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## Commercial Buildings Frequently Asked Questions Administrative

### **SPS 361.02 What are some residential configurations that illustrate where the scope of the Uniform Dwelling Code stops and the Commercial Building Code applies instead, or vice versa? (July 15, 2008)**

Answer:

- a. For 3 or more attached dwelling units, the CBC applies. Attached means some code-required construction (other than footings and their bearing material) is shared by the units.

Where 3 or more unattached dwelling units are each built with outside walls that comply with the UDC, the UDC applies throughout and the CBC does not apply, even if those outside walls are adjacent to or adjoin each other. If a non-code-required covering is added over the top of two such adjoining walls, the UDC would still apply.

Whether the dwelling units are owned by one party or are owned separately or are on separate lots does not affect which of the two codes applies.

In a building containing one commercial occupancy and one dwelling unit (the dwelling unit may be transient or nontransient) that is separated from the commercial occupancy by a fire wall, the CBC applies only to the commercial occupancy. Separating the two occupancies with a fire wall eliminates any effects of the dwelling unit on the commercial occupancy, and allows the dwelling unit to have unlimited area and height.

- b. Where a building containing one commercial occupancy and one dwelling unit (the dwelling unit may be transient or nontransient) that is not separated from the commercial occupancy by a fire wall, two scenarios exist.

In one scenario where an occupancy separation is not provided, the effect of the dwelling unit on the commercial occupancy must be considered. For example, fuel-fired equipment and garages may need to be separated from the commercial occupancy in accordance with the CBC requirements for the commercial occupancy. And, the enclosing walls of the dwelling unit will be considered in determining the class of construction of the building for purposes of meeting the height and area limitations applicable to the commercial occupancy.

In the other scenario where an R-3 occupancy separation is provided, various trade-offs are allowed for the commercial occupancy.

- c. For a public or private family daycare serving up to eight children in a dwelling unit of a one or two family dwelling, the UDC applies throughout. Each family is permitted to operate separate family child care centers serving up to eight children and remain within the scope of the UDC throughout.
- d. For a vacation home that is rented to a large, single group of guests, the UDC applies.
- e. For one dwelling unit used for transient lodging, or two connected dwelling units used for transient lodging, the UDC applies. (July 15, 2008)

## **SPS 361.02 Which aircraft hangers are outside the scope of the Commercial Building Code?**

Answer: An aircraft hanger which is not a public building or place of employment is outside the scope of the Wisconsin Commercial Building Code.

Just as with other detached outbuildings that are used in conjunction with a one- or two-family dwelling, an aircraft hanger which is detached from a one- or two-family dwelling and which is not used as a public building or place of employment is outside the scope of the CBC.

However, if a hanger that is attached to a one- or two-family dwelling is used as a public building or place of employment - such as for a commercial commuter or leisure airline service, or for commercial repair or service of aircraft - the hanger is then within the scope of the CBC. The only exception to that provision would be if the one- or two-family dwelling is located on a farm premises and the aircraft is used only for the operation of that farm. Under this farm operation exception the attached hanger would not be subject to the CBC provisions.

Aircraft hangers that are used as public buildings or places of employment, except those which are exempt under SPS 361.02 (such as those which are on farms and which are then used exclusively for farming) are within the scope of the CBC. (July 15, 2008)

## **SPS 361.30, SPS 361.31, IBC 503.1.2 Where a group of small buildings utilizes the single building exception of IBC 503.1.2 for height and area limitation purposes, must all the buildings be considered as one for submittal or signing and sealing purposes?**

Answer: No. The buildings remain separate buildings for the submittal and the signing and sealing requirements in SPS 361. The provision under IBC 503.1.2 allows those multiple buildings to be designed and constructed as if one building for those subjects that affect the height and area restrictions of the code. (June 30, 2008)

## **Farming Exemption**

### **SPS 361.02(3)(e) Due to the size and complexity of farm operations, there is some confusion with respect to farming. What is and what is not considered farming, exempt from code requirements?**

Answer: The WI Commercial Building Code deals with buildings and the use of those buildings, not with corporate structure or size. As farming is defined broadly as the cultivation and planting, raising, harvesting, processing, storage, delivery to market, and delivery to the final consumer of farm products, and the operation must be accomplished by the farmer (individual, employee of the individual, or employee of a corporation involved with the above farming operations). The below tests can be applied to determine if the building is exempt.

1. Is the building used for storage, processing, packing, etc., of farm products, 90 percent of which were raised by the building owner on farms the building owner owns?
2. Is the building used for the storage of seed, fertilizer or other products, 90 percent of which the building owner will use to raise the farm product on farms owned by the building owner?
3. Is the building used for the storage or repair of equipment the building owner will use to raise, process, or deliver farm products, of which 90 percent were raised by the building owner?
4. Is the building used for the sale of farm products raised by the building owner on farms owned by the building owner, and no more than 10 percent of the retail sales area is devoted to sale of other items?

5. Is the building used for office purposes to run the operations only on farms, all of which are owned by the building owner?

If the answers to questions such as the above are yes, the building is farming and exempt, regardless of the size of the farm operation or the number of employees involved in the farming operation.

The term "owned" as used here can also mean "rented" such as with a tenant farmer. The tests must be applied to the entire building; however, a storage building, for example, portions of which are rented to several different farmers for storage of farm products, would be considered as a building under the scope of the code as 90 percent of the stored products in the building were not raised by the building owner.

Some examples of operations which are NOT farming:

Horse riding stable: Business is riding, not raising horses.

Horse boarding stable: Business is storing of horses not owned by the stable owner.

Co-ops: Products have not been raised by the co-op. They have been raised by members of the co-op. The co-op doesn't own the farms.

Commercial processors (Oreida, Green Giant, etc.): 90 percent of products were not raised by the processor.

Seed dealers: Seed being sold was not raised by the dealer.

Commercial grain storage: 90 percent of grain was not raised by the storage facility operator.

Poultry processing: Poultry processed was raised by other farmers, not by the processor.

Saw mills: Statutory definition excludes from farming.

Reference 361.02(3)(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.

Farming basically involves the entire process from the cultivating of the soil through harvesting and processing to delivery to market or to the final consumer of farm products. The farm products involved, however, must have been raised on the farm premise by the owner. Processing or handling of farm products received from another farmer is not permitted under the farming definition.

Some common occupancies associated with farming deserve comment. A horse riding arena is commercial even if the horses are owned by the building owner if the public enters the building for recreation. The building can be a B-Business, A3 or A4-Assembly occupancy depending on the number of people. A produce stand or building, operated by a farmer, is farming and exempt provided the farmer has raised substantially all of the produce being sold. However, if the stand or building sells items not raised by the owner of the structure, it is commercial.

**Question 1:** A large sod farmer has, in conjunction with his sod business, a significant office building, storage and repair garages which are provided for the farm equipment and semi-trailer trucks used to deliver the sod nationwide, and warehouse buildings which are provided for the storage of the seed, fertilizer and harvested sod. The sod farmer handles and delivers only sod which is raised on his farm. Do the Dept. of Safety & Professional Services commercial building codes apply to any of the buildings on the farm?

Answer: No. Even though the farmer has many employees, buildings with occupancies which appear to be covered by the code, and an interstate trucking operation, the operation is considered farming and therefore exempt from code requirements.

**Question 2: The same conditions are present as in the previous question, however, the farmer, in addition to handling sod grown on his farm, also handles sod from other sod farms. Do any of the Dept. of Safety & Professional codes apply?**

Answer: Yes. Because the farmer is now handling products which he has not raised on his farm, the operation becomes commercial falling under the scope of the commercial building code. It is possible that some buildings could still be considered farming and exempt. A warehouse storing fertilizer and seed for use only on that farmer's farm would be farming and exempt. The office, delivery truck garage, and facilities for repairing those delivery trucks would be commercial as they are involved with the sod from another farm.

Act 198 FAQ

**SPS 361.60(5)(c)3. Do delegated municipalities have the authority to perform plan review and inspections of alterations of spaces containing less than 100,000 cubic feet of volume within buildings where the volume of the building exceeds 100,000 cubic feet of total building volume?**

Answer: Yes. 2017 WI Act 198 amended Stats. 101.12(3)(b) as follows:

**SECTION 1m.** 101.12 (3) (b) of the statutes is amended to read:

101.12 (3) (b) Accept the examination of essential drawings, calculations, and specifications in accordance with sub. (1) for buildings containing less than 50,000 cubic feet of volume and alterations of spaces involving less than 100,000 cubic feet of volume performed by cities, villages, towns, or counties, provided the same are examined in a manner approved by the Department. The Department shall determine and certify the competency of all such examiners.

The Department will follow the state statutes in administering and enforcing the commercial building code. This is also reflected in an explanatory note following this section within the administrative rules.