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FORM 2

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WISCONSIN LEGISLATIVE COUNCIL 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 01-109

AN ORDER to repeal Comm 62.1101, 62.1104, 62.1106, 62.1107, 62.1108 and 62.1109; to renumber Comm 62.3408 (2) and (3); to amend Comm 62.3408 (3) (a); to repeal and recreate Comm 62.1003; and to create Comm 62.1100 to 62.1110 and 62.3408 (2) and (5), relating to accessibility requirements for commercial buildings and structures.

Submitted by **DEPARTMENT OF COMMERCE**

09-24-01 RECEIVED BY LEGISLATIVE COUNCIL.

10-22-01 REPORT SENT TO AGENCY.

RS:RW;jal;tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO



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CLEARINGHOUSE RULE 01-109

Comments

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

2. Form, Style and Placement in Administrative Code

- a. In s. Comm 69.1101 (1), the word “shall” is unnecessary and should be deleted.
- b. Section Comm 62.1103 (2) includes an unnumbered introduction that does not grammatically lead into the following subunits. Consequently, the first sentence should be numbered as par. (a) and the remaining paragraphs and internal cross-references should be renumbered accordingly. The entire rule should be reviewed for this recurring structural problem.
- c. Section Comm 62.1103 (2) “(1)” should be shown as s. Comm 62.1103 (2) “(L).”
- d. References to “Groups” and building “Types” are used throughout; the agency may wish to indicate in the analysis where these terms are defined.
- e. Throughout the rule, the titles of sections are used as part of the substance of the text, especially in sections dealing with exceptions to general rules. This aspect of the rule should be reviewed prior to promulgation. Additionally, when a title is used as part of the substance of the text, the rule often follows with an incomplete sentence. This problem should be remedied, unless the incomplete sentence is a grammatical conclusion of introductory material. [See, for example, ss. Comm 62.1107 (4) (b) 2. and 62.1109 (3) (b) 2.]

f. In s. Comm 62.1107 (5), and elsewhere in the rule, the draft provides that actions must be taken "in accordance with subds. 1. and 2." when the term "in accordance with all of the following" would be a more direct reference. [See comment b., above.]

g. In s. Comm 62.1107 (5) (b) 2. b. and elsewhere in the rule, the phrase "may be reduced" should be used instead of "is permitted to be reduced."

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

a. In s. Comm 62.1102 (7), unless the term "federal Fair Housing Act" is defined, a citation to the federal statutes should be included.

b. In s. Comm 62.1109 (2) (c), the notation "subd." should be replaced by the notation "subpar."

c. In s. Comm 62.1110 (1) (b), it appears that the correct cross-reference is "s. Trans 200.07."

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

a. In s. Comm 62.1101 (2) (a), is the provision intended to apply to all buildings or only certain ones?

b. Use of the term "herein" in s. Comm 62.1102 (intro.) should be avoided. The introduction can be replaced with the following: "In ss. Comm 62.1101 to 62.1110:".

c. Section Comm 62.1103 requires that, unless excepted in the rule, all buildings and structures "shall be accessible to people with disabilities." However, "accessible" is defined in s. Comm 62.1102 (1) to mean a building that "complies with 62.1101 to 62.1110." This is somewhat circular; the agency may wish to be more specific and descriptive in the definition of the term "accessible."

d. The title to s. Comm 62.1103 (1) could be changed to "WHERE ACCESSIBILITY IS REQUIRED" for increased clarity. Also, it is not clear what "Scoping" in the title is intended to mean.

e. Section Comm 62.1103 (2) (b) should be drafted as an exception to be consistent with the other provisions in the subsection.

f. In s. Comm 62.1103 (2) (c), does "accessible route" refer to interior routes or also to exterior routes? The defined term "accessible route" in s. Comm 62.1102 (2) does not help to clarify the meaning of the term with regard to this issue. Further, the rule appears to use "accessible" in some cases where "accessible route" may be the intended requirement, such as in the provision related to dining areas in s. Comm 62.1108 (2) (e). This aspect of the rule should be carefully reviewed to assure it reflects the intent of the agency.

g. In s. Comm 62.1103 (2) (e) 1., what type of access is required to “paved work areas”? Does this requirement apply to buildings such as barns? As drafted, this requirement does not apply only to areas “open to the public,” it applies to all paved work areas. If this is not the intent, the provision should be clarified.

h. In s. Comm 62.1103 (2) (e) 2., it is not clear what type of “access” must be provided to the garages and carports.

i. In s. Comm 62.1104 (2) (b), a comma should be inserted after the word “them.”

j. The references to “rehabilitation facilities” and “outpatient physical therapy facilities” in s. Comm 62.1106 (3) could be problematic without specific definitions or description of such facilities. For example, do the parking requirements in the section apply only to single purpose facilities or to services provided in a multi-purpose facility? This should be reviewed.

k. The rule addresses the number and location of “accessible” parking places, but does not specify the design or configuration of such spaces. Is this addressed in other agency rules or codes? If so, could a reference be provided in a note following this section?

l. In s. Comm 62.1106 (6), the terms “licensed medical” and “long-term care” are used but not defined. Unless defined elsewhere, a definition or description of the terms would be helpful.

m. What level of “accessibility” is required under s. Comm 62.1107 (3)? Does it apply to all specified spaces?

n. In s. Comm 62.1107 (4) (a), the last phrase is ambiguous. Does the provision require connections from each accessible unit, *each* Type A unit and *each* Type B unit that is within the building or facility to the exterior and interior spaces and facilities that serve the individual units? Or, should the phrase “Type A unit and Type B unit” be replaced by the phrase “with Type A and Type B units”?

o. What is the intended meaning of the term “finished ground level” in s. Comm 62.1107 (4) (b)?

p. Under s. Comm 62.1107 (5) (b) 1., the application of the “50%, but not less than one” standard when applied to dwelling units and sleeping units is unclear. Does the provision require at least one, for example, or at least one of each? Does it require 50% of all units to be accessible, or 50% of each type? This should be clarified. The same problem exists elsewhere in the rule; for example, see s. Comm 62.1107 (5) (a) 1., (c) 1. and (e).

q. In s. Comm 62.1107 (7) (b), it appears that the second-to-last comma should be replaced by the word “and.” In sub. (7) (c), it appears that the word “be” should be inserted before the second occurrence of the word “occupied.”

r. As drafted, the exceptions listed in s. Comm 62.1107 (7), including "site impracticality," are not available or applicable to other sections of the rule. Are the "variance procedures" referenced in s. Comm 62.1107 (7) (d) available for other accessibility determinations? If so, this could be noted in the analysis prepared by the agency or in the text of the rule.

s. Section Comm 62.1108 appears to be substantially more prescriptive than the earlier sections of the code. Are these provisions derived from a different source? If so, that could be noted in the analysis to aid in achieving compliance.

t. Does s. Comm 62.1108 (2) (d) apply only to "fixed seating areas" or to all "areas" with a capacity of 50 or more persons? As drafted, it is not clear.

u. In s. Comm 62.1108 (2) (e), the requirement that the "total floor area allotted" for seating and tables is not clear as to what is required. Further, is it intended that the requirements would change if the tables used were not "fixed" so that the exception in s. Comm 62.1108 (2) (e) 1. b. does not apply?

v. Under s. Comm 62.1109, it is not specified as in s. Comm 62.1108 that the requirements are "in addition" to those requirements specified in ss. Comm 62.1101 to 62.1110. Does that mean that those requirements do not apply, and for the facilities specified in s. Comm 62.1109, only the requirements in that section apply?

w. It is not clear why ss. Comm 62.1109 (10) and (11) are placed in this section and are not included in s. Comm 62.1108.

x. What is the intended standard for determination of "accessible" under s. Comm 62.1109 (12) (a) to (f)?

y. The term "recreational facilities" is not clearly defined or described in either s. Comm 62.1109 (14) or s. Comm 62.1107 (3) (b). Also, the standard for determination of "accessible" is not clear from the rule.

z. In s. Comm 62.1109 (14) (c), the phrase "falling within the purview of" should be replaced by the phrase "described in."

aa. Under s. Comm 62.1110 (1), it is not clear whether the signs are required or permitted because of the reference to "at any of the following locations." Should the rule provide that the signs be identified by the International Symbol of Accessibility at "all" the following locations?

ab. The directional signage requirements in s. Comm 62.1110 (2) could be fairly complex, particularly if the "nearest like accessible element" is not on premises owned by the same entity. This provision should be reviewed for clarity and to assure that compliance can be effectively monitored.

ac. In s. Comm 62.1110 (2) (e), the phrase "signage shall be provided" is unnecessary and should be deleted in order to maintain consistent structure with pars. (a) to (d).

ad. Does the term "areas of refuge" in s. Comm 62.1103 (3) (c) need to be defined to assure a clear understanding of the term?

ae. The context and applicability of s. Comm 62.3408 (5) is unclear. This should be more completely described in the final rule.

af. The agency may wish to include an "initial applicability" section in the rule to allow for a clear indication of which standards will apply to plans filed before the effective date of the rule.



State of Wisconsin \ Department of Commerce

HEARING DRAFT of PROPOSED RULES

Rule No.:

Chapter Comm 62

Relating to:

Building construction accessibility requirements

The Wisconsin Department of Commerce proposed an order to repeal ss. 62.1101, 62.1104, 62.1106, 62.1107, 62.1108 and 62.1109; to renumber Comm 62.3408 (2) and (3); to amend s. Comm 62.3408 (3) (a); to repeal and recreate s. Comm 62.1003; and to create ss. Comm 62.1100 to 62.1110, and Comm 62.3408 (2) and (5), relating to accessibility requirements for commercial buildings and structures.

Analysis of Proposed Rules

Statutory Authority and Statutes Interpreted

Statutory Authority: Sections 101.02 (1) and (15), 101.13, and 101.132, Stats.

Statutes Interpreted: Sections 101.13 and 101.132, Stats.

The Department is currently promulgating a revised state Commercial Building Code, chapters Comm 61 to 65, under Clearinghouse Rule 00-179. That code includes the adoption by reference of the 2000 editions of the *International Building Code*® (IBC), the *International Energy Conservation Code*™ (IECC), the *International Mechanical Code*® (IMC) and the *International Fuel Gas Code*® (IFGC).

The 2000 edition of the IBC contains barrier-free accessibility requirements for buildings and facilities; however, those accessibility requirements have been substantially changed in a 2001 IBC Supplement, to ensure the IBC provides an equivalency or "safe harbor" with federal fair housing design regulations. The Department feels it is important to also adopt the 2001 IBC accessibility changes so designers and owners will be complying with rules that are substantially equivalent to the federal regulations, as well as the state fair housing regulations relating to accessibility in multifamily housing. This proposed rule package on accessibility issues has a projected effective date of July 1, 2002, which will coincide with the projected effective date of the revised Commercial Building Code.

This rule package includes new Wisconsin-based accessibility requirements, along with those that were previously proposed under Clearinghouse Rule 00-179, and includes all of the requirements in the 2000 IBC and in the 2001 IBC Supplement that relate to accessibility in multifamily housing and commercial facilities. This puts all the accessibility requirements in Wisconsin into one document, which should make the requirements easier to use.

A. The following is a summary of the new Wisconsin-based requirements that are being proposed subsequent to including the IBC in chapters Comm 61 to 65:

1. A Wisconsin-based requirement is included for the 2001 IBC Supplement, chapter 10, that clarifies stairways at exterior areas of rescue assistance must be at least 48-inches wide, and these areas must be identified with signs in accordance with IBC section 1003.2.13.5.5. [Comm 62.1003 (2) (b)]

2. The IBC requires in assembly areas that at least one wheelchair space be provided for every 200 seats over 500 seats, which conflicts with the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG). A Wisconsin-based requirement is proposed to require one wheelchair space for every 100 seats over 500 seats in assembly areas, which is consistent with ADAAG 4.1.3 (19). [Table Comm 62.1108-1]
 3. The IBC requires a unisex toilet room to be provided in assembly and mercantile occupancies where 6 or more male and female water closet fixtures are required. However, under s. 101.13 (1m) (b), Stats., the Department is prohibited from promulgating a rule requiring the use of a unisex toilet room in any public building. The proposed rules will permit a unisex toilet room to be provided in assembly and mercantile areas, but will not require it. [Comm 62.1109 (2) (c)]
 4. Requirements from the 2001 IBC Supplement are being modified to clarify the accessibility requirements for existing buildings, when a change in occupancy occurs. [Comm 62.3408 (3) and (5)]
- B. The following requirements, which were all also included in Clearinghouse Rule 00-179, are based on the fair housing language specified in section 101.132, Stats:
1. The renter of a multifamily dwelling may request, at no cost to the renter, lever door handles on all doors, and single lever controls on all plumbing fixtures. [Comm 62.1101 (2) (a) Note]
 2. Circuit controls that are installed for use by tenants must be accessible. [Comm 62.1101 (2) (b)]
 3. All exits must be accessible and, to the maximum extent feasible, all entrances must be accessible. [Comm 62.1105 and Comm 62.1107 (7) (a) 1.]
 4. Accessibility rules apply to buildings with 3 or more dwelling units. [Comm 62.1107 (5) (a) 2., (b) 2., and (c) 2.; and (6) (a) 2., (b) 2., (c), and (d) 2.]
 5. A petition for variance must be submitted to justify site impracticality or unusual characteristics of the site, and the minimum number of accessible dwelling units must be not less than 50% of the total number of dwelling units. [Comm 62.1107 (7) (d) and (e)]
 6. Accessibility must be provided in existing housing, based on the percentage of remodeling. [Comm 62.3408 (3) and (5)]
- C. The following is a summary of the differences between Wisconsin's current fair housing requirements and the IBC fair housing requirements:
1. The IBC requires that at least 2% of the dwelling units in facilities with more than 20 dwelling units must include accessibility features similar to those specified for

commercial facilities. These units are designated as Type A units. The accessibility features in Type A units also include maneuverability at doors within dwelling units, which will require turnaround space within each bathroom in Type A units. The other dwelling or sleeping units on accessible floors must be Type B units. Type B units are those units that comply with the accessibility features specified in the fair housing regulations. [Comm 62.1107 (5) and (6)]

2. Currently, Wisconsin requires at least one bathroom in each dwelling unit to be designed to a higher level of usability as specified in the federal fair housing regulations. This requirement will be replaced with the IBC requirement that 2% of the dwelling units in a facility with more than 20 dwelling units must be Type A units.
 3. The current Wisconsin-based rule that requires additional space at the faucet end of a bathtub, to accommodate toe clearances, will be replaced with the IBC requirement that 2% of the dwelling units in a facility with more than 20 dwelling units must be Type A units.
 4. The IBC requires that accessible routes to accessible parking spaces for Type A dwelling units must be interior if the general circulation path is interior. This requirement does not apply to Type B units, which is consistent with the federal fair housing regulations. [Comm 62.1104 (5)]
 5. In addition to specifying the percentage of accessible dwelling units or sleeping units in health care facilities, the IBC requires that all other dwelling units or sleeping units which are intended to be occupied as a residence must be Type B units. [Comm 62.1107 (5)]
 6. The IBC requires a vertical clearance of at least 98 inches at accessible parking spaces and along the vehicular route to these spaces. This will require overhead doors for underground parking facilities to have a minimum clearance of 98 inches. [Comm 62.1106 (2) and ICC/ANSI A117.1 section 502.5]
- D. The following are Wisconsin-based accessibility requirements for commercial buildings that were previously included in Clearinghouse Rule 00-179:
1. The IBC requires vertical access to floor levels that are above or below the accessible level and that have an aggregate area more than 3,000 square feet. Under the IBC, vertical access must be provided between all floor levels in Group M (mercantile) occupancies with five or more tenant spaces, in Group B (business) or Group I (institutional) occupancies with offices of health care providers, in passenger transportation facilities and airports regardless of the size of the building. The Wisconsin-based requirement will be maintained that includes government-owned facilities in this category to be consistent with the federal Americans with Disabilities Act. [Comm 62.1104 (4)]

2. The Wisconsin-based exemption will be maintained that allows omitting an accessible route to floor levels that are above or below the accessible floor level in government-owned or -operated facilities, where the raised or lowered floor level is less than 500 square feet and has a maximum capacity of 5 people or less. [Comm 62.1104 (4) (b) 3.]
3. The Wisconsin-based requirement is being maintained that requires accessible parking spaces to have a parking sign complying with s. Trans 200.07. [Comm 62.1110 (1) (b)]

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CHAPTER Comm 62
MEANS OF EGRESS AND ACCESSIBILITY

SECTION 1. Comm 62.1003 is repealed and recreated to read:

Comm 62.1003 General means of egress. (1) EGRESS FOR OUTDOOR AREAS. Substitute the following wording for the requirements, but not the exceptions, in IBC section 1003.2.2.10: Yards, patios, courts and similar outdoor areas accessible to and usable by the building occupants shall be provided with means of egress as required by IBC chapter 10. The occupant load of such outdoor areas shall be based on the anticipated use. Where outdoor areas are to be used by persons in addition to the occupants of the building, and the path of egress travel from the outdoor areas passes through the building, means of egress requirements for the building shall be based on the sum of the occupant loads of the building plus the outdoor areas.

(2) EXTERIOR AREA FOR ASSISTED RESCUE. These are department rules in addition to the requirements in IBC section 1003.2.13.7.

(a) Exterior exit stairway. Exterior exit stairways that are part of the means of egress for the exterior area for assisted rescue shall provide a clear width of 48 inches between handrails.

(b) Identification. Exterior areas for assisted rescue shall comply with IBC section 1003.2.13.5.5.

SECTION 2. Comm 62.1101, 62.1104, 62.1106, 62.1107, 62.1108 and 62.1109 are repealed.

SECTION 3. Comm 62.1100 to 62.1110 are created to read:

Comm 62.1100 Accessibility. Substitute the following wording for the requirements in IBC chapter 11: Buildings and facilities shall be designed for accessibility in accordance with ss. Comm 62.1101 to 62.1110.

Comm 62.1101 General Requirements. (1) SCOPE. The provisions of ss. Comm 62.1101 to 62.1110 shall control the design and construction of facilities for accessibility to people with disabilities. X

(2) DESIGN. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code, with ICC/ANSI A117.1 and with the following changes, additions, or omissions to the ICC/ANSI A117.1 requirements:

(a) Doors and doorways. Doors and doorways shall be accessible in accordance with ICC/ANSI A117.1 section 1003.5.

in multi-family units?

Note: In accordance with s. 101.132 (2) (a) 4., Stats., a renter of a dwelling unit in covered multifamily housing may request the landlord to install lever door handles on any doors inside the dwelling unit or install single-lever controls on any plumbing fixtures used by the renter. These requests shall be provided by the landlord at no additional cost to the renter.

(b) *Operable controls.* Circuit controls, when provided for use by tenants in multifamily housing, shall comply with ICC/ANSI A117.1 sections 309.2 and 309.3.

Comm 62.1102 Definitions. The following words and terms shall, for the purposes of ss. Comm 62.1101 to 62.1110 and as used elsewhere in this code, have the meanings shown herein. det 7

(1) "Accessible" means a site, building, facility or portion thereof that complies with ss. Comm 62.1101 to 62.1110.

(2) "Accessible route" means a continuous, unobstructed path that complies with ss. Comm 62.1101 to 62.1110.

(3) "Accessible unit" means a dwelling unit or sleeping unit that complies with ss. Comm 62.1101 to 62.1110 and chapters 1 to 9 of ICC/ANSI A117.1.

(4) "Circulation path" means an exterior or interior way of passage from one place to another for pedestrians.

(5) "Detectable warning" means a standardized surface feature built in or applied to walking surfaces or other elements to warn visually impaired persons of hazards on a circulation path.

(6) "Dwelling unit or sleeping unit, Type A" means a dwelling unit or sleeping unit designed and constructed for accessibility in accordance with ICC/ANSI A117.1

(7) "Dwelling unit or sleeping unit, Type B" means a dwelling unit or sleeping unit designed and constructed for accessibility in accordance with ICC/ANSI A117.1, consistent with the design and construction requirements of the federal Fair Housing Act. site unless det

(8) "Dwelling unit or sleeping unit, multistory" means a dwelling unit or sleeping unit with habitable space located on more than one story.

(9) "Facility" means the entire building or any portion of a building, structure or area, including the site on which such building, structure or area is located, wherein specific services are provided or activities are performed.

(10) "Intended to be occupied as a residence" means a dwelling unit or sleeping unit that can or will be used all or part of the time as the occupant's place of abode.

(11) "Public entrance" means an entrance that is not a service entrance.

(12) "Public-use areas" means interior or exterior rooms or spaces that are made available to the general public.

(13) "Self-service storage facility" means real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

(14) "Service entrance" means an entrance intended primarily for delivery of goods and services.

(15) "Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

(16) "Sleeping unit" means a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of the dwelling unit are not sleeping units.

(17) "Wheelchair space" means space for a single wheelchair and its occupant.

(18) "Wheelchair space cluster" means locations of two or more adjacent wheelchair spaces along with companion seating in assembly areas.

Terms *Scope* *Access. bldg*
Comm 62.1103 **Scoping Requirements.** (1) WHERE REQUIRED. Except as specified in sub. (2), buildings and structures, temporary or permanent, including their associated sites and facilities, shall be accessible to people with disabilities.

(2) **GENERAL EXCEPTIONS.** Sites, buildings, facilities and elements shall be exempt from ss. Comm 62.1101 to 62.1110 to the extent specified in this section.

Sub. ?
(a) *Specific requirements.* Accessibility is not required in buildings and facilities, or portions thereof, to the extent permitted by ss. Comm 62.1104 to 62.1109.

X (b) *Existing buildings.* Existing buildings shall comply with s. Comm 62.3408.

X (c) *Work areas.* Individual employee work stations are not required to be accessible but shall be located on an accessible route.

(d) *Detached dwellings.* Detached one-and two-family dwellings and accessory structures, and their associated sites and facilities are not required to be accessible as specified in ss. Comm 62.1101 to 62.1110.

(e) *Utility buildings.* Occupancies in Group U are exempt from the requirements of ss. Comm 62.1101 to 62.1110 other than any of the following:

X 1. In agricultural buildings, access is required to paved work areas and areas open to the general public.

2. Private garages or carports that contain required accessible parking.

(f) *Construction sites.* Structures, sites and equipment directly associated with the actual processes of construction including, but not limited to, scaffolding, bridging, materials hoists, materials storage, or construction trailers are not required to be accessible.

(g) *Raised areas.* Raised areas used primarily for purposes of security, life safety, or fire safety including, but not limited to, observation galleries, prison guard towers, fire towers, or life guard stands are not required to be accessible or to be served by an accessible route.

(h) *Limited access spaces.* Nonoccupiable spaces accessed only by ladders, catwalks, crawl spaces, freight elevators, very narrow passageways, or tunnels are not required to be accessible.

(i) *Equipment spaces.* Spaces frequented only by personnel for maintenance, repair, or monitoring of equipment are not required to be accessible. Such spaces include, but are not limited to, elevator pits, elevator penthouses, mechanical, electrical, or communications equipment rooms, piping or equipment catwalks, water or sewage treatment pump rooms and stations, electric substations and transformer vaults, and highway and tunnel utility facilities.

(j) *Single occupant structures.* Single occupant structures accessed only by passageways below grade or elevated above grade including, but not limited to, toll booths that are accessed only by underground tunnels, are not required to be accessible.

(k) *Residential Group R-1.* Buildings of group R-1 containing not more than five sleeping units for rent or hire that are also occupied as the residence of the proprietor, are not required to be accessible. *residential*

(l) *Day care facilities.* Where a day care facility (Groups A-3, E, I-4 and R-3) is part of a dwelling unit, only the portion of the structure utilized for the day care facility is required to be accessible.

Comm 62.1104 Accessible route. (1) SITE ARRIVAL POINTS. Accessible routes within the site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance served.

(2) WITHIN A SITE. (a) *General.* Except as specified in par. (b), at least one accessible route shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site.

(b) *Exception.* An accessible route is not required between accessible facilities that have, as the only means of access between them, a vehicular way not providing for pedestrian access. *X*

(3) CONNECTED SPACES. (a) *General.* Except as specified in par. (b), when a building, or portion of a building, is required to be accessible, an accessible route shall be provided to each portion of the building, to accessible building entrances, connecting accessible pedestrian walkways and the public way. Where only one accessible route is provided, the accessible route shall not pass through kitchens, storage rooms, restrooms, closets or similar spaces.

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→ (b) *Exception.* A single accessible route is permitted to pass through a kitchen or storage room in an accessible dwelling unit.

(4) MULTILEVEL BUILDINGS AND FACILITIES. (a) *General.* Except as specified in par. (b), at least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

(b) *Exceptions.* 1. An accessible route is not required to floors that are above and below accessible levels and that have an aggregate area of not more than 3,000 square feet. This exception shall not apply to any of the following:

- a. Multiple tenant facilities of Group M occupancies containing five or more tenant spaces.
- b. Levels containing offices of health care providers (Group B or Group I).
- c. Passenger transportation facilities and airports (Group A-3 or Group B).
- d. Government-owned or operated facilities.

2. In Groups A, I, R and S occupancies, levels that do not contain accessible elements or other spaces required by ss. Comm 62.1107 and 62.1108 are not required to be served by an accessible route from an accessible level.

3. An accessible route is not required to levels located above or below the accessible level in government-owned or-operated buildings or facilities which are less than three stories and which are not open to the general public, if the floor level above or below the accessible level has a capacity of no more than 5 persons and is less than 500 square feet in area. The floor level above or below the accessible level that is less than 500 square feet shall have a sign stating a maximum capacity of 5 persons, and the sign shall be placed in a conspicuous location at the main entrance to the floor level.

Note: Examples include drawbridge towers and boat traffic towers, lock and dam control stations, press boxes, and train dispatching towers.

(5) LOCATION. (a) *General.* Except as specified in par. (b), accessible routes shall coincide with or be located in the same area as a general circulation path. Where the circulation path is interior, the accessible route shall also be interior.

(b) *Exception.* Accessible routes from parking garages contained within and serving Type B dwelling units are not required to be interior.

Comm 62.1105 Accessible entrances. (1) REQUIRED. (a) *General.* Except as specified in par. (b), at least 50 percent but not less than one entrance to each building and structure, and each separate tenant space within the building or structure, shall comply with the accessible route provisions of ss. Comm 62.1101 to 62.1110.

(b) *Exceptions.* 1. Entrances to spaces ^{are} not required to be accessible as provided for in ss. Comm 62.1107 or 62.1108.

2. Loading and service entrances that are not the only entrance to a building or to a tenant space.

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(2) **MULTIPLE ACCESSIBLE ENTRANCES.** Where a building or facility has entrances that normally serve accessible parking facilities, transportation facilities, passenger loading zones, taxi stands, public streets and sidewalks, tunnels or elevated walkways, or accessible interior vertical access, ~~then~~ at least one of the entrances serving each such function shall comply with the accessible route provisions of ss. Comm 62.1101 to 62.1110.

Comm 62.1106 Parking and passenger loading facilities. (1) REQUIRED. Where parking is provided, accessible parking spaces shall be provided in compliance with Table Comm 62.1106 except as required by subs. (2) and (3).

(2) **GROUPS R-2 AND R-3.** Two percent, but not less than one, of each type of parking space provided for occupancies in Groups R-2 and R-3, which are required to have Type A or Type B dwelling or sleeping units, shall be accessible. Where parking is provided within or beneath a building, accessible parking spaces shall also be provided within or beneath the building.

(3) **REHABILITATION FACILITIES AND OUTPATIENT PHYSICAL THERAPY FACILITIES.** Twenty percent of patient and visitor parking spaces provided at rehabilitation facilities and outpatient physical therapy facilities shall be accessible.

(4) **VAN SPACES.** For every eight or fraction of eight accessible parking spaces, at least one shall be a van-accessible parking space.

**Table Comm 62.1106
Accessible Parking Spaces**

Total Parking Spaces Provided	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20 plus one for each 100 over 1,000

(5) LOCATION. (a) *General.* Except as specified in par. (b), accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest route to an accessible pedestrian entrance to the parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.

(b) *Exception.* In multilevel parking structures, van-accessible parking spaces are permitted on one level.

(6) PASSENGER LOADING ZONES. Passenger loading zones shall be designed and constructed in accordance with ICC/ANSI A117.1.

(a) *Medical facilities.* A passenger loading zone shall be provided at an accessible entrance to licensed medical and long-term care facilities where people receive physical or medical treatment or care and where the period of stay exceeds 24 hours.

(b) *Valet parking.* A passenger loading zone shall be provided at valet parking services.

Comm 62.1107 Dwelling units and sleeping units. (1) GENERAL. In addition to the other requirements of ss. Comm 62.1101 to 62.1110, occupancies having dwelling units or sleeping units shall be provided with accessible features in accordance with subs. (2) to (7).

(2) DESIGN. Dwelling units and sleeping units which are required to be accessible units shall comply with this code and the applicable portions of chapters 1 to 9 of ICC/ANSI A117.1. Type A and Type B units shall comply with the applicable portions of chapter 10 of ICC/ANSI A117.1. Units required to be Type A units are permitted to be designed and constructed as accessible units. Units required to be Type B units are permitted to be designed and constructed as accessible units or as Type A units.

(3) ACCESSIBLE SPACES. (a) *General.* Except as specified in par. (b), rooms and spaces available to the general public or available for use by residents and serving accessible units, Type A units or Type B units shall be accessible. Accessible spaces shall include toilet and bathing rooms, kitchen, living and dining areas and any exterior spaces, including patios, terraces and balconies.

(b) *Exception.* Recreational facilities shall comply with s. Comm 62.1109 (14).

7 (4) ACCESSIBLE ROUTE. (a) *General.* Except as specified in par. (b), at least one accessible route shall connect accessible building or facility entrances with the primary entrance of each accessible unit, Type A unit and Type B unit within the building or facility and with those exterior and interior spaces and facilities that serve the units.

(b) *Exceptions.* 1. If the slope of the finished ground level between accessible facilities and buildings exceeds one unit vertical in 12 units horizontal (1:12), or where physical barriers prevent the installation of an accessible route, a vehicular route with parking that complies with s. Comm 62.1106 at each public or common use facility or building is permitted in place of the accessible route.

2. Exterior decks, patios, or balconies that are part of Type B units and have impervious surfaces, and that are not more than 4 inches below the finished floor level of the adjacent interior space of the unit. *incomplete*

(5) GROUP I Occupancies in Group I shall be provided with accessible features in accordance with par. (a) to (e):

all of the following
(a) *Group I-1.* Group I-1 occupancies shall be provided with accessible features in accordance with subds. 1. and 2.)

the following
1. 'Accessible units.' At least 4 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

2. 'Type B units.' a. Except as specified in subd. b., in structures with three or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

b. The number of Type B units *may* is permitted to be reduced in accordance with sub. (7).

(b) *Group I-2 nursing homes.* Nursing homes of Group I-2 shall be provided with accessible features in accordance with subds. 1. and 2.)

7 1. 'Accessible units.' At least 50 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

2. 'Type B units.' a. Except as specified in subd. b., in structures with three or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

b. The number of Type B units is permitted to be reduced in accordance with sub. (7).

(c) *Group I-2 hospitals.* In general purpose hospitals, psychiatric facilities, detoxification facilities and residential care or assisted living facilities of Group I-2, shall be provided with accessible features in accordance with subds. 1. and 2.)

1. 'Accessible units.' At least 10 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

2. 'Type B units.' a. Except as specified in subd. b., in structures with three or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

b. The number of Type B units is permitted to be reduced in accordance with sub. (7).

(d) *Group I-2 rehabilitation facilities.* In hospitals and rehabilitation facilities of Group I-2 which specialize in treating conditions that affect mobility, or units within either which specialize in treating conditions that affect mobility, 100 percent of the dwelling units and sleeping units shall be accessible units.

(e) *Group I-3.* In occupancies in Group I-3, at least 5 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

(6) **GROUP R.** Occupancies in Group R shall be provided with accessible features in accordance with pars. (a) to (d).

(a) *Group R-1.* Group R-1 occupancies shall be provided with accessible features in accordance with subds. 1. and 2.

1. 'Accessible units.' In occupancies in Group R-1, accessible dwelling units and sleeping units shall be provided in accordance with Table Comm 62.1107. All facilities on a site shall be considered to determine the total number of accessible units. Accessible units shall be dispersed among the various classes of units. Roll-in showers provided in accessible units shall include a permanently mounted folding shower seat.

**Table Comm 62.1107
Accessible Dwelling and Sleeping Units**

Total Number of units provided	Minimum required number of accessible units associated with roll-in showers	Total number of required accessible units
1 to 25	0	1
26 to 50	0	2
51 to 75	1	4
76 to 100	1	5
101 to 150	2	7
151 to 200	2	8
201 to 300	3	10
301 to 400	4	12
401 to 500	4	13

501 to 1,000	1% of total	3% of total
Over 1,001	10 plus 1 for each 100 over 1,000	30 plus 2 for each 100 over 1,000

2. 'Type B units.' a. Except as specified in subpar. b., in structures with three or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

b. The number of Type B units is permitted to be reduced in accordance with sub. (7).

(b) *Group R-2.* Type A and Type B units shall be provided in occupancies in Group R-2 in accordance with subs. 1. and 2.

1. 'Type A units.' a. Except as specified in subpar. b., in facilities containing more than 20 dwelling units or sleeping units, at least 2 percent, but not less than one, of the units shall be a Type A unit.

b. The number of Type A units is permitted to be reduced in accordance with sub. (7).

2. 'Type B units.' a. Except as specified in subpar. b., where there are three or more dwelling units or sleeping units intended to be occupied as a residence in a single structure, every dwelling unit and sleeping unit intended to be occupied as a residence shall be a Type B unit.

b. The number of Type B units is permitted to be reduced in accordance with sub. (7).

Note: Type B dwelling units specified in s. Comm 62.1107 have the same meaning as "covered multifamily housing" as defined in s. 101.132 (1) (d), Stats. Section 101.132 (1) (d), Stats., reads as follows: " 'Covered multifamily housing' means any of the following:

"1. Housing that is first ready for occupancy on or after October 1, 1993, consisting of 3 or more dwelling units if the housing has one or more elevators.

"2. Grade-level dwelling units, in housing without elevators, that are first ready for occupancy on or after October 1, 1993, consisting of 3 or more dwelling units."

(c) *Group R-3.* 1. Except as specified in subd. 2., in occupancies in Group R-3 where there are three or more dwelling units or sleeping units intended to be occupied as a residence in a single structure, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

2. The number of Type B units is permitted to be reduced in accordance with sub. (7).

(d) *Group R-4.* Group R-4 occupancies shall be provided with accessible features in accordance with subs. 1. and 2.

1. 'Accessible units.' At least one of the dwelling or sleeping units shall be an accessible unit.

2. 'Type B dwelling units.' a. Except as specified in subpar. b., in structures with three or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

b. The number of Type B units is permitted to be reduced in accordance with sub. (7).

(7) GENERAL EXCEPTIONS. Where specifically permitted by subs. (5) and (6), the required number of Type A and Type B units is permitted to be reduced in accordance with pars. (a) to (e).

(a) *Buildings without elevator service.* Where no elevator service is provided in a building, only the dwelling and sleeping units that are located on stories indicated in subd. 1. and 2. are required to be Type A and Type B units. The number of Type A units shall be determined in accordance with sub. (6) (b).

1. 'One story with Type B units required.' At least one story containing dwelling units or sleeping units intended to be occupied as a residence shall be provided with accessible entrances as specified in s. Comm 62.1105 (1), from the exterior of the building, and all units intended to be occupied as a residence on that story shall be Type B units.

2. 'Additional stories with Type B units.' On all other stories that have a building entrance in proximity to arrival points intended to serve units on that story, as specified in subpars. a. and b., all dwelling units and sleeping units intended to be occupied as a residence served by that entrance on that story shall be Type B units. Where no such arrival points are within 50 feet of the entrance, the closest arrival points shall be used unless that arrival point serves the story required by subd. 1.

a. Where the slopes of the undisturbed site measured between the planned entrance and all vehicular or pedestrian arrival points within 50 feet of the planned entrance are 10 percent or less.

b. Where the slopes of the planned finished grade measured between the entrance and all vehicular or pedestrian arrival points within 50 feet of the planned entrance are 10 percent or less.

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(b) *Multistory units.* A multistory dwelling or sleeping unit which is not provided with elevator service is not required to be a Type B unit. Where a multistory unit is provided with external elevator service to only one floor, the floor provided with elevator service shall be the primary entry to the unit, shall comply with the requirements for a Type B unit, and a toilet facility shall be provided on that floor.

(c) *Elevator service to the lowest story with units.* Where elevator service in the building provides an accessible route only to the lowest story containing dwelling or sleeping units intended to be occupied as a residence, only the units on that story which are intended to be occupied as a residence are required to be Type B units.

be

(d) Site impracticality. 1. 'Variance procedures.' Pursuant to ss. 101.132 (2) (b) 4. and (c) 2., Stats., the owner may request a reduction in accessible dwelling units due to site impracticality specified in subd. 2. through the petition for variance procedures specified in ch. Comm 61.

2. 'General.' On a site with multiple non-elevator buildings, the number of units required by sub. (7) (a) to be Type B units is permitted to be reduced to a percentage which is equal to the percentage of the entire site having grades, prior to development, which are less than 10 percent, provided that all of the following conditions are met:

a. Not less than 50 percent of the units required by par. (a) on the site are Type B units.

b. Units required by par. (a), where the slope between the building entrance serving the units on that story and a pedestrian or vehicular arrival point is no greater than 8.33 percent, are Type B units.

c. Units required by par. (a), where an elevated walkway is planned between a building entrance serving the units on that story and a pedestrian or vehicular arrival point and the slope between them is 10 percent or less are Type B units.

d. Units served by an elevator in accordance with par. (c) are Type B units.

(e) *Base flood elevation.* 1. 'Variance procedures.' Pursuant to ss. 101.132 (2) (b) 4. and (c) 2., Stats., the owner may request a reduction in accessible dwelling units due to unusual characteristics of the site specified in subd. 2. through the petition for variance procedures specified in ch. Comm 61.

2. 'General.' The required number of Type A and Type B units shall not apply to a site where the lowest floor or the lowest structural building members of non-elevator buildings are required to be at or above the base flood elevation resulting in all of the conditions specified in subs a. and b. Where no such arrival points are within 50 feet of the primary entrances, the closest arrival point shall be used.

a. A difference in elevation between the minimum required floor elevation at the primary entrances and vehicular and pedestrian arrival points within 50 feet exceeding 30 inches.

b. A slope exceeding 10 percent between the minimum required floor elevation at the primary entrances and vehicular and pedestrian arrival points within 50 feet.

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Comm 62.1108 Special occupancies. (1) GENERAL. In addition to the other requirements of ss. Comm 62.1101 to 62.1110, the requirements of subs. (2) to (3) shall apply to specific occupancies.

(2) ASSEMBLY AREA SEATING. Assembly areas with fixed seating shall comply with pars. (a) to (d). Dining areas shall comply with par. (e).

(a) *Services.* Services and facilities provided in areas not required to be accessible shall be provided on an accessible level and shall be accessible.

(b) *Wheelchair spaces.* In theaters, bleachers, grandstands and other fixed seating assembly areas, accessible wheelchair spaces shall be provided in accordance with Table Comm 62.1108-1. At least one seat for a companion shall be provided beside each wheelchair space.

**Table Comm 62.1108-1
Accessible Wheelchair Spaces**

Capacity of Seating in Assembly Areas	Minimum Required Number of Wheelchair Spaces
4 to 25	1
26 to 50	2
51 to 100	4
101 to 300	5
301 to 500	6
Over 500	6, plus 1 additional space for each total seating capacity increase of 100

1. 'Wheelchair space clusters.' Except as specified in subd. 2., accessible wheelchair spaces shall be grouped in wheelchair space clusters in accordance with Table Comm 62.1108-2.

2. 'Exception.' In fixed seating assembly areas where sightlines require more than one step for a rise in elevation between rows, the minimum required number of wheelchair space clusters in that area shall be one-half of that required by Table Comm 62.1108-2, but not less than one.

**Table Comm 62-1108-2
Wheelchair Space Clusters**

Capacity of Seating in Assembly Areas	Minimum Required Number of Wheelchair Space Clusters
Up to 300	1
301 to 600	2
601 to 900	3
901 to 1,500	4
1,501 to 2,100	5
2,101 to 3,000	6
Over 3,000	6, plus 1 additional cluster for each 1,000 seats or portion thereof

(c) *Dispersion of wheelchair space clusters.* Dispersion of wheelchair space clusters shall be based on the availability of accessible routes to various seating areas including seating at various levels in multilevel facilities.

1. 'Multilevel assembly seating areas.' a. Except as specified in subpars. b. and c., in multilevel assembly seating areas, wheelchair space clusters shall be provided on the main floor level and on one of each two additional floor or mezzanine levels.

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b. In multilevel assembly spaces utilized for worship services, where the second floor or mezzanine level contains 25 percent or less of the total seating capacity, wheelchair space clusters shall be permitted to all be located on the main level.

c. In multilevel assembly seating where the second floor or mezzanine level provides 25 percent or less of the total seating capacity and 300 or fewer seats, wheelchair space clusters shall be permitted to all be located on the main level.

2. 'Separation between clusters.' a. Except as specified in subpar. b., wheelchair space clusters shall be separated by a minimum of five intervening rows or by a minimum of ten intervening seats. Wheelchair spaces within any one wheelchair space cluster shall not be separated by an intervening row, nor by more than two intervening seats, nor by more than a 7-inch vertical level change.

b. A vertical level change exceeding 7-inches is permitted in a wheelchair space cluster where necessary to maintain sightlines.

(d) *Assistive listening systems.* 1. 'Audible communications.' Stadiums, theaters, auditoriums, lecture halls and similar fixed seating assembly areas where audible communications are integral to the use of the space shall have an assistive listening system if the area is equipped with an audio amplification system or the area has a capacity of 50 or more persons.

2. 'Receivers.' Receivers shall be provided for assistive listening systems in accordance with Table Comm 62.1108-3. Twenty-five percent of receivers, but not less than two, shall be hearing aid compatible.

**Table Comm 62.1108-3
 Receiver for Assistive Listening Systems**

Capacity of Seating in Assembly Areas	Minimum Required Number of Receivers
Less than 50	2
50 to 500	2, plus 4 for each total seating capacity increase of 100 above 51
501 to 1,000	20, plus 3 for each total seating capacity increase of 100 above 501
1,001 to 2,000	35, plus 2 for each total seating capacity increase of 100 above 1,001
Over 2,000	55, plus 1 for each total seating capacity increase of 100 above 2,000

(e) *Dining areas.* 1. 'General.' a. Except as specified in subpar. b., in dining areas, the total floor area allotted for seating and tables shall be accessible.

b. In buildings without elevators, an accessible route to a mezzanine seating area is not required, provided that the mezzanine contains less than 25 percent of the total area and the same services are provided in the accessible area.

2. 'Fixed or built-in seating or tables.' Where fixed or built-in seating or tables are provided in dining areas, at least 5 percent, but not less than one such seat or table, shall be accessible and be distributed throughout the facility.

3. 'Dining counters.' In establishments serving food or drink for consumption where the only seating is at counters exceeding 34-inches in height, a 60-inch minimum length portion of the counter shall be accessible.

(3) **SELF-SERVICE STORAGE FACILITIES.** (a) *General.* Self-service storage facilities shall provide accessible individual self-storage spaces in accordance with Table Comm 62.1108-4.

Table Comm 62.1108-4
Accessible Self-service Storage Facilities

Total Spaces in Facility	Minimum Number of Required Accessible Spaces
1 to 200	5%, but not less than 1
Over 200	10, plus 2% of total number of units over 200

(b) *Dispersion.* Accessible individual self-service storage spaces shall be dispersed throughout the various classes of spaces provided. Where more classes of spaces are provided than the number of required accessible spaces, the number of accessible spaces shall not be required to exceed that required by Table Comm 62.1108-4. Accessible spaces ~~are permitted to~~ ^{may} be dispersed in a single building of a multibuilding facility.

Comm 62.1109 Other features and facilities. (1) **GENERAL.** (a) Except as specified in par. (b), accessible building features and facilities shall be provided in accordance with subs. (2) to (14).

(b) Type A and Type B dwelling and sleeping units shall comply with ICC/ANSI A117.1.

(2) **TOILET AND BATHING FACILITIES.** (a) *General.* Except as specified in par. (b), toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of each type fixture, element, control or dispenser in each accessible toilet room and bathing facility shall be accessible.

(b) *Exceptions.* 1. In toilet rooms or bathing facilities accessed only through a private office, not for common or public use, and intended for use by a single occupant, any of the following alternatives are allowed:

- a. Doors are permitted to swing into the clear floor space provided the door swing can be reversed to meet the requirements in ICC/ANSI A117.1.
- b. The height requirements for the water closet in ICC/ANSI A117.1 are not applicable.
- c. Grab bars are not required to be installed in a toilet room, provided that the reinforcement has been installed in the walls and located so as to permit the installation of such grab bars.
- d. The requirement for height, knee and toe clearance shall not apply to a lavatory.

2. This section is not applicable to toilet and bathing facilities that serve dwelling units or sleeping units that are not required to be accessible by s. Comm 62.1107.

3. Where multiple single-user toilet rooms or bathing facilities are clustered at a single location and contain fixtures in excess of the minimum required number of plumbing fixtures, at least 5 percent, but not less than one room for each use at each cluster, shall be accessible.

4. Toilet room fixtures that are in excess of those required and that are designated for use by children in day care and primary school occupancies.

(c) *Unisex toilet and bathing rooms.* 1. 'Where permitted and required.' a. In assembly and mercantile occupancies, an accessible unisex toilet room may be provided where an aggregate of six or more male and female water closets are required. Where a unisex toilet room is provided, it shall count for no more than 15 persons. In buildings of mixed occupancy, only those water closets required for the assembly or mercantile occupancy shall be permitted to use the unisex toilet room option. Except as specified in subd. b, in recreational facilities where separate-sex bathing rooms are provided, an accessible unisex bathing room shall be provided. Fixtures located within unisex toilet and bathing rooms shall be included in determining the number of fixtures provided in an occupancy.

b. Where each separate-sex bathing room has only one shower or bathtub fixture, a unisex bathing room is not required.

c. Unisex toilet and bathing rooms shall comply with this section and ICC/ANSI A117.1.

2. 'Unisex toilet rooms.' a. Except as specified in subpar. b., unisex toilet rooms shall include only one water closet and only one lavatory. A unisex bathing room in accordance with subd. 3. shall be considered a unisex toilet room.

b. A separate-sex toilet room containing not more than two water closets without urinals, or containing only one water closet and one urinal shall be considered a unisex toilet room.

3. 'Unisex bathing rooms.' Unisex bathing rooms shall include only one shower or bathtub fixture. Unisex bathing rooms shall also include one water closet and one lavatory. Where storage facilities are provided for separate-sex bathing rooms, accessible storage facilities shall be provided for unisex bathing rooms.

4. 'Location.' Unisex toilet rooms, when provided, and bathing rooms shall be located on an accessible route. Unisex toilet rooms shall be located not more than one story above or below separate-sex toilet rooms. The accessible route from any separate-sex toilet room to a unisex toilet room shall not exceed 500 feet.

5. 'Prohibited location.' In passenger transportation facilities and airports, the accessible route from separate-sex toilet rooms to a unisex toilet room shall not pass through security checkpoints.

6. 'Clear floor space.' Where doors swing into a unisex toilet or bathing room, a clear floor space not less than 30-inches by 48-inches shall be provided, within the room, beyond the area of the door swing.

7. 'Privacy.' Doors to unisex toilet and bathing rooms shall be securable from within the room.

(d) *Water closet compartment.* Where water closet compartments are provided in a toilet room or bathing facility, at least one wheelchair-accessible compartment shall be provided. Where the combined total water closet compartments and urinals provided in a toilet room or bathing facility is six or more, at least one ambulatory-accessible water closet compartment shall be provided in addition to the wheelchair-accessible compartment. Wheelchair-accessible and ambulatory-accessible compartments shall comply with ICC/ANSI A117.1.

(3) SINKS. (a) *General.* Except as specified in par. (b), where sinks are provided in accessible spaces, at least 5 percent, but not less than one shall comply with ICC/ANSI A117.1.

(b) *Exceptions.* 1. Mop or service sinks are not required to be accessible.

2. Sinks designated for use by children in day care and primary school occupancies. *are not required*

(4) KITCHENS, KITCHENETTES AND WET BARS. Where kitchen, kitchenettes and wet bars are provided in accessible spaces or rooms, they shall be accessible in accordance with ICC/ANSI A117.1.

(5) DRINKING FOUNTAINS. On floors where drinking fountains are provided, at least 50 percent, but not less than one fountain, shall be accessible.

(6) ELEVATORS. Passenger elevators on an accessible route shall be accessible and comply with s. Comm 62.3001 and ch. Comm 18.

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(7) LIFTS. (a) *General*. Except as specified in par. (b), platform lifts shall not be part of a required accessible route in new construction.

(b) *Exceptions*. Platform lifts are permitted as part of an accessible route in any of the following applications:

1. To a performing area in occupancies in Group A.
2. To wheelchair spaces required by s. Comm 62.1108 (2) (b).
3. To spaces that are not open to the general public with an occupant load of not more than five.
4. Within a dwelling or sleeping unit.
5. To wheelchair seating spaces located in outdoor dining terraces in A-5 occupancies where the means of egress from the dining terraces to a public way is open to the outdoors.

(8) STORAGE. (a) *General*. Where fixed or built-in storage elements such as cabinets, shelves, medicine cabinets, closets and drawers are provided in required accessible spaces, at least one of each type shall contain storage space complying with ICC/ANSI A117.1

(b) *Lockers*. Where lockers are provided in accessible spaces, at least five percent, but not less than one, of each type shall be accessible.

(c) *Shelving and display units*. Self-service shelves and display units in mercantile occupancies and shelving in stack areas of libraries shall be located on an accessible route. Such shelving and display units shall not be required to comply with reach-range provisions.

(d) *Coat hooks and folding shelves*. Where coat hooks or folding shelves are provided in inaccessible toilet rooms, toilet compartments, or in dressing, fitting or locker rooms, at least one of each type shall be provided in accessible toilet rooms, toilet compartments, and dressing, fitting and locker rooms.

(9) DETECTABLE WARNINGS. (a) *General*. Except as specified in par. (b), passenger transit platform edges bordering a drop-off and not protected by platform screens or guards shall have a detectable warning.

(b) *Exception*. Detectable warnings are not required at bus stops.

(10) ASSEMBLY AREA SEATING. Assembly areas with fixed seating in every occupancy shall comply with s. Comm 62.1108 (2) for accessible seating and assistive listening devices.

(11) SEATING AT TABLES, COUNTERS AND WORK SURFACES. (a) *General*. Where seating at fixed or built-in tables, counters or work surfaces is provided in accessible spaces, at least 5 percent of the seating, but not less than one, shall be accessible.

(b) *Dispersion*. Accessible fixed or built-in seating at tables, counters or work surfaces shall be distributed throughout the space or facility containing such elements.

(12) CUSTOMER SERVICE FACILITIES. Customer service facilities shall provide for accessible features in accordance with pars. (a) to (e).

(a) *Dressing, fitting and locker rooms*. Where dressing rooms, fitting rooms, or locker rooms are provided, at least five percent, but not less than one, of each type of use in each cluster provided shall be accessible.

(b) *Check-out aisles*. 1. Except as specified in subd. 2., where check-out aisles are provided, accessible check-out aisles shall be provided in accordance with Table Comm 62.1109. Where check-out aisles serve different functions, at least one accessible check-out aisle shall be provided for each function. Where check-out aisles are dispersed throughout the building or facility, accessible check-out aisles shall also be dispersed. Traffic control devices, security devices and turnstiles located in accessible check-out aisles or lanes shall be accessible.

2. Where the area of the selling space is less than 5,000 square feet, only one check-out aisle is required to be accessible.

**Table Comm 62.1109
Accessible Check-out Aisles**

Total check-out aisles of each function	Minimum Number of Accessible Check-out Aisles Each Function
1 to 4	1
5 to 8	2
9 to 15	3
Over 15	3, plus 20% of additional aisles

(c) *Point of sales and service counters*. Where counters are provided for sales or distribution of goods or services, at least one of each type provided shall be accessible. Where such counters are dispersed throughout the building or facility, the accessible counters shall also be dispersed.

(d) *Food service lines*. Food service lines shall be accessible. Where self-service shelves are provided, at least 50 percent, but not less than one, of each type provided shall be accessible.

(e) *Queue and waiting lines*. Queue and waiting lines serving accessible counters or check-out aisles shall be accessible.

(13) CONTROLS, OPERATING MECHANISMS AND HARDWARE. (a) *General.* Controls, operating mechanisms and hardware intended for operation by the occupant, including switches that control lighting and ventilation, and electrical convenience outlets, in accessible spaces, along accessible routes or as parts of accessible elements shall be accessible.

(b) *Operable windows.* 1. Except as specified in subd. 2., where operable windows are provided in rooms that are required to be accessible in accordance with ss. Comm 62.1107 (5) and (6) (a) and (b), at least one window in each room shall be accessible and each required operable window shall be accessible.

2. Accessible windows are not required in bathrooms or kitchens.

(14) RECREATIONAL FACILITIES. Recreational facilities shall be provided with accessible features in accordance with pars. (a) to (c).

(a) *Facilities serving a single building.* In Group R-2 and R-3 occupancies where recreational facilities are provided serving a single building containing Type A or Type B units, 25 percent, but not less than one, of each type of recreational facility shall be accessible. Every recreational facility of each type on a site shall be considered to determine the total number of each type which are required to be accessible.

(b) *Facilities serving multiple buildings.* In Group R-2 and R-3 occupancies on a single site where multiple buildings containing Type A or Type B units are served by recreational facilities, 25 percent, but not less than one, of each type of recreational facility serving each building shall be accessible. The total number of each type of recreational facility which is required to be accessible shall be determined by considering every recreational facility of each type serving each building on the site.

(c) *Other occupancies.* All recreational facilities not ^{described in} (falling within the purview of) pars. (a) and (b) shall be accessible.

(15) STAIRWAYS. Stairways located along accessible routes connecting floor levels that are not connected by an elevator shall be designed and constructed to comply with ICC/ANSI A117.1 and IBC chapter 10.

Comm 62.1110 Signage. (1) SIGNS. (a) *General.* Except as specified in par (b), required accessible elements shall be identified by the International Symbol of Accessibility at any of the following locations:

1. Accessible passenger loading zones.

2. Accessible areas of refuge required by IBC section 1003.2.13.5.

3. Accessible rooms where multiple single-user toilet or bathing rooms are clustered at a single location.

4. Accessible entrances where not all entrances are accessible.

5. Accessible check-out aisles where not all aisles are accessible. The sign, where provided, shall be above the check-out aisle in the same location as the check-out aisle number or type of check-out identification.

6. Unisex toilet and bathing rooms.

7. Accessible dressing, fitting, and locker rooms where not all such rooms are accessible.

(b) *Exception.* 1. Accessible parking spaces required in s. Comm 62.1106 for the general public shall be identified with a sign complying with the accessible parking sign requirements specified in s. Trans 200.7. 200.07

2. Accessible parking facilities identified for use only by employees of any building or facility or by tenants in Group R-2 occupancies may be identified with signs other than the ~~Trans~~ *200.7* signs. *spec. in s. Trans*

(2) **DIRECTIONAL SIGNAGE.** Directional signage indicating the route to the nearest like accessible element shall be provided at all of the locations specified in pars. (a) to (e). These directional signs shall include the International Symbol of Accessibility.

(a) Inaccessible building entrances.

(b) Inaccessible public toilet and bathing facilities.

(c) Elevators not serving an accessible route.

(d) At each separate sex toilet and bathing room indicating the location of the nearest unisex toilet or bathing room where provided in accordance with sub. (1).

(e) At exits and elevators serving a required accessible space, but not providing an approved accessible means of egress, ~~signage shall be provided~~ in accordance with IBC section 1003.2.13.6. X

(3) **OTHER SIGNS.** Signage providing directional information, information about functional spaces, or signage indicating special accessibility provisions shall be provided as follows: ↓ in all of the fol. circs

(a) In assembly areas required to comply with s. Comm 62.1108 (2) (d), a sign notifying the general public of the availability of assistive listening systems shall be provided at ticket offices or similar locations.

(b) At each door to an exit stairway, signage shall be provided in accordance with IBC section 1003.2.10.3.

(c) At areas of refuge, signage shall be provided in accordance with IBC sections 1003.2.13.5.3 to 1003.2.13.5.5.

(d) At areas for assisted rescue, signage shall be provided in accordance with s. Comm 62.1003 (2) (b).

Note: Refer to s. 101.123, Stats., for requirements for designating smoking areas.

SECTION 4. Comm 62.3408 (2) and (3) are renumbered 62.3408 (3) and (4).

SECTION 5. Comm 62.3408 (2) is created to read:

Comm 62.3408 (2) CHANGE OF OCCUPANCY. Substitute the following wording for the requirements in IBC section 3408.3: (a) *General.* Except as specified in par. (b), existing buildings, or portions thereof, that undergo a change of group or occupancy shall have all of the following accessible features:

1. At least one accessible building entrance.
2. At least one accessible route from an accessible building entrance to primary function areas.
3. Signage complying with s. Comm 62.1110.
4. Accessible parking, where parking is provided.
5. At least one accessible passenger loading zone, when loading zones are provided.
6. At least one accessible route connecting accessible parking and accessible passenger loading zones to an accessible entrance.

(b) *Exception.* Where it is technically infeasible to comply with the new construction standards for any of these requirements for a change of group or occupancy, the items specified in subs. 1. to 6. shall conform to the requirements to the maximum extent technically feasible. Change of group or occupancy that incorporate any alterations or additions shall comply with par. (a), subs. (3) and (4), and IBC sections 3408.4, 3408.5, 3408.6 and 3407.

SECTION 6. Comm 62.3408 (3) (a) is amended to read:

Comm 62.3408 (3) (a) Remodeled housing. When housing with 3 or more dwelling units is remodeled, the remodeling percentages specified in s. 101.132 (2) (b), Stats., shall be applied, and the remodeling shall comply with the applicable portions of ~~IBC chapter 11~~ chapter Comm 62.

SECTION 7. Comm 62.3408 (5) is created to read:

Comm 62.3408 (5) TECHNICALLY INFEASIBLE. This is a department definition in addition to the requirements in IBC section 3408: "Technically infeasible" means an alteration of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a loadbearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features that are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (b), Stats., these rules shall take effect on July 1, 2002

H:/Comm 62 access/Comm 62 access repeal and recreate.doc



P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
TDD#: (608) 264-8777
www.commerce.state.wi.us

Scott McCallum, Governor
Philip Edw. Albert, Secretary

March 8, 2002

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 01-109

RULE NO.: Chapter Comm 62

RELATING TO: Building construction accessibility requirements

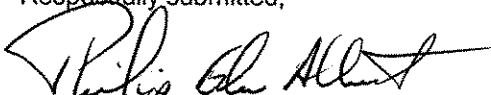
Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,



Philip Edw. Albert
Secretary



P.O. Box 7970
Madison, Wisconsin 53707
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Scott McCallum, Governor
Philip Edw. Albert, Secretary

March 8, 2002

Donald J. Schneider
Senate Chief Clerk
Room 501
119 Martin Luther King Blvd
Madison, Wisconsin 53703

John A. Scocos
Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 01-109

RULE NO.: Chapter Comm 62

RELATING TO: Building construction accessibility requirements

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Philip Edw. Albert', written over a horizontal line.

Philip Edw. Albert
Secretary

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 62

Amendment No.

Subject

Building construction accessibility requirements

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds		
GPR	\$	\$
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		
PRO/PRS	0	-0
SEG/SEG-S		
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

STATE

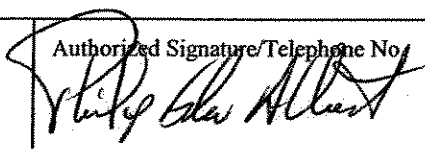
LOCAL

NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)

Commerce/Diane Meredith 266-8982

Authorized Signature/Telephone No.



Date

9/24/01

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 62
Amendment No. if Applicable

Subject

Building construction accessibility requirements

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing chapters Comm 61 to 65, Wisconsin Commercial Building Code. The proposed rules are updating rules relating to accessibility issues and do not contain any changes in the Division's fees charged for administering and enforcing the Wisconsin Commercial Building Code. The proposed rules will not generate any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Long-Range Fiscal Implications

None knoww

Agency/Prepared by: (Name & Phone No.)
Commerce/Diane Meredith 266-8982

Authorized Signature/Telephone No.



Date

9/24/01

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 01-109

RULE NO.: Chapter Comm 62

RELATING TO: Building construction accessibility requirements

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

No special reporting or operational requirements are specified.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

None raised

3. Nature and estimated cost of preparation of any reports by small businesses.

None known

4. Nature and estimated cost of other measures and investments required of small businesses.

None known

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

None known

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None known

RULE REPORT

Department of Commerce

Rule No.: Chapter Comm 62

Relating to: Building construction accessibility requirements

Agency contact person for substantive questions:

Name Jim Quast

Title Program Manager

Telephone Number 266-9292

Agency contact person for internal processing:

Name Diane Meredith

Title Code Consultant

Telephone Number 266-8982

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
Sections 101.02 (1) and (15), 101.13 and 101.132, Stats.

2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
28CFR Parts 35 and 36 Americans with Disabilities Act
24CFR 100.205 Federal Fair Housing Act

3. Citation of court decisions which are applicable to the proposed rule(s).

None known

4. Description of the proposed rule(s).

The Division has adopted administrative rules in chapters Comm 61 to 65 (Clearinghouse Rule 00-179) as the new Wisconsin Commercial Building Code. These rules include the adoption by reference of the 2000 editions of the *International Building Code*® (IBC), the *International Energy Conservation Code*™ (IECC), the *International Mechanical Code*® (IMC) and the *International Fuel Gas Code*® (IFGC).

The 2000 edition of the IBC contains accessibility requirements for buildings and facilities, however, these accessibility requirements have been substantially changed in the 2001 IBC Supplement to ensure these rules provide an equivalency or "safe harbor" with the federal fair housing regulations.

The proposed accessibility rule package will include various Wisconsin-based requirements that were developed previously and will also incorporate all of the revisions in the 2001 IBC Supplement relating to accessibility in multifamily housing and commercial facilities. The Department feels it is important to also adopt the 2001 IBC accessibility changes so designers and owners will be complying with rules that are substantially equivalent to the federal regulations, as well as the state fair housing regulations relating to accessibility in multifamily housing. This proposed rule package has a projected effective date of July 1, 2002, which will coincide with the effective date of the new Commercial Building Code. This will put all the accessibility requirements in one document, which make the requirements easier to use.

5. Reason for the proposed rule(s).

The reason for this rule package is to ensure that owners and designers are using building construction requirements that are substantially equivalent to the federal and state fair housing laws and the Americans with Disabilities Act Accessibility Guidelines.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 01-109

RULE NO.: Chapter Comm 62

RELATING TO: Building construction accessibility requirements

Agency contact person for substantive questions.

Name: Jim Quast

Title: Program Manager

Telephone No. 266-9292

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

7. Review rules for permit action deadline [s. 227.15(2)(h)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

**Response to Legislative Council Rules Clearinghouse Comments
(Clearinghouse Rule 01-109: Comm 62-Accessibility requirements)**

Review rules for form, style and placement in administrative code [s. 227.15 (2) (c)]

General response to form and style: [See comments 2.b, 2.e.] The proposed rules in chapter Comm 62 modify the *International Building Code*® (IBC), 2000 edition, which is adopted by reference as the Wisconsin Commercial Building Code. The purpose of the proposed modifications is to include the changes made in the 2001 IBC Supplement, which ensures the accessibility rules in the IBC 2002 edition are substantially equivalent to the federal Fair Housing Law. In lieu of adopting the 2001 IBC Supplement in addition to the IBC 2000 edition, the Division felt it would be beneficial to incorporate all of the accessibility requirements into one code, which is chapter Comm 62. This would eliminate the need for users to purchase another international code book for accessibility issues. When the next edition of the IBC is adopted the majority of these modifications in Comm 62 will not be necessary, however, until that time the Division would like to use the same format and style found in the IBC. Where appropriate the Wisconsin modifications for introductory format will be used. The Department will recommend many of Legislative Council's suggestions to the IBC standard setting committees for improving clarity in their requirements.

2.d. The terms "groups" as used in the proposed code modifications refers to the various building occupancies, which are defined in IBC chapter 3. The term "types" refers to the dwelling and sleeping units in covered multifamily housing that must be complied with to meet the federal fair housing law and with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). The description of the Type A and Type B dwelling and sleeping units is found in ICC/ANSI A117.1.

2.g. To be consistent with the IBC language and format, the phrase "is permitted to be reduced" will be maintained rather than changing to "may be reduced."

Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15 (2) (f)]

General response to improve clarity, grammar, punctuation and plainness: [See comment under "general response to form and style."] [This response is applicable to Legislative Council's comments for 5.e., 5.g., 5.h., 5.m., 5.s., 5.t., 5.u., 5.v., 5.w., and 5.a.c.]

5.c., 5.f., 5.j., 5.l., 5.m., 5.o., and 5.y. There are numerous terms requested by Legislative Council to be clarified in the rule. The following terms will be defined for clarity: "accessible", "accessible route" and "finished ground level". The terms of "licensed medical facilities", long-term care facilities", "outpatient physical therapy facilities", "rehabilitation facilities", and "recreational facilities" will not be defined since these terms are currently found in ADAAG, 36 CFR, Part 36 and the federal Fair Housing Accessibility Guidelines specified in 24 CFR, chapter 1, and have been used in Wisconsin since 1994.

5.c. The IBC contains the scoping provisions for buildings and facilities and the ICC/ANSI A117.1, Standard for Accessible and Usable Buildings and Facilities contains the technical provisions for designing for accessibility. The “scoping” provisions are those requirements that identify when accessibility is required or how many elements or features are required. The ICC/ANSI A117.1 contains the design parameters for making the spaces, elements or features accessible. Section Comm 62.1101 (2) requires compliance with ICC/ANSI A117.1 for the design and construction of buildings and facilities to be accessible in a building or a facility. However, by including a cross-reference to the ICC/ANSI A117.1 Standard within the definitions of “accessible” and “accessible route”, the reader will have a better idea of where to find the design parameters for meeting the accessibility criteria. Also, see comment 5. k. relating to the design of accessible parking spaces. These requirements are found in ICC/ANSI A117.1. The rule analysis will be modified to explain how the IBC and ICC/ANSI A117.1 Standard are to be used relating to making buildings and facilities accessible to people with disabilities.

5.f. The accessible route as used in s. Comm 62.1103 (2) (c) refers to interior and exterior routes. The term accessible route has been modified to direct the reader to the ICC/ANSI A117.1 for the technical design requirements, which indicates the components of an accessible route.

5.n. The accessible route provision requires connections to each type of dwelling unit and sleeping units from both the exterior and interior required accessible spaces, elements or features of the building or facility.

5.p. Under s. Comm 62.1107 95) (b) 1., the application of the 50% applies to each type of dwelling and sleeping units. This application is based on the definition of “dwelling unit” in IBC chapter 2 and the definition of “sleeping unit” in s. Comm 62.1102 (16).

5.a.e. The term “technically infeasible” refers to alterations in existing buildings and is found in IBC sections 3408.3 and 3408.5. The term “technically infeasible” has the same meaning as used in ADAAG and has been included in the 2001 IBC Supplement. The term is being defined in IBC chapter 34 to provide clarity in application of accessibility requirements to altered buildings and facilities.

5.a.f. The application of the Wisconsin Commercial Building Code, including the accessibility requirements is found in s. Comm 61.03.

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 01-109		Hearing Location: Mailed in	
Rule Number: Comm 62			
Relating to: Building construction accessibility requirements			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	Brian Peters, Housing Program Coordinator Independence First Milwaukee, WI	Is opposed to the elimination of a requirement that extra floor space be provided at the foot of a bathtub to allow extra toe space for people using wheelchairs to reach the bathtub controls. Indicates there has been no requested variance to this current rule and feels the rule benefits caregivers and parents bathing their children. Feels with the aging population that both the Type A units as well as the Type B units need to provide more accessibility and recommends retaining the additional toe space requirement in Type B units.	The proposed draft will be changed to maintain the extra clear floor space provided at bathtubs in the higher level of usability bathrooms specified in the current code which is the option B bathroom in the new code. Current Wisconsin codes do not cover Type A dwelling and sleeping units and it is the intent to maintain consistency with the model code requirements for Type A units. [See s. Comm 62.1101 (2) (c)]
2	David J. Kimball, AIA SDS Architects, Inc. Eau Claire, WI	Is aware that under the technical requirements in ICC/ANSI A117.1, section 404.2.11 that vision panels in doors cannot be more than 43 inches above the floor. States that a fire door may have a 100 square inch limitation on the glazing area. Feels this rule poses a safety problem for the vast majority of the population since most people would need to bend over to look through a glazed opening at this height. Suggests revising the code to accommodate for the instances when fire doors are limited in size for the glazed openings.	It is proposed to maintain the ICC/ANSI A117.1 language that vision panels be located not more than 43 inches above the floor since the requirement was specifically developed with input from a nationally recognized organization for accessibility. The IBC Code Committee is aware of the potential problem and is working on a solution with the accessibility organization, and a solution may be part of the next edition of the IBC and ICC/ANSI A117.1.
3	Jerry Vogt Ebtide Inc. Madison, WI	Is opposed to the elimination of the current requirement that provides for toe space past the end of tubs and showers so persons with upper body mobility limitations who use wheelchairs can reach the controls from inside and outside the tub. Easier reach of the controls is of benefit not only to persons with disabilities but also their caregivers and parents bathing their children. Feels the broad range of beneficiaries will be lost under the proposed rule.	See response to comment #1
4	Tom Hirsch, AIA Madison, WI	Is opposed to the elimination of the current requirement that provides for the toe space past the end of the tubs and showers so that persons with upper body mobility who use wheelchairs can reach the controls from outside the tub as well as from within the tub. Feels this requirement is essential to persons who use wheelchairs to live independently; provides benefits of	See response to comment #1 For consistency with the federal Fair Housing minimum design standards, the code will allow Type B dwelling and sleeping units to use either the Option A bathroom

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 01-109		Hearing Location: Mailed in	
Rule Number: Comm 62			
Relating to: Building construction accessibility requirements			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
5	Linda Rowley, Chairperson State of WI Council on Physical Disabilities Madison, WI	<p>greater usability to all other users as well as their attendants or parents; and also feels the substitution of the Type A units in lieu of the higher level bathroom is not an equivalency since it only provides for 2 percent of the units in developments of 20 or more dwelling units.</p> <p>States the Council on Physical Disabilities was created by the state legislature too advise and make recommendation to state agency on relevant issues for people with disabilities. Requests the current Wisconsin requirement relating to additional toe space past the end of tubs and showers be maintained. This requirement must be continued so persons with upper body mobility, who use wheelchairs can reach the controls from inside and outside of the tub. Feels people with disabilities must have a variety of housing options available. Demographic reports already indicate that Wisconsin and the nation will be experiencing a significant increase in the number of people reaching retirement in the next 20 years and in people over the age of 75. Indicates the provision for the toe space at the end of the tubs and showers has been in the code for almost 10 years and the Department has no record of anyone requesting a variance from the requirement. Recommends the Department maintain the requirement for additional toe space at tubs and showers.</p>	<p>design for all of the bathrooms in the unit or provide the Option B bathroom for at least one bathroom in the units.</p> <p>See responses to comment #1 and comment #4</p>
6	John Klingler CAP Services, Inc. Stevens Point, WI	<p>Same comment as Exhibit No. 4.</p>	<p>See responses to comment #1 and comment #4</p>
7	Marcia Carlson Facilities Access Planning UW-Madison Madison, WI	<ul style="list-style-type: none"> • Suggests that the accessible parking space be as wide as the other parking spaces in the lot or at least 8 feet wide. Feels that when wider parking spaces (greater than the minimum of 8 feet) are provided in other areas in a lot, the accessible parking spaces should also provide that same minimum as provided for other users of the parking lot. • Suggests not allowing the gutter width as part of an accessible parking space or access aisle. Feels the gutter of often full of leaves, trash, snow and ice and therefor not available space. 	<ul style="list-style-type: none"> • The Wisconsin Commercial Building Code provides minimum construction requirements for accessibility. Providing wider parking spaces is an option available to owners. • This is a maintenance issue and buildings and facilities must be maintained to be in compliance with the code in effect when the building was constructed. [See s. Comm 61.03 (12)]