

Question

Can municipalities require building permits, with plan review and approval as part of the permit process, even though the Wisconsin Commercial Building Code does not require plan review or building permits?

Answer

Yes, municipalities may require building permits, with plan review and approval as part of the permit process, under their municipal authority specified in the applicable Statute Chapters 59 through 62.

State law made the Wisconsin Commercial Building Code uniform relative to “minimum standards for constructing, altering, or adding to...”. See the first red underlined text in the reprinted statute section 101.02 (7r), shown below. That phrase does not address code administration, including requirements for building permits. [Refer to 2013 Wis. Act 270, enacted on April 16, 2014.]

However, 2017 Wis. Act 330, enacted on April 16, 2018, does direct the DSPS to promulgate rules that establish procedures for the administration of the Wisconsin Commercial Building Code and many other codes promulgated under Subchapter 1, of Statute Chapter 101. The DSPS has not yet promulgated such rules. See the red text at the end of the reprinted statute section 101.02 (7r), shown below.

Logically, the provisions of 2017 Act 330 would not have been needed if 2013 Act 270 had already specified that code administration was uniform under the Wisconsin Commercial Building Code.

Another point to consider – one can contrast the statutes created by 2013 Wis. Act 270, pertaining to commercial buildings, with statute section **101.60 “Purpose”**, pertaining to the UDC. That section on the UDC includes “inspection procedures” in the sentence about “statewide” standards and procedures. Thus, the UDC contains more direction concerning permit applications, permit issuance, and inspections.

Partial Statute Reprint

101.02 (7r)

(a) Notwithstanding sub. (7) (a), no county, city, village, or town may enact or enforce an ordinance that establishes minimum standards for constructing, altering, or adding to public buildings or buildings that are places of employment unless that ordinance strictly conforms to the applicable rules under sub. (15) (j), except as provided in pars. (b) to (d).

Note: Par. (a) is shown as affected by [2017 Wis. Acts 330](#) and [331](#) and as merged by the legislative reference bureau under s. 13.92 (2) (i).

(b) Notwithstanding par. (a), a county, city, village, or town may enforce an ordinance establishing minimum standards for constructing, altering, or adding to public buildings or buildings that are places of employment that does not strictly conform to the applicable rules under sub. (15) (j) if all of the following apply:

1. The ordinance was enacted before May 1, 2013.
2. The ordinance was published by the county, city, village, or town in the manner required under s. [59.14](#), [60.80](#), [61.50](#), or [62.11 \(4\)](#).
3. The ordinance relates to fire detection, prevention, or suppression components of buildings.
4. The building is not a multifamily dwelling.
5. The ordinance is submitted to the department within 60 days after April 18, 2014.
6. The department determines that the ordinance requires standards that are at least as strict as the rules promulgated by the department.

(c) A county, city, village, or town may amend an ordinance that is enforceable under par. (b) if all of the following apply:

1. The amendment will not broaden the applicability of the ordinance to any building components that are not subject to the ordinance under par. [\(b\) 3.](#)
2. The amendment will not change the specific subject matter regulated by the ordinance.
3. The county, city, village, or town submits a copy of the enacted amendment to the department at least 120 days before the effective date of the amendment.
4. The county, city, village, or town publishes the enacted amendment in the manner required under s. [59.14](#), [60.80](#), [61.50](#), or [62.11 \(4\)](#) at least 120 days before the effective date of the amendment.

(d)

1. The department shall maintain a list of the ordinances that are enforceable under par. [\(b\)](#) and of the amendments that are enforceable under par. [\(c\)](#). The list shall be accessible to the public in electronic format, and shall include electronically photographed or scanned copies of the ordinances and amendments.

2. For an amendment submitted to the department under par. [\(c\) 3.](#), the department shall make it accessible as required under subd. [1.](#) within 10 working days after receiving the amendment.

(e) Notwithstanding par. [\(a\)](#), a county, city, village, or town may enact and enforce an ordinance establishing a property maintenance code that is stricter than rules promulgated by the department under sub. [\(15\) \(j\)](#).

(f) Notwithstanding par. [\(a\)](#), a city of the 1st or 2nd class may enact and enforce an ordinance that relates to fire suppression that requires existing buildings to be altered to comply with the rules for the construction of buildings that are promulgated by the department under sub. [\(15\) \(j\)](#).

(g)

1. The department shall promulgate rules that establish procedures for the administration of the rules promulgated by the department under this subchapter. For purposes of this paragraph, “administration” includes the process an owner must follow when applying for a permit for constructing, altering, or adding to a public building or a building that is a place of employment.

2. Notwithstanding sub. [\(7\) \(a\)](#), no county, city, village, or town may enact or enforce an ordinance that establishes minimum standards for the administration of the rules promulgated by the department under this subchapter unless that ordinance strictly conforms to the rules promulgated by the department under subd. [1.](#)

101.60 Purpose. The purpose of this subchapter is to establish statewide construction standards [and inspection procedures](#) for one- and 2-family dwellings and to promote interstate uniformity in construction standards by authorizing the department to enter into reciprocal agreements with other states which have equivalent standards.

By Bob DuPont

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