Soil erosion control measures shall be installed and maintained at the construction site until the construction site is stabilized and a notice of termination is filed with the department stating that the site has undergone final site stabilization in accordance with s. NR 216.55.

(c) The landowner shall meet the reporting and monitoring requirements specified in s. NR 216.48.

(d) The department may inspect and enforce the provisions of this section in the event of violations. Additional information requested by the department to ascertain compliance with this section shall be submitted within the time period specified by the department.

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(e) If the department of natural resources determines the construction site to be a significant source of storm water pollution, the department of natural resources may require the site to be covered by a individual WPDES storm water discharge permit.

Note: An industrial construction site covered by this section may also require an Industrial Storm Water Discharge Permit issued by the department of natural resources as provided in subch. II of ch. NR 216.

(2) A notice of intent shall be filed either with the department or with certified municipalities and counties authorized to review plans and perform inspections under s. ILHR 50.21. Municipalities and counties shall file a copy of the notice of intent with the department. The notice of intent shall be filed on form 3400-161 published by the department of natural resources.

Note: Copies of form 3400-161 may be obtained from the department or the department of natural resources.

(3) The notice of intent form shall be completed in accordance with the instructions and filed at least 14 working days prior to commencement of construction.

(4) The department shall provide a summary of the notice of intent information collected to the department of natural resources.

(5) A landowner filing a notice of intent under this section shall be exempt from the department of natural resources' \$200 fee associated with filing form 3400-161.

History: Emerg. cr. eff. 11-4-94; cr. Register, August, 1995, No. 476, eff. 9-1-95.

Subchapter IV — Department Approval

ILHR 50.12 Plan examination and approval. (1) TYPES OF BUILDINGS. 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. ILHR 50.21, for examination and approved before commencing work:

Note: See the scope of the occupancy chapters for examples of specific types of buildings covered in pars. (a) through (f).

Note: Section 101.12 (3) (h), Stats., prohibits local issuance of permits or licenses for construction or use of public buildings or places of employment until drawings and calculations have been examined and approved by the department.

(a) Factories, office and mercantile buildings (ch. ILHR 54).

1. Except for public mausoleums, department examination and approval for factories, office and mercantile buildings containing less than 25,000 cubic feet total volume is waived; however, the buildings shall comply with the applicable requirements of this code.

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 shall be submitted in accordance with sub. (5) prior to construction.

(b) Theaters and assembly halls (ch. ILHR 55).

(c) Schools and other places of instruction (ch. ILHR 56).

(d) Apartment buildings that exceed 60 feet in height or 6 stories, hotels, motels and places of abode (ch. ILHR 57).

(e) Health care facilities and places of detention (ch. ILHR 58). Plans shall be submitted for double ceiling 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 occupancies (ch. ILHR 59).

1. Department examination and approval of plans shall be waived for a hangar accommodating one airplane; however, the building shall conform with the applicable requirements of this code.

2. Department examination and approval shall be waived for a storage garage which is less than 25,000 cubic feet in total volume; however, the building shall comply with the applicable requirements of this code.

(g) Day care facilities (ch. ILHR 60).

(h) Community-based residential facilities (CBRF) (ch. ILHR 61).

(i) 1. Except as provided in subd. 2, department examination and approval is waived for television and radio transmitting and receiving antennas, outdoor theater screens, water tanks, display signs, observation towers, docks, piers, wharves, tents or inflatable structures used temporarily, and other similar structures; however, these structures and temporary tents shall comply with the applicable structural and other requirements of chs. ILHR 50-64.

2. a. Plan examination and approval is required for the installation of roof mounted antenna structures exceeding

20 feet in height above the roof, unless the building is otherwise exempt or plan submittal is waived.

b. Plan examination and approval is required for the installation of ground mounted antenna structures exceeding 200 feet in height.

c. Plan examination and approval is required for the installation of ground mounted antenna structures exceeding 50 feet in height if the structure is located nearer to any street, public thoroughfare or property line than the height of the structure measured from the base of the structure nearest to the street, thoroughfare or property line to the highest point of the structure.

(2) TYPES OF PLAN APPROVAL. The following types of plans shall be submitted to the department or its authorized representative, as provided in s. ILHR 50.21, for examination and approval before construction is commenced:

(a) General building plans.

(b) Structural plans.

(c) 1. Heating and ventilating plans; and

2. Data and information relative to requirements of chs. ILHR 63 and 64 for the replacement of a major piece of heating or air conditioning equipment.

(d) Alteration plans for existing buildings, except for those alterations involving changes in interior finishes only.

(e) Revisions to previously examined plans.

(f) Industrial exhaust system plans within government-owned buildings.

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