



# Wisconsin State Fire Chiefs Association, Inc.

Together We Can Make A Difference

00-179a

50

- Education
- Prevention
- Safety
- Suppression
- EMS

DATE: February 9, 2001

TO: Department of Commerce

FROM: Wisconsin State Fire Chiefs Association

RE: Petition Supporting the Delay of the Adoption of the IBC & IFC

The Wisconsin State Fire Chiefs Association and the Wisconsin Fire & EMS Coalition, an organization of eight Wisconsin Fire & EMS Organizations, support delaying adoption of any Building or Fire Code until a comparison of the ICC & NFPA Codes can be completed. The State of Wisconsin has had its own codes for over eighty-five years. The current Wisconsin Codes can be utilized another two years, until an adequate comparison could be completed of the ICC & NFPA suites of codes. Until a comparison of these two suites of codes has been completed the signatures of this petition support the delay in adoption of any new State Codes.

Wisconsin will miss the opportunity to adopt the most comprehensive suite of codes for the State of Wisconsin if a careful analysis is not completed prior to adoption. Each day we read and hear of disasters killing and/or injuring citizens as well as firefighters throughout this country and the world. Many times during the investigation in the aftermath of the disaster we learn that inadequate codes contributed or even were the cause of the injuries and/or loss of life.

During the comparison we urge the various code councils to maintain and update the current codes to meet the needs of code enforcement and safety of the residents of the State of Wisconsin.

P.O. Box 44743, Madison, WI 53744-4743  
 Phone: 1-800-375-5886 Fax: 608-274-8262



P. O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD #: (608) 264-8777  
<http://www.commerce.state.wi.us>  
<http://www.wisconsin.gov>  
Scott McCallum, Governor  
Philip Edw. Albert, Secretary

April 9, 2002

The Honorable Mark Meyer, Chair  
Senate Universities, Housing and Government Operations Committee  
Room 131 South, State Capitol  
Madison, WI 53707-7882

Dear Senator Meyer:

Pursuant to s. 227.19, Stats., the Senate Committee on Universities, Housing, and Government Operations is currently in the process of reviewing Clearinghouse Rule 01-139 relating to a series of amendments in different Commerce codes affecting the construction of public buildings and places of employment. These rules under Clearinghouse Rule 01-139 are being made to complement the new building code that will take effect on July 1, 2002, which was also reviewed by your committee last year (Clearinghouse 00-179), and subsequently adopted by the Department.

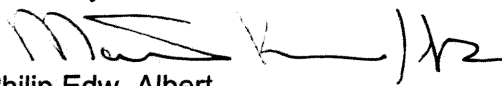
Without adopting the enclosed germane modification relating to construction site soil erosion and storm water management at commercial building sites, we could have a serious gap in the protection of our State's natural resources. Construction site soil erosion and storm water management at commercial building sites is currently governed under section Comm 50.115.

Last fall, this rule was repealed with the adoption of model building code standards, effective July 1, 2002. At that time, it was envisioned that different construction soil erosion standards would be adopted and replace the current rule; however, that goal no longer appears possible at this point in time. The current rule (Comm 50.115) that is in effect is scheduled to expire on July 1, 2002. We have been in discussions with the Department of Natural Resources (DNR). The DNR supports maintaining this important rule, which has been in effect since November 1994, in order that we continue to have in place soil erosion and storm water management standards beyond July 1<sup>st</sup>.

We realize that the Committee's review time is scheduled to end on April 11<sup>th</sup>, and we sincerely apologize for submitting this germane modification so late in the process. It is our hope that the committee could favorably accept this proposal as a part of Clearinghouse Rule 01-139. We appreciate your consideration as always.

If you have any questions regarding this matter, please contact Martha Kerner at 266-2125.

Sincerely,

  
Philip Edw. Albert  
SECRETARY

cc. The Honorable Jean L. Hundertmark, Chairperson  
Assembly Committee on Labor and Workforce Development

**ORDER OF THE  
DEPARTMENT OF COMMERCE**

**CREATING RULES**

The Wisconsin Department of Commerce proposes an order to repeal Comm 5.61 (1) Note 1, 14.03 (9) (c), 14.03 (10) (d), 14.28 (2) (d), 32.16 (9) and (21), 61.31 (3) (b) (title) and (c) (title), 61.51 (1) Note, 63.0602 (2), 63.0802 (3), 63.0901, 64.0202 (2) (b), 71.21 (7) (b) 3., 71.26 Note, 81.01 (209) Note, 82.31 (16) (d) 2. d. Note, and 82.40 (5) (a) Note;

to renumber Comm 14.03 (9) (d); 14.04; 14.31 (1) to (7); 61.31 (3) (intro.), (a), and (b); 61.51 (2) (e); 62.0100 (1) and (2); 62.0202 (1) (b) and (c) to (k); 62.1609 (intro.) and (1) to (4); 62.3300 (1) and (2); 63.0503 (2) (c) to (e); 63.0602 (3); 63.0802 (4) and (5); 64.0202 (2) (c); 64.0403 (3) to (6); 65.0305 (1) (intro.) and (a) and (b); and A-61.03 (4) (b);

to renumber and amend Comm 61.31 (3) (a) Note (2);

to amend Comm 2.31 (1) (a), (b), (b) Note, (g), (h), and (i); 2.31 (3) and (5); 2.51 (2); 2.52 (3) (title) and (a); 3.03 (5) (f) 2.; 5.34 (1) and (3) (a) (intro.); 5.35 (5) (a) (intro.); 5.50 (2); 5.56 (1); 5.61 (1); 7.41 (4) (d) Note; 9.24 (1); 9.28 (1) (a); 10.26 (2) (intro.); 14.03 (9) (b) Note; 16.04 (2) Note 3; 16.08 (1) Note; 16.17 (1) (b) and (2) (a) Note; 16.25 (1) (c); 16.41; 16.45 (3) Note and (4) (a) 1., 2., and 3. (intro.); 16.48 Note; 16.65 (2) (a) 1. and (4) (a) (intro.); 30.10 (7) Note; 30.145; 32.16 (19); 32.24 (1) (b) Note and (5) (c) 1.; 32.26 (1) Note; 34.23 (2) (a); 34.28; 34.31 (1) (a) Note; 34.36; 34.39; 34.40; 41.49 (5) (b); 45.18 (4) (b) 3. c.; 45.19 (8), (9), and (12) (b) 1. Note; 61.03 (6) (c), (7) (c), and (13) (a) 1. and 6.; Table 61.30-2 (title); 61.50 (1) (b) 1. a. and b.; 62.0904 (2) (b) 8.; 62.2900 (2); 62.2902 (2); 62.3100 (title) and 62.3100; 62.3406; 62.3500; 63.0900 Note; Figure 63.1005 Note; 63.1011 (3); 64.0401 (4) (b) 2.; Table 64.0403 footnote m; 64.0507; 64.1500; 65.0301; 65.0304 (3) (title) and (3); 65.0503 (1) (b); 65.0700; 71.21 (2), (5), and (6) (intro.); 71.24 (1) (d) 1.; 71.26; 71.30 (2); 75.001 (1) (e) Note; 81.01 (209); 82.10 (3); 82.36 (19) Note; 82.40 (5) (b) 5. Note and (c) Note; 84.20 (4) (b) 9. e. Note, and (5) (L) 3. Note and (o) 2. b. and 3.; 84.30 (4) (e) 2. Note; 90.16 (1); 90.17 (2); and 91.12 (1) (b) 3. and (5) Note;

to repeal and recreate Comm 41.28 (3) Note, Table 61.30-3, 63.0503 (2) (d), 63.0803 (2) (f) 3., 63.1029 (4), 64.0301 (2) (a) and (b), 64.0401 (4) (a) 3., 64.0403 (6), 64.0404 (1), 71.21 (7) (b) 2., and 82 Appendix A-82.40 (5);

and to create Comm 5.34 (3) (a) 4. Note and (5) (a) 4. Note; 14.03 (10) Note (1); 14.04 (1) and (2) (title); 14.08; 14.31 (1); 50.115; 61.20 (1) Notes (2) and (3); 61.30 (2) (c) and Note; 62.0302; 62.0903 (2) Note (2); 62.1609 (2); 62.2701; 62.2901; 62.3100 (2) and Note; 62.3500 Note; 63.0503 (2) (c); and 64.0403 (3), (5), and (7), relating to construction of public buildings and places of employment.

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SECTION 1. Chapter Comm 50, section 50.115 is created to read:

CHAPTER Comm 50  
CONSTRUCTION SITE SOIL EROSION CONTROL

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

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

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

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

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

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

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

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

**(2)** A notice of intent shall be filed either with the department or with certified municipalities and counties authorized to review plans and perform inspections under s. Comm 61.70. Municipalities and counties shall file a copy of the notice of intent with the department.

The notice of intent shall be filed on form 3400-161 published by the department of natural resources.

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

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

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

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

SECTION 2. Notwithstanding the repeal of Chapter Comm 50 in Clearinghouse Rule Number 00-179, s. Comm 50.115 is effective July 1, 2002.

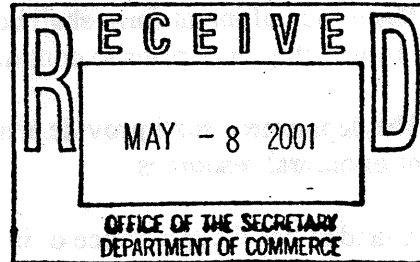
(End)

*file reference: Soil erosion b2*

# WI Fire & EMS Legislative Leadership Coalition

May 7, 2001

The Honorable Brenda Blanchard  
Secretary  
Wisconsin Department of Commerce  
P.O. Box 7970  
Madison, WI 53717-7970



Dear Secretary Blanchard:

The WI Fire & EMS Legislative Leadership Coalition would like to inform you of our support of the Department of Commerce's Proposed Option C to adopt the Four ICC construction codes and NFPA 1 for the State of Wisconsin. The four ICC Codes are the International Building Code, the International Energy Conservation Code, the International Mechanical Code, and the International Fuel Gas Code.

Our Association supports the amendments that would be made to the proposed codes and other issues that we have resolved with staff from the Department of Commerce as outlined in the attached document, and which is referred to as the Department of Commerce Statement of Intent dated May 2, 2001. We appreciate being able to work with your staff to resolve the concerns of the Fire Service, and we look forward to supporting the adoption of a new Building and Fire Code for the State of Wisconsin.

If you have any questions, please feel free to contact me at 414-429-2582.

Respectfully,

A handwritten signature in cursive that reads "Rick J. Gale".

Rick Gale, Chairperson  
WI Fire & EMS Legislative Leadership Coalition

Cc: WI Fire & EMS Legislative Leadership Coalition Associations

PROFESSIONAL  
FIRE FIGHTERS OF  
WI, INC.

WI CHAPTER  
INTERNATIONAL  
ARSON  
INVESTIGATORS  
ASSOCIATION

WI FIRE CHIEFS  
EDUCATION  
ASSOCIATION

WI FIRE  
INSPECTORS  
ASSOCIATION

WI SOCIETY OF  
FIRE SERVICE  
INSTRUCTORS

WI STATE FIRE  
CHIEFS  
ASSOCIATION

WI STATE  
FIRE FIGHTERS  
ASSOCIATION

## **Department of Commerce Statement of Intent – May 2, 2001**

The Department of Commerce has been discussing Option C with the Fire/EMS Legislative Leadership Coalition for further discussion with the Commercial Building Code Council and the Multifamily Dwelling Council. The overall purpose of Option C is to adopt the NFPA 1 (NFPA Fire Prevention Code) in lieu of the International Fire Code (IFC) as one of the five new national model codes adopted for regulation of commercial buildings in Wisconsin. To avoid conflicting provisions the fire code will not apply to existing or new building construction, but will apply to fire safety issues dealing with the use and operation of buildings as detailed below.

### **Fire Code: Chapter Comm 14**

The requirements of NFPA 1, the NFPA Fire prevention Code - 2000 edition, would be adopted and establish the minimum standards for any process, operation, or use and the maintenance of fire safety features in public buildings and places of employment. Included would be the references to NFPA 101, the Life Safety Code, for the operation, use and maintenance only. The design and construction requirements specified in the NFPA 1 would not be included as part of the adoption of the code.

Under Option C, NFPA 1 will supplant the IFC in the current proposed Option B as the base document for the Fire Prevention Code, as described above. Under the public hearing draft of Option B, some portions of the IFC were not included because other Commerce codes currently address the topics. Likewise, some portions of NFPA 1 would not be adopted, because other Commerce codes currently address the same topics. As Commerce intended to do with these topical areas in the current Option B, these matters will be referred to the applicable advisory code council. If the timing will permit, the department will attempt to have updates to those codes be effective on the planned implementation date of the five codes, July 1, 2002. Additionally, there are a number of provisions in the current Comm 14 that are different or missing from the NFPA 1 code. The Department intends to retain those provisions as "Wisconsinisms" to the proposed Option C.

The following list specifies the chapters and sections that would be excluded from the adoption of NFPA 1, because they are currently regulated by other Commerce codes:

#### **NFPA 1 Chapters**

17 Flammable and Combustible Liquids - Refer to Comm 10

21 Liquefied Petroleum Gases and LNG - Refer to Comm 40

23 Mechanical Refrigeration - Refer to Comm 45

27 Manufactured Home and RV Sites - Refer to Admin 65

28 Refueling - Refer to Comm 10

30 Service Stations and Repair Garages - Refer to Comm 10 and Comm 61 to 65

**NFPA 1 Sections**

6-1 Electrical Fire Safety - Refer to Comm 16

6-2 HVAC - Refer to Comm 61 to 65

6-3 Elevators - Refer to Comm 18

6-5 Heating Appliances - Refer to Comm 61 to 65

16-4 Manufacture of Fireworks - Refer to Comm 9

16-8 Manufacture of Explosives - Refer to Comm 7

29-2.6 Delete Exception for Fire Hose Threads - Refer to Comm 14.07

31-9 Maintenance of Outdoor Grandstands - Refer to Comm 61 to 65

31-10 Maintenance and Operation of Folding & Telescoping Seating - Refer to Comm 61 to 65.

**Building Code: Chapters Comm 61 to 65**

The building code would govern the design and construction of public buildings and places of employment. Included would be the references to the IFC for the design and construction only. The building code would adopt the IBC, IMC, IECC and the IFGC.

For cities like Madison who would like to adopt the IFC as their fire code, local governments could petition the Department to substitute the IFC for the NFPA 1 within that municipality.

As indicated above, the four ICC construction codes (IBC, IMC, IECC, and IFGC for venting provisions) for new construction would be adopted. As proposed under the public hearing draft, specifically s. Comm 65.0400, NFPA 54, National Fuel Gas Code, will continue to be used for the installation of gas piping.

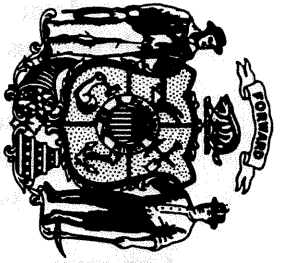
Commerce would undertake a full and open comparison of the IBC, IMC, IECC, IFGC and IFC developed by the International Code Council and the corresponding NFPA



Consensus Codes Set, including *NFPA 5000*<sup>TM</sup>, Building Code when those codes are available. Because of the volume of the 10 documents, the first attempt at comparison will be done at the policy and subject level and then a decision will be made whether to proceed with a more detailed comparison. This reflects Commerce policy of periodic code updates of codes that will be adopted as part of this rule adoption resolution.

Design and construction requirements specified in NFPA 1, but not included in the adoption of the commercial building code will be discussed during consideration of future code updates.

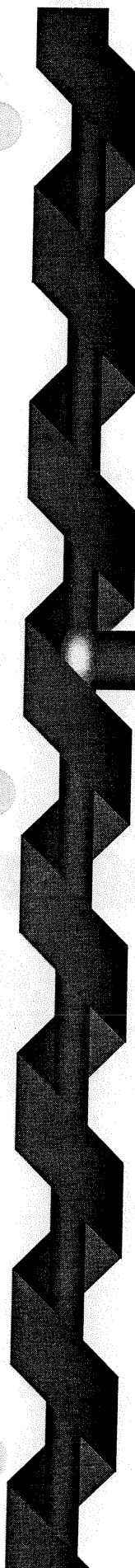
Commerce will work with the Fire & EMS Coalition to identify fire safety problems in the existing building inventory. This information will be considered in updating the codes in the next code cycle.



# SENATOR MARK MEYER

Welcome to my office.

Name (PLEASE PRINT)	Address	City/State/Zip	Phone	Organization	Date
Maisha Kessel	201 W. Washington	Madison	6-2125	Commencel	7/25/01
MIKE CORN	201 W WASHINGTON	MADISON	61816	Commencel	7/25/01
Jim Guest	"	"	6-8292	"	"
Chris Spooner	"	"	6-0148	"	7/25/01
Gaerie Kelly	108 S. State Capitol	Madison	6-0718	Sen Ellis	7/25/01
Tom Drissen	Quarles + Grand Ave 411 E. WISCONSIN	Madison WI 53704	277-5759	WISC CONCRETE MASONRY ASSN	7/25/01
DIGG WALTERE	9501 S. SHOPS DR. WALTERS W/ CONCRETE MASONRY	WALTERS, OH	925-778-2888	WISC. CONCRETE MASONRY ASSN	7/25/01
KENNY CRYANAWA	7111 N. FARCHILD CR. FOX POINT WI 53217		414-352-6134	WLCMA	7/25/01
ROBERT GOLDMAN	90 COUNTY COURSE CAMP 3015 W. TRAMER AVE	Appleton	920-734-7733	WLCMA + County Council	7-25-01
Tom Siskonek	34 Capitol	Madison	266-1194	Assembly Training Ltd	7-25-01
Mark Meyer		Deane		Leg. Council	7/25
Don Dyke					
Grant Huber	SEN. MEYER OFFICE				



# **MODEL CODE ADOPTION PROPOSAL - C**

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- **Comm 14 NFPA 1**
- **Comm 61 Admin & Enforcement**
- **Comm 62 IBC**
- **Comm 63 IECC**
- **Comm 64 IMC**
- **Comm 65 IFGC**

May 10, 2001

SECTION 1. Chapter Comm 4 is repealed.

SECTION 2. Chapter Comm 14 is repealed and recreated to read:

CHAPTER Comm 14  
FIRE PREVENTION

SUBCHAPTER I, SCOPE AND APPLICATION

**Comm 14.001 Purpose of code.** Pursuant to statutory provisions under ch. 101, Stats., the purpose of this code is to protect the public, employees, firefighters and property from the hazards of fire and explosion by establishing minimum standards for the use, operation, maintenance and inspection of buildings, structures and premises.

**Comm 14.002 Scope.** (1) Except as provided in subs. (2) and (3), this code applies to all public buildings and places of employment.

**Note:** Under s. 101.01 (11), Stats., "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employes for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in s. 50.01 (1), or, except for the purposes of s. 101.11, a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.

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

(2) This code does not apply to buildings or situations listed under the exclusions in ss. 101.01 (11) and 101.01(12), Stats., or under the exemptions in s. 101.05, Stats.

**Note:** Section 102.04 (3), Stats., as referenced in s. 101.01 (11), Stats., reads as follows: "As used in this chapter 'farming' means the operation of farm premises owned or rented by the operator. 'Farm premises' means areas used for operations herein set forth, but does not include other areas, greenhouses or other similar structures unless used principally for the production of food and farm plants. 'Farmer' means any person engaged in farming as defined. Operation of farm premises shall be deemed to be the planting and cultivating of the soil thereof; the raising and harvesting of agricultural, horticultural or arboricultural crops thereon; the raising, breeding, tending, training and management of livestock, bees, poultry, fur-bearing animals, wildlife or aquatic life, or their products, thereon; the processing, drying, packing, packaging, freezing, grading, storing, delivering to storage, to market or to

a carrier for transportation to market, distributing directly to consumers or marketing any of the above-named commodities, substantially all of which have been planted or produced thereon; the clearing of such premises and the salvaging of timber and management and use of wood lots thereon, but not including logging, lumbering or wood cutting operations unless conducted as an accessory to other farming operations; the managing, conserving, improving and maintaining of such premises or the tools, equipment and improvements thereon and the exchange of labor, services or the exchange of use of equipment with other farmers in pursuing such activities. The operation for not to exceed 30 days during any calendar year, by any person deriving the person's principal income from farming, of farm machinery in performing farming services for other farmers for a consideration other than exchange of labor shall be deemed farming. Operation of such premises shall be deemed to include also any other activities commonly considered to be farming whether conducted on or off such premises by the farm operator."

**Note:** Under s. 50.01 (1), Stats., as referenced in s. 101.01 (12), Stats., "adult family home" means one of the following:

(a) A private residence to which all of the following apply:

1. Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in s. 51.01 (5), or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults or children if all of the adults or all of the children are siblings, or, if the residence is licensed as a treatment foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4.

2. The private residence was licensed under s. 48.62 as a foster home or treatment foster home for the care of the adults specified in subd. 1. at least 12 months before any of the adults attained 18 years of age.

(b) A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident. "Adult family home" does not include a place that is specified in sub. (1g) (a) to (d), (f) or (g).

Under s. 50.01 (1g), Stats., as referenced in s. 101.01 (12), Stats., "community-based residential facility" means a place where 5 or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident. "Community-based residential facility" does not include any of the following:

(a) A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.

(b) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in s. 46.95 (1) (a), and their children.

(c) A shelter facility as defined under s. 16.352 (1) (d).

(d) A place that provides lodging for individuals and in which all of the following conditions are met:

1. Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.

2. No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employe any of the following:

a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.

b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

(e) An adult family home.

(f) A residential care apartment complex.

(g) A residential facility in the village of Union Grove that was authorized to operate without a license under a final judgment entered by a court before January 1, 1982, and that continues to comply with the judgment notwithstanding the expiration of the judgment.

**Note:** Section 101.05, Stats., reads as follows: "Exempt buildings and projects. (1) No building code adopted by the department under this chapter shall affect buildings located on research or laboratory farms of public universities or other state institutions and used primarily for housing livestock or other agricultural purposes.

"(2) A bed and breakfast establishment, as defined under s. 254.61 (1), is not subject to building codes adopted by the department under this subchapter.

"(3) No standard, rule, code or regulation of the department under this subchapter applies to construction undertaken by the state for the purpose of renovation of the state capitol building.

"(4) No standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter applies to a rural school building if all of the following are satisfied:

"(a) The school building consists of one classroom.

"(b) The school building is used as a school that is operated by and for members of a bona fide religious denomination in accordance with the teachings and beliefs of the denomination.

"(c) The teachings and beliefs of the bona fide religious denomination that operates the school prohibit the use of certain products, devices or designs that are necessary to comply with a standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter."

Under s. 254.16 (1) Stats., as referenced in 101.05, Stats., "bed and breakfast establishment" means any place of lodging that:

(a) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients;

(b) Provides no meals other than breakfast and provides the breakfast only to renters of the place;

(c) Is the owner's personal residence;

(d) Is occupied by the owner at the time of rental;

(e) Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence; and

(f) Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that this limit does not apply to any of the following:

1. A structural addition, including a renovation, made to a structure after May 11, 1990, within the dimensions of the original structure.

2. A structural addition, made to a structure that was originally constructed at least 50 years before an initial or renewal application for a permit under s. 254.64 (1) (b) is made and for which no use other than as a bed and breakfast establishment is proposed. The structural addition under this subdivision shall comply with the rules under s. 101.63 (1) and (1m).

(3) Pursuant to ss. 101.01 (11) and (12), Stats., which exempt a certain type of community-based residential facility as a public building or place of employment, this code does not apply to a previously constructed building or portion thereof that is converted to a community-based residential facility serving 20 or fewer residents who are not related to the operator or administrator.

(4) This code does not apply to all of the following types of buildings, structures or situations:

(a) A temporary building or structure used exclusively for construction purposes, not exceeding 2 stories in height, and not used as living quarters.

(b) A building or structure located on Indian reservation land held in trust by the United States.

(c) Buildings and portions of buildings that are exempted by federal statutes or treaties.

(d) Portions of buildings leased to the federal government provided all of the following conditions are met:

1. A statement is filed with the register of deeds that describes the steps necessary for compliance to this code if the space is converted to a nonexempt use.

2. The statement filed with the register of deeds is recorded in a manner that will permit the existence of the statement to be determined by reference to the property where the building is located.

3. The owner of the building submits a copy of the recorded document to the department or its authorized representative.

(e) Buildings and structures that are on a farm premises and used exclusively for farming purposes, provided any use of the building or structure by the public consists only of consumers directly receiving farm commodities, substantially all of which have been planted or produced on the farm premises. In this application, "substantially all" means at least 90 percent of the commodities were planted or produced on the farm premises.

(f) A one- or 2-family dwelling used as a foster home, treatment foster home, or group home, or as a child caring institution having a capacity for 8 or fewer children, all as defined in s. 48.02, Stats.

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

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

(h) That portion of or space within a one- or 2-family dwelling in which a home occupation is located.

(5) In this section, "home occupation" means any business, profession, trade or employment conducted in a person's dwelling unit, that may involve the person's immediate family or household and a maximum of one other unrelated person, but does not involve any of the following:

(a) Explosives, fireworks or repair of motor vehicles.

(b) More than 25% of the habitable floor area of the dwelling unit.

**Comm 14.003 Application. (1) GENERAL.** (a) This chapter applies to all of the following unless specifically stated otherwise in a rule:

1. The use and operation of all public buildings and places of employment that exist on or after the effective dates of the rules.

2. The inspection, testing and maintenance of all fire safety features as specified in this chapter, for all public buildings and places of employment, that exist on or after the effective dates of the rules.

(b) The design and construction requirements in NFPA 1 that apply to public buildings or places of employment are not included as part of this chapter.

**Note:** See chs. Comm 61 to 65 for design and construction requirements for public buildings and places of employment.

(2) **CONFLICTS.** (a) Where rules of the department specify conflicting requirements, types of materials, methods, processes or procedures, the most restrictive rule shall govern, except as provided in pars. (b) to (d).

(b) Where there is a conflict between a rule that prescribes a general requirement and a rule that prescribes a specific or more detailed requirement, the specific or more detailed requirement shall govern, except as provided in par. (c).

(c) Where differences occur between the requirements of this chapter and referenced codes or standards, the requirements of this chapter shall govern.

(d) Where differences occur between the requirements of this chapter and chs. Comm 61 to 65, the requirements of chs. Comm 61 to 65 shall govern.

(3) **DEPARTMENT AUTHORITY.** Pursuant to s. 101.02 (1), Stats., the department reserves the right to interpret the requirements in this chapter and in all adopted codes and standards.

**Note:** Section 101.02 (1), Stats., reads as follows: "The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings."

(4) **LOCAL ORDINANCES.** (a) Except as provided in par. (c), pursuant to s. 101.02 (7), Stats., a city, village, town or local board of health may enact and enforce additional or more restrictive requirements for public buildings and places of employment, provided the requirements do not conflict with this chapter.

(b) Nothing in this chapter affects the authority of a municipality or county to enact and enforce requirements for fire districts, land use, or zoning under ss. 59.69, 60.61, 60.62, 61.35, and 62.23 (7), Stats.

(c) An ordinance for multifamily buildings shall be limited as specified in ch. Comm 61 and s. 101.02 (7m), Stats.

**Note:** Section 101.02 (7m), Stats., reads as follows: "Notwithstanding sub. (7) (a), no city, village or town may make or enforce any ordinance that is applied to any multifamily dwelling, as defined in s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary to an order of the department under this subchapter,



except that if a city, village or town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a), that ordinance remains in effect, except that the city, village or town may take any action with regard to that ordinance that a political subdivision may take under s. 101.975 (3) (b)."

(5) **ALTERNATIVES.** Nothing in this chapter is intended to prohibit or discourage the design and use of new materials or components, or new processes, elements or systems, provided written approval from the department is obtained first.

(6) **TEMPORARY USE.** A municipal fire or building code official may allow a building or a portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a temporary building to be used by the public, subject to all of the following provisions:

(a) The official shall determine the time frame within which the temporary use is permitted, based on the extent hazards are created by the temporary use. This time frame may not exceed 180 days, except the official may grant extensions for demonstrated cause.

(b) Except as provided in par. (c), buildings or spaces considered for temporary use shall conform to the requirements of this chapter as necessary to ensure the public safety, health and general welfare.

(c) The official may require additional safety requirements for a temporary use as a trade-off for any safety provisions that may be lacking.

(d) The official may terminate the approval for a temporary use at any time and order immediate discontinuance of the use or complete evacuation of the building or space.

**Note:** The department and other state agencies have other rules that may affect the design, construction, maintenance and use of public buildings, places of employment and premises, including chs. Comm 5, Licenses, Certifications, and Registrations; Comm 7, Explosive Materials; Comm 9, Manufacture of Fireworks; Comm 10, Flammable and Combustible Liquids; Comm 16, Electrical; Comm 18, Elevators; Comm 40, Gas Systems; Comm 41, Boilers and Pressure Vessels; Comm 43, Anhydrous Ammonia; Comm 45, Mechanical Refrigeration; Comm 61 to 65, Commercial Building Code; Comm 70, Historic Buildings; and Comm 75 to 79, Existing Buildings.

**Comm 14.004 Adoption of Model Fire Code. (1) ADOPTION.** (a) *General.* NFPA 1, *Fire Prevention Code – 2000*, subject to the modifications specified in this chapter is hereby incorporated by reference into this chapter.

**Note:** A copy of the NFPA *Fire Prevention Code* is on file in the offices of the department, the secretary of state, and the revisor of statutes. Copies of the NFPA *Fire Prevention Code* may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Box 9101, Quincy, MA, 02269-9101.

(b) *Alternate Model Fire Code.* Upon written request from a municipality, the department may grant by a written special order the use of the *International Fire Code*<sup>®</sup> - 2000 in lieu of NFPA 1, provided that IFC chapters 3 to 10, 12 to 21, 23 to 29, 36 and 39 to 42 have been adopted by ordinance.

(2) EXCLUSIONS. (a) Except as provided in par. (b), the requirements in NFPA 1 chapter 1 are not included as part of this chapter.

(b) 1. NFPA 1 sections 1-4.14, 1-5.2, and 1-13.3 are included as part of this chapter.

2. Any permit required in NFPA 1 section 1-16 and subsequently referred to elsewhere under this chapter is not required by this chapter but may be required by local ordinance.

3. Any certificate of fitness required in NFPA 1 section 1-17 and subsequently referred to elsewhere under this chapter is not required by this chapter but may be required by local ordinance.

(c) Any requirement in NFPA 1 chapter 1 which is not specified in par. (b) and which is subsequently referred to elsewhere under this chapter is not included as part of this chapter.

**Comm 14.005 Fees.** Fees for petitions for variance and for inspection of buildings, structures, and premises shall be submitted as specified in ch. Comm 2.

## SUBCHAPTER II, RESPONSIBILITIES, APPEALS, PETITIONS AND PENALTIES

**Comm 14.006 Owner's responsibility.** The owner of each building, structure and premises shall be responsible for maintaining the property in compliance with this chapter. Compliance with this chapter does not relieve the owner of a public building or place of employment from compliance with the other administrative rules established by the department or other state agencies.

**Note:** Pursuant to s. 101.11 (2) (a), Stats., no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

**Comm 14.007 Appeals. (1) APPEAL OF DEPARTMENT ORDER.** Pursuant to s. 101.02 (6) (e), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department on the reasonableness of the order.

**(2) APPEAL OF LOCAL ORDER.** Pursuant to s. 101.02 (7) (b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing.

**Note:** Section 101.01 (8), Stats., defines "local order" as any ordinance, order, rule or determination of any common council, board of alders, board of trustees or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the department has jurisdiction.

Section 101.02 (7) (c) reads: "Upon receipt of such petition the department shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the

petitioner and such other persons as the department may find directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the department, the department may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect."

**Comm 14.008 Petition for variance.** The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

**Note:** Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance which meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

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

**Comm 14.009 Revocation of Approval. (1) DEPARTMENT REVOCATION.** The department may revoke any approval, issued under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based.

**(2) LOCAL REVOCATION.** The fire chief, or in first class cities the commissioner of building inspection, may revoke any local approval issued by them under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based. The fire chief, and in first class cities the commissioner of building inspection, may not revoke an approval issued by the department.

**Comm 14.010 Penalties.** Penalties for violations of this chapter shall be assessed in accordance with s. 101.02 (12) and (13) (a), Stats.

**Note:** Section 101.02 (12), Stats., indicates that each day during which any person, persons, corporation or any officer, agent or employee thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

Section 101.02 (13) (a), Stats., indicates penalties will be assessed against any employer, employee, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25. For each such violation, failure or refusal, such employee, owner or other person must forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each violation.

### SUBCHAPTER III, CHANGES, ADDITIONS OR OMISSIONS TO NFPA 1 - FIRE PREVENTION CODE

**Note:** The sections in this subchapter are generally numbered to correspond to the section numbering of NFPA 1; e.g. Comm 14.03 corresponds to NFPA 1, chapter 3 and Comm 14.31 corresponds to NFPA 1, chapter 31.

**Comm 14.02 Definitions. ADDITIONS.** These are department definitions in addition to the definitions in NFPA 1 chapter 2:

(1) "Department" means the department of commerce.

(2) "Fire chief" means the chief or authorized representative of the fire department serving the unit of government having authority over the public building or place of employment. Fire chief also means the representative designated by the local unit of government to carry out the duties of this chapter.

(3) "Fire department" means a municipal fire department, public safety department, or public or private organization, such as a fire association, fire district, fire company or fire corporation, organized or created for the purpose of extinguishing fires and preventing fire hazards.

(4) "Multifamily dwelling" has the meaning as defined in s. 101.971 (2), Stats.

**Note:** Section 101.971 (2), Stats., reads as follows: "Multifamily dwelling" means an apartment building, rowhouse, town house, condominium or manufactured building, as defined in s. 101.71 (6), that does not exceed 60 feet in height or 6 stories and that consists of 3 or more attached dwelling units the initial construction of which is begun on or after January 1, 1993. "Multifamily dwelling" does not include a facility licensed under ch. 50, (Stats.).

(5) "Municipality" means a city, village or town.

(6) "NFPA 1" means the 2000 edition of NFPA 1, Fire Prevention Code, as adopted and modified in this chapter.

(7) "One- and 2-family dwelling" has the meaning as defined for dwelling in s. 101.61 (1), Stats.

**Note:** Section 101.61 (1), Stats., reads as follows: "Dwelling" means any building that contains one or 2 dwelling units. "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(8) "Place of employment" has the meaning as defined in s. 101.01(11), Stats.

**Note:** See s. Comm 14.002 (1) for a reprint of s. 101.01 (11), Stats.

(9) "Public building" has the meaning as defined in s. 101.01 (12), Stats.

**Note:** See s. Comm 14.002 (1) for a reprint of s. 101.01 (12), Stats.

**Comm 14.03 General provisions. (1) PROHIBITIONS.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.1: The following activities are prohibited:

(a) Interfering with the proper functioning of a fire alarm system.

- (b) Interfering with the lawful efforts of a firefighter to extinguish a fire.
- (c) Interfering with, tampering with or removing a fire extinguisher, hose or other fire fighting equipment without proper authorization.
- (d) Interfering with the accessibility of a fire hydrant.
- (e) Intentionally giving a false alarm to any public officer or employee.

**Note:** Section 941.12, Stats., reads as follows: "Interfering with fire fighting. (1) Whoever intentionally interferes with the proper functioning of a fire alarm system or the lawful efforts of fire fighters to extinguish a fire is guilty of a Class E felony.

(2) Whoever interferes with, tampers with or removes, without authorization, any fire extinguisher, fire hose or any other fire fighting equipment, is guilty of a Class A misdemeanor.

(3) Whoever interferes with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission from the appropriate municipal authority is guilty of a Class C misdemeanor. Every day during which the interference continues constitutes a separate offense."

Section 941.13, Stats., reads as follows: "False alarms. Whoever intentionally gives a false alarm to any public officer or employee, whether by means of a fire alarm system or otherwise, is guilty of a Class A misdemeanor."

**(2) MATCHES.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.1: The manufacture, storage and distribution of matches shall comply with s. 167.07, Stats.

**Note:** Section 167.07, Stats., reads as follows: Manufacture, storage and distribution of matches. (1) No person may manufacture, store, offer for sale, sell, or otherwise dispose of or distribute, any of the following:

(a) White phosphorus, single-dipped, strike-anywhere matches of the type popularly known as "parlor matches".

(b) White phosphorus, double-dipped, strike-anywhere matches, or other type of double-dipped matches, unless the bulb or first dip of such match is composed of a so-called safety or inert composition, nonignitable on an abrasive surface.

(c) Matches which, when packed in a carton of 500 approximate capacity and placed in an oven maintained at a constant temperature of 200 degrees Fahrenheit, will ignite in 8 hours.

(d) Blazer, or so-called wind matches, whether of the so-called safety or strike-anywhere type.

(2) (a) No person may do any of the following:

1. Offer for sale, sell or otherwise dispose of or distribute any matches, unless the package or container in which such matches are packed bears plainly marked on the outside thereof the name of the manufacturer and the brand or trademark under which such matches are sold, disposed of or distributed.

2. Open more than one case of each brand of matches of any type or manufacture at any one time in a retail store where matches are sold or otherwise disposed of.

3. Keep loose boxes or paper-wrapped packages of matches on shelves or stored in a retail store at a height exceeding 5 feet from the floor.

(b) All matches stored in warehouses, except manufacturers' warehouses at the place of manufacture, that contain automatic sprinkler equipment shall be subject to each of the following conditions:

1. The matches shall be kept only in properly secured cases.

2. The matches shall not be piled to a height exceeding 10 feet from the floor.

3. The matches shall not be stored within a horizontal distance of 10 feet from any boiler, furnace, stove or other similar heating apparatus.

4. The matches shall not be within a horizontal distance of 25 feet from any explosive material kept or stored on the same floor.

(c) All matches shall be packed in boxes or suitable packages, containing not more than 700 matches in any one box or package. If more than 300 matches are packed in any one box or package, the matches shall be arranged in 2 nearly equal portions, with the heads of the matches in the 2 portions placed in opposite directions. All boxes containing 350 or more matches shall have placed over the matches a center holding or protecting strip, made of chipboard, not less than 1.25 inches wide and the strip shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it.

(3) All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case, shall not exceed the following number:

NUMBER OF BOXES	NOMINAL NUMBER OF MATCHES PER BOX
One-half gross	700
One gross	500
Two gross	400
Three gross	300
Five gross	200
Twelve gross	100
Twenty gross	over fifty and under 100
Twenty-five gross	under 50

(4) No shipping container or case constructed of fiber board, corrugated fiber board, or wood, nailed or wirebound, shall exceed a weight, including its contents, of 75 pounds; and no lock-cornered wooden case containing matches shall have a weight, including its contents, exceeding 85 pounds; nor shall any other article or commodity be packed with matches in any such container or case; and all such containers and cases in which matches are packed shall have plainly marked on the outside of the container or case the words "Strike-Anywhere Matches" or "Strike-on-the-Box Matches".

(5) Any person, association or corporation violating this section shall be fined for the first offense not less than \$5 nor more than \$25, and for each subsequent violation not less than \$25.

**(3) OPEN FLAME OR LIGHT.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.1: (a) *General.* No person may take an open flame or non-approved light into any room or area, or other place where flammable, highly combustible or explosive material is kept.

(b) *Open flame candles and fixtures.* 1. Except as provided in subs. 2. to 7., the use of open flame candles or open flame fixtures in public buildings and places of employment is prohibited.

2. Open flame candles or open flame fixtures may be used in churches, fraternal lodges and other buildings as part of a religious, fraternal, or ceremonial ritual.

3. Candles may be used in restaurants, supper clubs and similar occupancies provided the candle is enclosed on all sides with glass or similar noncombustible material and the enclosure extends at least one inch above the tip of the flame.

4. Open flame candles and open flame fixtures may be used in the seating areas of public assembly buildings provided the following conditions are satisfied:

a. The stand upon which the candle is placed is a nontipping weighted stand or is securely attached to the end of fixed seating in at least 2 places.

b. The base of the candle is at least 78 inches from the floor.

c. The candle is guarded on top and sides at all times.

**Note:** Compliance with this subparagraph may be attained by the use of a glass chimney and a perforated metal cap.

d. The aisle where the candles are placed is at least 5 feet wide.

5. Open flame food warming candles may be used in restaurants, supper clubs and similar occupancies.

6. The use of decorative or other lights, which are fueled by flammable or combustible liquids, may be used provided they are self-extinguishing.

7. The use of open flames other than those uses specified in subsd. 2. to 6. shall be subject to the approval of the fire chief.

**(4) RESURFACING OF BOWLING LANES.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.1:

(a) *Fire department notification.* The fire chief shall be notified when bowling lanes are to be resurfaced.

(b) *Business hours.* Resurfacing of bowling lanes may not be carried on while the establishment is open for business.

(c) *Recirculation of air.* Heating, ventilating or cooling systems employing recirculation of air may not be operated during resurfacing of bowling lanes or within one hour following the application of flammable finishes to the lanes.

(d) *Sources of ignition.* All electric motors or other equipment in the area of the bowling lanes which might be a source of ignition shall be shut down, and all smoking and use of open flames shall be prohibited during the application of flammable finishes to the lanes and for one hour thereafter.

**(5) LUMBER YARDS.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.1: (a) *Scope.* This subsection applies to all lumberyards.

(b) *Burning of waste or refuse materials.* 1. Where approved by the department of natural resources and the fire chief, the burning of shavings, sawdust and refuse materials shall be only in boilers, furnaces, incinerators or refuse burners, safely constructed and located.

2. At the boiler or other points where sawdust or shavings are used as fuel, a storage bin of noncombustible construction with raised sill shall be provided.

3. Stacks shall be provided with approved spark arresters having openings not greater than  $\frac{3}{4}$ -inch, or other effective means provided, such as an expansion chamber, baffle walls or other effective arrangement, which will eliminate the danger from sparks.

(c) *Smoking prohibited.* Smoking shall be prohibited except in specified safe locations in buildings. "No Smoking" signs shall be posted on exterior building walls and at the edges of driveways. "No Smoking" signs shall be posted throughout all buildings except in specific locations designated as safe for smoking purposes.

(d) *Combustible vegetation.* Weeds shall be kept down throughout the entire yard and shall be sprayed, cut or dug out. Dead weeds shall be removed.

(e) *Combustible debris.* Debris, such as sawdust, chips and scrap pieces shall be removed regularly from piling areas and not less frequently than quarterly. Proper housekeeping shall be maintained at all times.

(f) *Fire extinguishing equipment.* All fork lifts and industrial trucks operating in lumberyards shall be equipped with a minimum 4-A:40-B:C type fire extinguisher. All other trucks operating in the yard shall be equipped with a minimum 2-A:20-B:C type fire extinguisher.

(6) **WOODWORKING PLANTS.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.1: (a) *Scope.* This subsection applies to woodworking plants or machines that are directly related to the main operation or product of the building or company.

(b) *Removal system or bins.* Sawmills, planing mills and other woodworking plants shall comply with one of the following:

1. Be equipped with refuse removal systems which will collect and remove sawdust and shavings as produced.
2. Have suitable metal or metal-lined bins, provided with normally closed covers or automatically closing covers, installed at or near such machines. Shavings and sawdust shall be swept up and deposited in the bins at sufficiently frequent intervals as to keep the premises clean.

(c) *Fire protection.* Fire fighting equipment, either portable fire extinguishers or minimum  $\frac{1}{2}$ -inch diameter hose supplied from a water system, shall be provided near any machine producing shavings or sawdust.

(7) **NEGLIGENT HANDLING OF BURNING MATERIAL.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.3: The negligent handling of burning material is prohibited. The consequences for violations shall be as specified in ss. 941.10 and 943.05, Stats.

**Note:** Section 941.10, Stats., reads as follows: Negligent handling of burning material. (1) Whoever handles burning material in a highly negligent manner is guilty of a Class A misdemeanor.



(2) Burning material is handled in a highly negligent manner if handled with criminal negligence under s. 939.25 or under circumstances in which the person should realize that a substantial and unreasonable risk of serious damage to another's property is created.

Section 943.05, Stats., reads as follows: Placing of combustible materials an attempt. Whoever places any combustible or explosive material or device in or near any property with intent to set fire to or blow up such property is guilty of an attempt to violate either s. 943.01, 943.012, 943.013, 943.02, 943.03 or 943.04, depending on the facts of the particular case.

**(8) BURNING OF BUILDINGS OR PROPERTY.** This is a department rule in addition to the requirements in NFPA 1 section 3-1.3: The unsafe burning of buildings or property is prohibited. The consequences for violations shall be as specified in ss. 941.11, 943.02 and 943.03, Stats.

**Note:** Section 941.11, Stats., reads as follows: Unsafe burning of buildings. Whoever does either of the following is guilty of a Class D felony:

(1) Intentionally burns his or her own building under circumstances in which he or she should realize he or she is creating an unreasonable risk of death or great bodily harm to another or serious damage to another's property; or

(2) Intentionally burns a building of one who has consented to the destruction thereof but does so under circumstances in which he or she should realize he or she is creating an unreasonable risk of death or great bodily harm to another or serious damage to a 3rd person's property.

Section 943.02, Stats., reads as follows: Arson of buildings; damage of property by explosives. (1) Whoever does any of the following is guilty of a Class B felony:

- (a) By means of fire, intentionally damages any building of another without the other's consent; or
- (b) By means of fire, intentionally damages any building with intent to defraud an insurer of that building;

or

- (c) By means of explosives, intentionally damages any property of another without the other's consent.

(2) In this section "building of another" means a building in which a person other than the actor has a legal or equitable interest which the actor has no right to defeat or impair, even though the actor may also have a legal or equitable interest in the building. Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the fire is relevant but not essential to establish the actor's intent to defraud the insurer.

Section 943.03, Stats., reads as follows: Arson of property other than building. Whoever, by means of fire, intentionally damages any property of another without the person's consent, if the property is not a building and has a value of \$100 or more, is guilty of a Class E felony.

**(9) OPEN BURNING.** This is a department rule in addition to the requirements in NFPA 1 section 3-4:

(a) Except as provided in par. (b), all persons shall obtain authorization from the fire chief before kindling or maintaining any open burning or authorizing the kindling or maintaining of any open burning within the limits of any incorporated city or village.

(b) The following open burning shall be allowed without authorization from the fire chief: outdoor cooking, campfires and burning related to training for fire departments.

**Note:** Burning outside the incorporated limits of cities and villages is regulated by the department of natural resources under ch. NR 30—Forest Fire Control and ss. 26.11 to 26.13, Stats.

(c) Open burning is also subject to the rules of the department of natural resources and local ordinances and regulations.

(d) Outdoor burning is prohibited when local circumstances make the fire potentially hazardous. Local circumstances include thermal inversions, wind, ozone alerts and very dry conditions.

**Note:** Outdoor burning may be prohibited by the department of natural resources due to air quality considerations.

**(10) BONFIRES.** This is a department rule in addition to the requirements in NFPA 1 section 3-4:

(a) *Prior approval.* All persons shall obtain authorization from the fire chief before kindling or maintaining any bonfire or authorizing the kindling or maintaining of any bonfire on any premises.

(b) *Quantity of material to be burned.* The allowable quantity of material to be burned shall be determined by the fire chief and shall be based upon the fire safety considerations of the situation and the desired duration of burn.

(c) *Material for burning.* 1. Fuel for bonfires shall consist of dry material only and shall not be ignited with flammable or combustible liquids.

2. Material for bonfires may not include combustible refuse, flammable or combustible liquids, or any material made of or coated with rubber, plastic, leather or petroleum based materials.

(d) *Other regulations.* Persons kindling or maintaining bonfires or authorizing the kindling or maintenance of bonfires shall be subject to the ordinances and regulations of the fire department having jurisdiction.

**Note:** See ch. NR 30-Forest Fire Control and ss. 26.11 to 26.13, Stats., for regulations pertaining to burning in areas outside the incorporated limits of cities and villages.

**(11) HOT ASHES AND OTHER MATERIALS LIABLE TO SPONTANEOUS IGNITION.** This is a department rule in addition to the requirements in NFPA 1 section 3-4:

(a) *General.* Except as provided in par. (b), no person may deposit hot ashes or cinders, smoldering coals, or greasy or oily substances liable to spontaneous ignition, into any combustible receptacle or place these materials within 15 feet of any combustible materials.

(b) *Metal or noncombustible receptacles.* Hot ashes or cinders, smoldering coals or greasy or oily substances liable to spontaneous ignition placed in metal or noncombustible, covered receptacles are exempt from the provisions of par. (a), providing the following conditions are satisfied:

1. The receptacle is resting upon a noncombustible floor or on the ground outside the building or is placed on a noncombustible stand.

2. The receptacle is kept at least 15 feet away from any combustible material, combustible wall or partition, exterior window opening, exit access or exit.

**(12) USE OF INCINERATORS.** This is a department rule in addition to the requirements in NFPA 1 section 3-4.9: The use of an incinerator is prohibited if the fire chief determines that burning in the incinerator during a period of high fire hazard weather conditions will create an undue fire hazard.

**(13) FIRE LANES.** This is a department rule in addition to the requirements in NFPA 1 section 3-5.5: Fire lanes may not be obstructed in any manner including the parking of vehicles or the accumulation of snow. The minimum required clearances shall be maintained at all times.

**(14) DILAPIDATED OR VACANT BUILDINGS.** This is a department rule in addition to the requirements in NFPA 1 section 3-8: (a) *Dilapidated buildings.* 1. Any building which for any reason is especially liable to fire and which is so located as to endanger other buildings or property shall be repaired and put in safe and sound condition or shall be torn down and have all materials removed.

2. Conditions considered especially liable to fire shall include, but are not limited to, the following:

a. Missing or rotten shingles or similar defects on the roof.

b. Loose, missing or rotten siding.

c. Broken plastering.

d. Holes in floors, ceilings or partitions.

e. Cracked or defective chimneys.

f. Other conditions determined hazardous by the fire chief.

3. The kind, form, manner or extent of repairs may be authorized by local ordinance when a building is damaged from any cause to an extent of more than 50% of its assessed value.

(b) *Vacant buildings.* Upon vacating or abandoning any premises, the owner shall remove any and all noxious and hazardous material or waste matter and the premises shall be left in a clean and neat condition.

**Note:** Section 66.0413, Stats., addresses the topic of razing buildings.

**(15) COMBUSTIBLE VEGETATION.** (a) *Natural cut trees excluded.* This is a department exception to the requirements in NFPA 1 section 3-9.1: NFPA 1 section 3-9.1 does not apply to natural cut Christmas trees.

(b) *Christmas trees.* This is a department rule in addition to the requirements in NFPA 1 section 3-9.1: 1. 'Artificial trees.' Artificial Christmas trees, except those within individual living units, shall be flame retardant or nonflammable.

2. 'Natural-cut trees.' Natural cut Christmas trees, except those within individual living units, shall have the trunk sawed off at least one inch above the original cut end and shall be cut immediately prior to being placed in a water-bearing stand. The water level shall always be above the cut.

**(16) NUISANCE VEGETATION.** This is a department rule in addition to the requirements in NFPA 1 section 3-9.1: All weeds, grass, vines or other growth which endanger property through the spread of fire shall be cut down and removed.

**Comm 14.04 Maintenance of egress.** This is a department rule in addition to the requirements in NFPA 1 section 4-9.1: The entire means of egress system shall remain clear and unobstructed continuous to the public way or safe dispersal area at all times. All components of the means of egress system shall be maintained to remain in compliance with this code and chs. Comm 61 to 65.

**Comm 14.05 Maintenance of dampers.** This is a department rule in addition to the requirements in NFPA 1 section 5-3: At least every four years, all fire dampers, smoke dampers and ceiling dampers and components shall be operated to ensure they remain in working condition as designed and installed.

**Comm 14.06 Building services. (1) EXTENSION CORDS AND RELOCATABLE POWER TAPS.** Substitute the following wording for the requirements in NFPA 1 section 6-1:

(a) *Definitions.* 1. In this subsection, "extension cord" means a cord set consisting of a length of flexible cord with an attachment plug at one end and a cord connector, which permits the connection of one or more attachment plugs, at the other end.

2. In this subsection, "relocatable power tap" means a system consisting of an attachment plug cap and a length of flexible cord terminated in an enclosure in which are mounted one or more receptacles. A relocatable power tap may be provided with supplementary overcurrent protection, switches, indicator lights, transient voltage surge suppressors, or electromagnetic interference filters.

(b) *Listing.* Extension cords and relocatable power taps shall be listed by UL or other approved nationally recognized testing agency.

**Note:** See standard UL 817-Cord Sets and Power Supply Cords or UL 1363-Relocatable Power Taps for additional information.

(c) *General requirements.* 1. Extension cords shall only be used for temporary wiring and shall not be substituted for permanent wiring.

2. Extension cords shall be of a 3-wire grounding type when used in conjunction with devices equipped with 3-prong grounding type attachment plugs.

(c) *Ampacity.* The current-carrying capacity of the extension cord or relocatable power tap may not be exceeded.

(d) *Use of extension cords and relocatable power taps.* 1. Except as provided in subd. 2., extension cords and relocatable power taps may not be multiplied or plugged into one another.

2. Extension cords may be used for temporary wiring at construction sites provided the cords comply with Article 305 of the National Electrical Code as adopted in ch. Comm 16.

3. Extension cords shall be permitted only with portable appliances, hand tools or fixtures.

4. Relocatable power taps are permitted only with portable electronic equipment such as audio-visual equipment, computers and peripheral equipment.

5. Except for listed adapter cord sets intended for construction site use, each extension cord shall serve only one portable appliance, hand tool or fixture.

(e) *Physical protection.* 1. Extension cords and relocatable power taps shall be protected from physical impact and environmental damage.

2. Extension cords and relocatable power taps may not be attached to structures or placed under doors or floor coverings.

**Note:** See ch. Comm 16 for other requirements for electrical safety.

(2) HEATING, VENTILATING AND AIR CONDITIONING. Substitute the following wording for the requirements in NFPA 1 section 6-2:

(a) *General maintenance of chimneys and heating appliances.* 1. All chimneys, smokestacks or similar devices for conveying smoke or hot gases to the outside and the stoves, furnaces, incinerators or boilers to which they are connected shall be maintained so as not to create a fire hazard.

2. Chimneys or vents and connectors serving solid-fuel-burning appliances shall be cleaned and inspected for damage annually. The fire chief may require verification of cleaning and inspection in writing.

3. Chimneys and vents, which have been subjected to a chimney fire, shall not be reused until inspected and, if necessary, repaired.

(b) *Maintenance of masonry chimneys.* 1. Masonry chimneys which upon inspection are found to be without flue liners and with open mortar joints which will permit smoke or gases to be discharged into the building, or which are cracked as to be dangerous shall be made safe by means of a fire-clay liner, fire-brick, a corrosion-resistant metal pipe or other approved materials and otherwise repaired. If necessary, the chimney shall be removed or the chimney openings shall be effectively sealed to prevent further use.

2. Metal pipe liners shall be one inch less in diameter than the least dimension of the flue, and the entire space between the metal liner and the walls of the chimney shall be filled with cement mortar.

(c) *Maintenance of metal chimneys and vents.* Chimneys, vents and vent connectors of metal, which are corroded or improperly supported, shall be repaired or replaced.

(d) *Unsafe heating appliances.* 1. Any stove, oven, furnace, incinerator, boiler or other heat producing device or appliance found to be defective or in violation of code requirements may not be used. The fire chief shall order the discontinuation of use with a written notice to the owner, firm, agent or operator of the equipment to cease use immediately.

2. The defective appliance shall remain withdrawn from service until all necessary repairs or alterations have been made.

**Note:** See chs. Comm 61 to 65 for other requirements for heating, ventilating and air conditioning.

(3) **ELEVATORS, ESCALATORS AND CONVEYORS.** The requirements in NFPA 1 section 6-3 are not included as part of this code.

**Note:** See ch. Comm 18 for requirements for elevators, escalators and conveyors.

(4) **PORTABLE UNVENTED HEATERS.** Substitute the following wording for the requirements in NFPA 1 section 6-5: Portable unvented fuel-fired heating equipment is prohibited except during construction or demolition of a building as allowed under NFPA 1 section 29-2.16.1.

**Note:** See chs. Comm 61 to 65 for requirements for other heating appliances.

(5) **EMERGENCY AND STANDBY GENERATORS.** Substitute the following wording for the requirements in NFPA 1 section 6-7.1: All emergency and standby generators shall be tested and maintained in accordance with NFPA 110.

(6) **SMOKE CONTROL EQUIPMENT.** This is a department rule in addition to the requirements in NFPA 1 section 6-8: All smoke control and removal equipment shall be operated by the owner or an authorized representative at least once every 6 months or in accordance with the manufacturer's recommendations.

**Comm 14.07 Fire protection systems. (1) INSPECTION, TESTING AND MAINTENANCE.** These are department rules in addition to the requirements in NFPA 1 section 7-1.2: (a) *General.* Owners or operators shall be responsible for the condition of their fire protection systems and shall maintain the systems in good operating condition.

(b) *Inspection, testing and maintenance of cross connection control devices.* All cross connection control devices installed in water-based fire protection systems shall be inspected, tested and maintained in accordance with this chapter and ch. Comm 82.

**(2) INSPECTION, TESTING AND MAINTENANCE OF STANDPIPE AND HOSE SYSTEMS.** Substitute the following wording for the requirements in NFPA 1 section 7-2.3.2: All standpipe and hose systems shall be inspected, tested and maintained in accordance with NFPA 25.

**(3) INSPECTION, TESTING AND MAINTENANCE OF AUTOMATIC FIRE SPRINKLER SYSTEMS.** Substitute the following wording for the requirements in NFPA 1 section 7-3.3.2:

(a) All automatic fire sprinkler systems shall be inspected, tested and maintained in accordance with NFPA 25.

(b) At least once each year, the inspection, testing and maintenance specified in NFPA 25 shall be conducted by a person having the applicable credential specified in ch. Comm 5.

**Note:** This code section does not preclude non-credentialed individuals from conducting the daily, weekly, monthly, quarterly or semiannual inspection and testing activities for automatic fire sprinkler systems required under NFPA 25 and NFPA 72.

(c) The local fire department shall be notified whenever the automatic fire sprinkler system is shut down or impaired and when it is placed back in service. The owner shall arrange for immediate and continual servicing or repair of the automatic fire sprinkler system until it is placed back in operation.

**(4) PORTABLE FIRE EXTINGUISHERS.** These are department rules in addition to the requirements in NFPA 1 section 7-6.4: (a) *Maintenance.* All portable fire extinguishers shall be inspected, tested, and maintained in operable condition in accordance with NFPA 10.

(b) *Replacement.* For fire extinguishers that are installed after April 1, 2000 and anytime a fire extinguisher is replaced thereafter, the extinguisher shall comply with NFPA 10.

(c) *Compatibility.* The extinguishing agent in a portable fire extinguisher that is used to supplement an automatic fire extinguishing system shall be compatible with the agent in the automatic fire extinguishing system as determined by the manufacturer.

**(5) INSPECTION, TESTING AND MAINTENANCE OF FIRE ALARM SYSTEMS.** This is a department rule in addition to the requirements in NFPA 1 section 7-7.4.3.1: All fire alarm systems and components, including manual fire alarm systems and single- or multiple-

station smoke and heat detectors shall be inspected, tested and maintained in accordance with NFPA 72.

**Note:** Section 101.145 (3) (b) and (c), Stats., address maintenance of smoke detectors in residential buildings and read as follows: Section 101.145 (3) (b) "The owner of a residential building shall maintain any such smoke detector that is located in a common area of that residential building."

(c) "The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner, or a state, county, city, village or town officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that a smoke detector in the unit is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional."

**(6) ALTERNATE AUTOMATIC FIRE-EXTINGUISHING SYSTEMS.** Substitute the following wording for the requirements in NFPA 1 section 7-8: (a) Except as provided in subs. (b) and (c), all alternate automatic fire extinguishing systems shall be inspected, tested and maintained in accordance with the applicable standard listed in NFPA 1, Table 7-8.

(b) Water mist fire protection systems shall be inspected, tested and maintained in accordance with NFPA 750, Standard on Water Mist Fire Protection Systems as adopted in chs. Comm 61 to 65.

(c) Inspection, testing and maintenance of manual wet sprinkler systems shall comply with all of the requirements of NFPA 25, for an automatic fire sprinkler system, except that the main drain test specified in NFPA 25 is not required.

**Comm 14.08 Outside storage of combustibile material.** These are department rules in addition to the requirements in NFPA 1 section 8-15.1: (1) Outside storage of combustibile material shall be so located as not to constitute a hazard to adjacent buildings or property and shall be compact and orderly.

(2) Individual piles may not exceed 20 feet in height and shall be located at least 30 feet from buildings and shall provide at least 15-foot wide driveways between piles.

(3) Driveways shall be so spaced that a maximum grid system unit of 50 feet by 150 feet is provided.

**Note:** See Appendix for diagram of acceptable sample layout of piles and driveways.

(4) Outside storage of combustibile material is prohibited within 3 feet of any property line and may not exceed 6 feet in height when within 15 feet of the property line, except where no hazard of fire to adjoining property is created.

(5) Storage which constitutes a hazard of fire, shall be removed within 24 hours.

**Comm 14.12 Combustibile waste and refuse.** These are department rules in addition to the requirements in NFPA 1 section 12-1: (1) Every public building and place of employment, including connecting yards, courts, passages, areas and alleyways shall be kept clean and orderly, and shall be kept free from any accumulation of combustibile waste and refuse.



(2) Accumulations of litter or combustible or flammable waste may not remain longer than 24 hours in any court, yard, vacant lot, alley, parking lot or open space unless in closed metal, noncombustible or other approved containers.

(3) Waste and refuse may not be stored so as to produce conditions which, in the judgment of the fire chief, will tend to create a hazard to public safety.

**Comm 14.16 Fireworks, model rocketry and explosives.** (1) FIREWORKS. Substitute the following wording for the requirements in NFPA 1 section 16-4: The transportation and storage of fireworks shall comply with NFPA 1124.

**Note:** See ch. Comm 9 for requirements for fireworks manufacturing.

(2) EXPLOSIVES. Substitute the following wording for the requirements in NFPA 1 section 16-8: The transportation, storage, sale and use of explosive materials shall comply with NFPA 495 and NFPA 498.

**Note:** See ch. Comm 7 for requirements for explosives manufacturing.

**Comm 14.17 Flammable and combustible liquids.** The requirements in NFPA 1 chapter 17 are not included as part of this code.

**Note:** See ch. Comm 10 for requirements for flammable and combustible liquids.

**Comm 14.21 Liquefied petroleum gases and liquefied natural gases.** The requirements in NFPA 1 chapter 21 are not included as part of this code.

**Note:** See ch. Comm 40 for requirements for liquefied petroleum gases and liquefied natural gases.

**Comm 14.23 Mechanical refrigeration.** The requirements in NFPA 1 chapter 23 are not included as part of this code.

**Note:** See ch. Comm 45 for requirements for mechanical refrigeration.

**Comm 14.27 Manufactured home and recreational vehicle sites.** The requirements in NFPA 1 chapter 27 are not included as part of this code.

**Note:** See ch. Admin 65 for requirements for manufactured home parks.

**Comm 14.28 Refueling.** The requirements in NFPA 1 chapter 28 are not included as part of this code.

**Note:** See ch. Comm 10 for requirements for fueling operations.

**Comm 14.29 Hose threads.** The exception in NFPA 1 section 29-2.6 is not included as part of this code.

**Note:** Section 213.15, Stats., regulates fire hose threads and fittings and reads as follows: "All fire hose fittings, apparatus fittings, 1.5 and 2.5 inches in diameter purchased or procured by a fire department or fire company shall be of the national standard hose thread as adopted by the national fire protection association. No fire department shall utilize hose and equipment not in conformance with the requirement that all threads shall be national standard hose thread as adopted by the national fire protection association. Any person offering for sale nonstandard hose couplings, fittings or apparatus fittings may be fined not less than \$100 nor more than \$500."

**Note:** NFPA 1963 contains the specifications for national standard hose thread.

**Comm 14.30 Service stations and repair garages.** The requirements in NFPA 1 chapter 30 are not included as part of this code.

**Note:** See chs. Comm 10 and 61-65 for requirements for service stations and repair garages.

**Comm 14.31 Grandstands, bleachers, folding and telescopic seating, tents and membrane structures.** (1) **VEHICLE PARKING NEAR TENTS.** This is a department rule in addition to the requirements in NFPA 1 section 31-4.1: (a) Automotive equipment that is used in connection with any tent may not be parked within 20 feet of the tent except by special permission of the fire chief.

(b) No other automotive equipment or internal combustion engines may be parked or located within 50 feet of the tent except upon a public street.

(2) **FLAMMABLE AND COMBUSTIBLE LIQUIDS NEAR TENTS.** This is a department rule in addition to the requirements in NFPA 1 section 31-4.1: (a) *General.* Flammable or combustible liquids may not be stored in a tent nor less than 50 feet from any tent used for public assemblage.

(b) *Storage and dispensing.* The storage and dispensing of flammable or combustible liquids shall be in accordance with ch. Comm 10.

(3) **ABATEMENT OF SPECIAL HAZARDS.** This is a department rule in addition to the requirements in NFPA 1 section 31-4.3.2: Any unforeseen condition that presents a fire hazard or would contribute to the rapid spread of fire, or would delay or interfere with the rapid exit of persons from the tent, or would interfere with or delay the extinguishment of a fire and which is not otherwise covered by this subchapter shall be immediately abated, eliminated or corrected as ordered by the fire chief.

(4) **COMBUSTIBLE MATERIALS NEAR TENTS.** This is a department rule in addition to the requirements in NFPA 1 section 31-4.4: (a) *Combustible material.* Hay, straw and other flammable material may not be stored less than 35 feet from any tent, except upon special permission from the fire chief.

(b) *Combustible waste and refuse.* 1. The grounds both inside and outside of tents shall be kept free and clear of combustible waste and refuse.

2. Waste and refuse shall be stored in approved containers or removed from the premises.

(5) **SMOKING AND OPEN FLAME IN TENTS.** Substitute the following wording for the requirements in NFPA 1 section 31-4.4.2: (a) *Smoking.* 1. Smoking is prohibited in any tent or in any adjacent areas where hay, straw, alfalfa, sawdust or other highly combustible materials are kept or stored.

2. Approved "No Smoking" signs shall be conspicuously posted.

(b) *Open flame.* No fireworks, open flame or other device emitting flame or fire may be used in or immediately adjacent to any tent while open to the public, except upon special permission from the fire chief.

(6) **MAINTENANCE OF OUTDOOR GRANDSTANDS.** The requirements in NFPA 1 section 31-9 are not included as part of this code.

**Note:** See chs. Comm 61 and 62 for requirements on outdoor grandstands.

(7) **MAINTENANCE AND OPERATION OF FOLDING AND TELESCOPIC SEATING.** The requirements in NFPA 1 section 31-10 are not included as part of this code.

**Note:** See chs. Comm 61 and 62 for requirements on folding and telescopic seating.

#### SUBCHAPTER IV, FIRE DEPARTMENT DUTIES

**Comm 14.47 Fire chief and fire department duties. (1) AUTHORIZED DEPUTY OF THE DEPARTMENT.** The fire chief of the fire department in every city, village or town, except cities of the first class, is a duly authorized deputy of the department.

(2) **FIRE PREVENTION INSPECTIONS.** (a) *General.* The chief of the fire department shall be responsible for having all public buildings and places of employment within the territory of the fire department inspected for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to fire hazards or to the prevention of fires.

(b) *Determining the number of buildings to be inspected.* The fire chief shall be responsible for determining the number of public buildings and places of employment to be inspected for each municipality for which the fire department has responsibility.

(c) *Scheduling of inspections.* Except as provided in par. (d), fire prevention inspections shall be conducted at least once in each non-overlapping 6-month period per calendar year, or more often if ordered by the chief of the fire department, in all territory served by the fire department.

(d) *Exceptions.* 1. In first class cities, the fire chief may establish the schedule of fire inspections. The fire chief shall base the frequency of the inspections on hazard classification,

the proportion of public area, the record of fire code violations, the ratio of occupancy to size and any other factor the chief deems significant. Property other than residential property with 4 dwelling units or less shall be inspected at least once annually.

2. Within the territory of each fire department, in each municipality other than first class cities, the following types of occupancies shall be inspected at least once per year:

- a. Offices, outpatient clinics and dental clinics, if less than 3 stories in height.
- b. Non-occupied utility facilities, such as a water well facility, electric power substation and communication facility.
- c. Places of worship that do not have a rental hall, child day care facility or preschool to 12th grade instruction within the immediate church building.
- d. Buildings at colleges and universities, if used exclusively for classroom lecture or offices, provided there are no laboratories, chemical storage or industrial arts rooms in the building.
- e. Libraries, museums and art galleries.
- f. Hotels and motels, if less than 3 stories in height.
- g. Townhouses and rowhouses, if less than 3 stories in height.
- h. Residential condominiums and apartments, if there are less than 5 units under one roof.
- i. Convents and monasteries.
- j. Detention and correctional facilities.
- k. Garages used for storage only.
- L. Pedestrian walkways and tunnels, membrane structures, open parking structures, outdoor theaters, assembly seating areas, greenhouses and mini-storage buildings. If interior access to mini-storage buildings cannot be obtained, an exterior inspection shall be conducted
- m. Vacant buildings. If interior access to vacant buildings cannot be obtained, an exterior inspection shall be conducted.
- n. Confined spaces. An area that is identified by a sign as a permit-required confined space need not be internally inspected, but an exterior inspection shall be conducted.
- o. Townhouses, rowhouses, residential condominiums and apartments with no common use areas. An exterior inspection of these occupancies shall be conducted.

- p. Fully-sprinklered office buildings up to 60 feet in height.
- q. Fully-sprinklered residential condominiums and apartments, if less than 3 stories in height.
- r. Fully-sprinklered townhouses and rowhouses, if less than 4 stories in height.

**Note:** Fully-sprinklered buildings are protected throughout by an automatic fire sprinkler system as specified in NFPA 13 or 13R, as referenced in chs. Comm 61 to 65.

3. Upon written request by the chief of a fire department, the department by special order may grant an exception to a city, village or town to conduct less frequent inspections than required under this subsection. For the department to make a determination to grant a special order, the fire chief shall submit information regarding the fire safety plan that provides an equivalency to the inspections required under this subsection. The fire safety plan information shall consist of a fire safety evaluation identifying the fire risks and hazards that may be associated with the request for the special order.

(e) *Inspection reports.* Except in first class cities, the fire chief shall make and keep on file written reports of fire prevention inspections. In first class cities, the commissioner of the building inspection department shall make and keep the reports. The reports shall contain at least the information specified in sub. (5).

**Note:** Section 19.32 (2), Stats., considers a record to be material containing written or electromagnetic information. The department will consider computer records to be equivalent to written reports.

**Note:** The department has developed fire inspection report forms that may be used by fire departments. The fire inspection report forms (SBD-10615, SBD-5295 and SBD-10264) are available at no charge from the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701-2509, telephone (608) 266-1818.

(3) **FIRE INCIDENT REPORTS.** Each fire chief shall submit written fire incident reports to the department no later than April 1 for the previous year. The reports shall contain at least the information specified in sub. (5).

(4) **PUBLIC FIRE EDUCATION SERVICES.** Each fire department shall provide public fire education services within the territory served by the fire department. The services may be selected from the following public fire education-related activities:

(a) *Fire inspector training.* All fire department personnel directly involved in conducting fire inspections are authorized by the department and by the fire chief to conduct the inspections upon completion of required training approved by the department and by the fire chief.

(b) *Fire prevention week program.* Fire departments complete any combination of the following activities during national fire prevention week: children's poster contest; fire department open house; school visits to teach children fire safety; fire department fire safety demonstrations, including but not limited to fire fighting demonstrations, fire extinguisher and

smoke detector demonstrations, stop, drop and roll demonstrations or an activity that specifically relates to a national fire prevention week theme.

(c) *Residential fire inspection program.* Fire departments advertise and conduct residential fire inspections on a request basis or in response to local ordinance.

(d) *Building plan review program.* Fire departments conduct plan reviews and approvals of fire safety related elements prior to construction of public buildings and places of employment.

(e) *School education program.* Fire departments conduct approved fire safety education programs in the school districts for which they have responsibility.

(f) *Continuing public fire education program.* Fire departments conduct public fire education programs which may include: monthly public service announcements for radio or television, monthly newspaper articles, booths at fairs, demonstrations at shopping centers, billboards with fire safety messages and similar activities acceptable to the department.

(g) *Public fire education speaking bureau.* Fire departments organize a group of speakers to make public fire education presentations to civic organizations, professional organizations, school organizations and similar groups.

(h) *Youth fire awareness program.* Fire departments conduct youth fire awareness programs, including skill award and merit badge clinics for scouts, junior fire marshal program, juvenile fire setters program, first aid and CPR training and related activities.

(i) *Fire extinguisher training program.* Fire departments conduct training programs for the public or industry regarding the operation of fire extinguishers. Industrial fire brigade training programs may be conducted to complete this activity.

(j) *Occupancy inspection program.* Fire departments conduct inspections of public buildings and places of employment prior to the issuance of local occupancy permits. Written documentation of the inspections are kept by each fire department.

(k) *Smoke detector awareness program.* Fire departments conduct programs to inform people regarding the effectiveness and proper installation of smoke detectors in residential buildings, public buildings and places of employment.

(5) **RECORD KEEPING.** The following records shall be generated and maintained by each fire department:

(a) Current roster of active fire department members.

(b) Date and location of all fire prevention inspections conducted, violations found and corrective actions taken.

- (c) Time, date and location of fires and number of firefighters responding to each fire.
- (d) Number and duration of, and attendance at, fire department meetings.
- (e) Number and duration of, topic of and attendance at fire department training sessions.
- (f) Number, type, and duration of and attendance at public fire education related activities.

(6) AVAILABILITY OF RECORDS. The records specified in sub. (5), shall be made available to the department and to the public, upon request to the fire department.

#### SUBCHAPTER V, FIRE DEPARTMENT DUES PROGRAM

**Comm 14.48 Fire Department Dues.** (1) ELIGIBILITY. (a) 1. In order to be eligible to receive a fire department dues payment, a municipality shall ensure that the fire protection and fire prevention services specified in ss. 101.14 and 101.575, Stats., and this chapter, are provided to the entire municipality.

2. The training program required under s. 101.575 (3) (a) 3., Stats., shall be in accordance with ch. Comm 30 for public sector fire departments and in accordance with 29 CFR 1910.156 for private sector fire departments.

(b) 1. Except as provided in subd. 2., the fire protection and fire prevention services shall be provided by the fire department. A municipality not maintaining a fire department shall have the services provided through contract. A fire department may use mutual aid agreements as a means of providing fire protection services.

2. In first class cities, fire inspections may be provided by the neighborhood services department.

(2) COMPLIANCE DETERMINATION. (a) *General.* The department shall determine compliance with the fire department dues entitlement program through the self-certification audit process specified in sub. (3) and the onsite audit process specified in sub. (4).

(b) *Multiple fire departments.* Where a municipality is served by more than one fire department and any one of the fire departments is determined to be in noncompliance within that municipality, the entire municipality shall be determined to be in noncompliance.

(c) *Notice of noncompliance.* The department shall issue a notice of noncompliance to the municipality and the chief of the fire department that the department has determined to be in noncompliance. The determination shall be based on one or more of the following causes:

- 1. The municipality fails to return the self-certification audit form on time.

2. The municipality returns an incomplete self-certification audit form.
3. The municipality self-certifies non-compliance.
4. An onsite audit that results in failure.

(d) *Revised determinations.* A request to revise a determination of noncompliance for the previous calendar year shall be received by the department no later than December 31. A request for a revised determination of noncompliance received by the department after the December 31 deadline shall have no effect.

**(3) SELF-CERTIFICATION AUDIT.** (a) A municipality shall annually complete and submit a fire department dues entitlement self-certification audit form for the previous calendar year. The certification shall be made on the form provided by the department and the form shall be returned to the department on or before April 1.

**Note:** The department annually sends form SBD-10318 to the municipality.

(b) A municipality shall identify on the self-certification audit form the name of every fire department and the chief of the fire department that provided fire protection services and fire prevention services, to the municipality in the last calendar year. This identification shall be used to determine which fire departments are entitled to receive fire department dues from the municipality.

(c) The chief of the fire department that provided the fire protection and fire prevention services and the clerk of the municipality shall sign the self-certification audit form and indicate compliance or non-compliance with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also sign the self-certification audit form.

**(4) ONSITE AUDIT.** (a) In addition to the self-certification audit process, the department shall periodically conduct onsite audits of fire department dues entitlement records to determine compliance with the fire department dues entitlement program for the previous calendar year.

(b) The department shall periodically examine the fire department dues entitlement records to verify that the required fire prevention and fire protection services were provided within the territory served by the fire department and, within first class cities, by the building inspection department.

**Note:** The information required in the entitlement records is specified in ss. 101.14 and 101.575, Stats.

(c) The department shall write a report summarizing the results of each onsite audit.



**(5) FIRE DEPARTMENT REGISTRATION.** (a) A fire department that provides fire prevention and fire protection services to a municipality shall register with the department on the form provided by the department.

**Note:** Copies of form SBD-10638 are available at no charge from the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone (608) 266-1818.

(b) The fire chief of a registered fire department shall annually submit a completed fire department annual update form, provided by the department, to the department by July 1.

**Note:** The department annually sends form SBD-10114 to the fire department.

SECTION 3. Chapter Comm 15 is repealed.

SECTION 4. Comm 16.46 is repealed.

SECTION 5. Chapters Comm 50 to 64 and Appendices A and B are repealed.

SECTION 6. Chapter Comm 65 is renumbered Comm 68

SECTION 7. Chapters Comm 61 to 65 and Appendix A are created to read:

**Chapter Comm 61**  
**Administration and Enforcement**

**Subchapter I**  
**Scope and Application**

**Comm 61.01 Purpose of code.** Pursuant to various statutory provisions under subch. I of ch. 101, Stats., the purpose of this code is to protect the health, safety and welfare of the public and employes by establishing minimum standards for the design, construction, maintenance and inspection of public buildings, including multifamily dwellings, and places of employment.

**Comm 61.02 Scope.** (1) Except as provided in subs. (2) and (3), this code applies to all public buildings and places of employment.

**Note:** Under s. 101.01 (11), Stats., "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employes for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in s. 50.01 (1), or, except for the purposes of s. 101.11, a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.

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

(2) This code does not apply to buildings or situations listed under the exclusions in ss. 101.01 (11) and 101.01(12), Stats., or under the exemptions in s. 101.05, Stats.

**Note:** Section 102.04 (3), Stats., as referenced in s. 101.01 (11), Stats., reads as follows: "As used in this chapter 'farming' means the operation of farm premises owned or rented by the operator. 'Farm premises' means areas used for operations herein set forth, but does not include other areas, greenhouses or other similar structures unless used principally for the production of food and farm plants. 'Farmer' means any person engaged in farming as defined. Operation of farm premises shall be deemed to be the planting and cultivating of the soil thereof; the raising and harvesting of agricultural, horticultural or arboricultural crops thereon; the raising, breeding, tending, training and management of livestock, bees, poultry, fur-bearing animals, wildlife or aquatic life, or their products, thereon; the processing, drying, packing, packaging, freezing, grading, storing, delivering to storage, to market or to a carrier for transportation to market, distributing directly to consumers or marketing any of the above-named commodities, substantially all of which have been planted or produced thereon; the clearing of such premises and the salvaging of timber and management and use of wood lots thereon, but not including logging, lumbering or wood cutting operations unless conducted as an accessory to other farming operations; the managing, conserving, improving and maintaining of such premises or the tools, equipment and improvements thereon and the exchange of labor, services or the exchange of use of equipment with other farmers in pursuing such activities. The operation for not to exceed 30 days during any calendar year, by any person deriving the person's principal income from farming, of farm machinery in performing farming services for other farmers for a consideration other than exchange of labor shall be deemed farming. Operation of such premises shall be deemed to include also any other activities commonly considered to be farming whether conducted on or off such premises by the farm operator."

**Note:** Under s. 50.01 (1), Stats., as referenced in s. 101.01 (12), Stats., "adult family home" means one of the following:

(a) A private residence to which all of the following apply:

1. Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in s. 51.01 (5), or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults or children if all of the adults or all of the children are siblings, or, if the residence is licensed as a treatment foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4.

2. The private residence was licensed under s. 48.62 as a foster home or treatment foster home for the care of the adults specified in subd. 1. at least 12 months before any of the adults attained 18 years of age.

(b) A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident. "Adult family home" does not include a place that is specified in sub. (1g) (a) to (d), (f) or (g).

Under s. 50.01 (1g), Stats., as referenced in s. 101.01 (12), Stats., "community-based residential facility" means a place where 5 or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident. "Community-based residential facility" does not include any of the following:

(a) A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.

(b) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in s. 46.95 (1) (a), and their children.

(c) A shelter facility as defined under s. 16.352 (1) (d).

(d) A place that provides lodging for individuals and in which all of the following conditions are met:

1. Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.

2. No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employe any of the following:

a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.

b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

(e) An adult family home.

(f) A residential care apartment complex.

(g) A residential facility in the village of Union Grove that was authorized to operate without a license under a final judgment entered by a court before January 1, 1982, and that continues to comply with the judgment notwithstanding the expiration of the judgment.

**Note:** Section 101.05, Stats., reads as follows: "Exempt buildings and projects. (1) No building code adopted by the department under this chapter shall affect buildings located on research or laboratory farms of public universities or other state institutions and used primarily for housing livestock or other agricultural purposes.

"(2) A bed and breakfast establishment, as defined under s. 254.61 (1), is not subject to building codes adopted by the department under this subchapter.

"(3) No standard, rule, code or regulation of the department under this subchapter applies to construction undertaken by the state for the purpose of renovation of the state capitol building.

"(4) No standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter applies to a rural school building if all of the following are satisfied:

"(a) The school building consists of one classroom.

"(b) The school building is used as a school that is operated by and for members of a bona fide religious denomination in accordance with the teachings and beliefs of the denomination.

"(c) The teachings and beliefs of the bona fide religious denomination that operates the school prohibit the use of certain products, devices or designs that are necessary to comply with a standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter."

Under s. 254.16 (1) Stats., as referenced in 101.05, Stats., "bed and breakfast establishment" means any place of lodging that:

(a) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients;

(b) Provides no meals other than breakfast and provides the breakfast only to renters of the place;

(c) Is the owner's personal residence;

(d) Is occupied by the owner at the time of rental;

(e) Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence; and

(f) Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that this limit does not apply to any of the following:

1. A structural addition, including a renovation, made to a structure after May 11, 1990, within the dimensions of the original structure.

2. A structural addition, made to a structure that was originally constructed at least 50 years before an initial or renewal application for a permit under s. 254.64 (1) (b) is made and for which no use other than as a bed and breakfast establishment is proposed. The structural addition under this subdivision shall comply with the rules under s. 101.63 (1) and (1m).

(3) Pursuant to ss. 101.01 (11) and (12), Stats., which exempt a certain type of community-based residential facility as a public building or place of employment, this code does not apply to a previously constructed building or portion thereof that is converted to a community-based residential facility serving 20 or fewer residents who are not related to the operator or administrator.

(4) This code does not apply to all of the following types of buildings, structures or situations:

(a) A temporary building or structure used exclusively for construction purposes, not exceeding 2 stories in height, and not used as living quarters.

(b) A building or structure located on Indian reservation land held in trust by the United States.

(c) Buildings and portions of buildings that are exempted by federal statutes or treaties.

(d) Portions of buildings leased to the federal government provided all of the following conditions are met:

1. A statement is filed with the register of deeds that describes the steps necessary for compliance to this code if the space is converted to a nonexempt use.

2. The statement filed with the register of deeds is recorded in a manner that will permit the existence of the statement to be determined by reference to the property where the building is located.

3. The owner of the building submits a copy of the recorded document to the department or its authorized representative.

(e) Buildings and structures that are on a farm premises and used exclusively for farming purposes, provided any use of the building or structure by the public consists only of consumers directly receiving farm commodities, substantially all of which have been planted or produced on the farm premises. In this application, "substantially all" means at least 90 percent of the commodities were planted or produced on the farm premises.

(f) A one- or 2-family dwelling used as a foster home, treatment foster home, or group home, or as a child caring institution having a capacity for 8 or fewer children, all as defined in s. 48.02, Stats.

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

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

(h) That portion of or space within a one- or 2-family dwelling in which a home occupation is located.

(5) In this section, "home occupation" means any business, profession, trade or employment conducted in a person's dwelling unit, that may involve the person's immediate family or household and a maximum of one other unrelated person, but does not involve any of the following:

(a) Explosives, fireworks or repair of motor vehicles.

(b) More than 25% of the habitable floor area of the dwelling unit.

**Comm 61.03 APPLICATION. (1) RETROACTIVITY.** A rule of this code does not apply retroactively to public buildings and places of employment existing prior to the effective date of the rule unless specifically stated in the administrative rule.

**(2) CONFLICTS.** (a) Where rules of the department specify conflicting requirements, types of materials or methods of construction, the most restrictive rule shall govern, except as provided in pars (b) and (c).

(b) Where there is a conflict between a rule that prescribes a general requirement and a rule that prescribes a specific or more detailed requirement, the specific or more detailed requirement shall govern.

(c) The requirements in IBC Appendix C may be applied to certain agricultural buildings, as specified in s. Comm 62.3600 (2), in lieu of corresponding, otherwise applicable requirements of this code.

**Note:** Under s. Comm 62.0100 (1) and IBC section 102.4, where differences occur between the requirements of this code and referenced codes or standards, the requirements of this code apply.

**(3) DEPARTMENT AUTHORITY.** Pursuant to s. 101.02 (1), Stats., the department reserves the right to interpret the requirements in this chapter and in all adopted codes and standards.

**Note:** Section 101.02 (1), Stats., reads as follows: "The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings."

**(4) LOCAL ORDINANCES.** (a) 1. Except as provided in par. (b), pursuant to s. 101.02 (7), Stats., a city, village, town or local board of health may enact and enforce additional or more restrictive standards for public buildings and places of employment, provided the standards do not conflict with this code.

2. Nothing in this code affects the authority of a municipality to enact and enforce standards relative to land use, zoning or regulations under ss. 59.69, 60.61, 60.62, 61.35 and 62.23 (7), Stats.

(b) 1. Pursuant to s. 101.02 (7m), Stats., a city, village, town or county may not enact and enforce additional or more restrictive standards for multifamily dwellings, except as provided under 101.975, Stats., and that do not conflict with this code.

2. Under subch. VI of ch. 101, Stats., only a municipality with a preexisting stricter sprinkler ordinance as specified under s. 101.975 (3), Stats., may enact an ordinance requiring

the automatic fire sprinkler system protection or 2-hour fire resistance specified in s. 101.14 (4m) (d) and (e), Stats. Under s. 101.14 (4m) (am), Stats., no municipality may enact an ordinance specifying thresholds for sprinkler protection or fire resistance that differ from s. Comm 62.903 or s. 101.14 (4m) (d) and (e), Stats. Specifying the thresholds in s. 101.14 (4m) (d) and (e) does not enable a municipality to depart from any other criteria or procedure in this code.

**Note:** See Appendix A for a tabular listing of the thresholds in s. 101.14 (4m) (d) and (e), Stats., and for a listing of the municipalities that the department believes have a preexisting stricter sprinkler ordinance.

3. This code does not affect municipal requirements contained in a "preexisting stricter sprinkler ordinance," as provided in s. 101.975 (3), Stats.

**Note:** Section 101.975 (3), Stats., reads: In this subsection, "preexisting stricter sprinkler ordinance" means an ordinance that fulfills all of the following requirements:

1. The ordinance requires an automatic sprinkler system in multifamily dwellings containing 20 or less attached dwelling units.
2. The ordinance was in effect on January 1, 1992, and remains in effect on May 1, 1992.
3. The ordinance does not conform to this subchapter and s. 101.02 (7m) or is contrary to an order of the department under subch. I.
4. The ordinance is more stringent than the corresponding provision of this subchapter or s. 101.02 or the contrary provision of an order of the department under subch. I.

If a political subdivision has a preexisting stricter sprinkler ordinance, that ordinance remains in effect, except that the political subdivision may amend the ordinance to conform to this subchapter and s. 101.02 (7m) and to be not contrary to an order of the department under ss. 101.01 to 101.25.

4. a. Any municipality exercising or intending to exercise jurisdiction under this code may apply to the department for a variance permitting the municipality to adopt an ordinance pertaining to multifamily dwellings not in conformance with this code. The department shall review and make a determination on a municipal request under this section within 60 business days of receipt of the request.

5. a. The department may grant a municipal variance only where all of the conditions in subds. 5. b. and c. are demonstrated.

b. The municipality demonstrates that the variance is necessary to protect the health, safety, and welfare of individuals within the municipality because of specific climate or soil conditions generally existing within the municipality.

c. The municipality demonstrates that the granting of the variance, when viewed both individually and in conjunction with other variances requested by the municipality, does not impair the statewide uniformity of this code.

d. Prior to making a determination on a municipal variance, the department shall solicit within the municipality and consider the statements of any interested persons as to whether the variance should be granted.

e. This subdivision shall be strictly construed in accordance with the goal of promoting statewide uniformity.

**(5) ALTERNATIVES.** Nothing in this code is intended to prohibit or discourage the design and utilization of new building products, systems, or components provided written approval from the department is obtained first.

**(6) NEW BUILDINGS AND STRUCTURES.** Buildings, structures and additions to buildings, structures and components, to be constructed or erected on or after the effective dates of the rules under this code shall be designed, constructed and maintained in accordance with the rules of this code as these rules exist on one of the following:

(a) Pursuant to s. Comm 61.30, the date plans for the building, structure or addition are approved by the department or authorized representative.

(b) The date the local building permit is issued, if plan submission and approval is not required under s. Comm 61.30.

(c) The date the alteration is initiated, where pars. (a) and (b) do not apply.

**(7) ALTERATIONS.** Those portions, elements, systems or components of existing buildings and structures to be altered or modified on or after the effective dates of the rules under this code and where the alteration or the modification affects a building element or component relating to subject matters regulated by this code, shall be designed, constructed and maintained in accordance with the applicable rules of this code as the rules exist on one of the following:

(a) Pursuant to s. Comm 61.30, the date plans for the alteration or modification are approved by the department or authorized representative.

(b) The date the local building permit is issued, if plan submission and approval is not required under s. Comm 61.30.

(c) The date the replacement is initiated, where pars. (a) and (b) do not apply.

**(8) REPLACEMENTS.** Those building systems or components of existing buildings and structures to be replaced on or after the effective dates of the rules under this code and where the replacement involves a building element or component relating to subject matters regulated by this code shall conform and be maintained in accordance with the applicable rules of this code as these rules exist on either one of the following:



(a) Pursuant to s. Comm 61.30, the date plans for the replacement are approved by the department or authorized representative.

(b) The date the local building permit is issued, if plan submission and approval is not required under s. Comm 61.30.

(c) The date the replacement is initiated, where pars. (a) and (b) do not apply.

**(9) REPAIRS.** Those portions, elements, systems or components of existing buildings and structures repaired on or after the effective dates of the rules under this code shall conform and be maintained in accordance with the standards of this code as these standards exist on one of the following:

(a) The date plans for that portion, element, system or component was approved by the department or authorized representative.

(b) The date the local building permit was issued for that portion, element, system or component, if plan submission and approval was not required.

(c) The date construction was initiated for that portion, element, system or component, where pars. (a) and (b) do not apply.

(d) The date repair is initiated.

**(10) CHANGE OF OCCUPANCY OR USE.** (a) Except as provided in par. (b), no change may be made in the use or occupancy of any building or structure, or any space within a building or structure, that would place the building, structure or space either in a different division of the same group of occupancies or in a different group of occupancies, unless the building, structure or space complies with this code's requirements for the new division or group of occupancies, as these requirements exist on one of the following dates:

1. Pursuant to s. Comm 61.30, the date when plans for the change in occupancy or use are approved by the department or authorized representative.

2. The date a local building permit is issued, if plan submittal and approval is not required under s. Comm 61.30.

3. The date construction is initiated, where subs. 1 and 2 do not apply.

(b) This subsection does not apply to a temporary use approved under sub. (11), or to a new use that will be less hazardous, based on life and fire risk, than an existing use.

**(11) TEMPORARY USE.** A municipal fire or building code official may allow a building or a portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a temporary building to be used by the public, subject to all of the following provisions: