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## Chapter SPS 320

### ADMINISTRATION AND ENFORCEMENT

#### Subchapter I — Purpose and Scope

##### 320.01 Purpose

It should be kept in mind that statewide uniformity is a primary objective in the administration and enforcement of the code. To accomplish this objective, it is important that any variations in the regulations be kept at an absolute minimum and that persons given the responsibility to interpret and enforce these regulations perform their duties the same as their fellow code-users. Therefore, the UDC is a maximum and minimum code and all inspectors enforcing it must be state-certified. The UDC Program staff at Safety and Buildings Division act as consultants to inspectors and other users of the code to help maintain this uniformity.

There is a UDC general information brochure on the DSPTS UDC Publications webpage, as well as other useful information. We recommend code users to sign up for email alerts on the DSPTS website for the UDC program and other programs in which they are interested.

There is also a brochure on the right to cure law, which establishes the steps and timetables to be followed in resolving any claims of dwelling construction defects by consumers against contractors or suppliers. Claims must be pursued through the “Right to Cure Law” process before arbitration or before legal action.

**Question:** What are the Wisconsin Uniform Building Code and International Residential Code?

**Answer:** The Wisconsin Uniform Building Code (WUBC) was prepared by the Building Inspectors Association of Southeastern Wisconsin. It was quite popular before the state code, SPS 320-325 (UDC), was enacted in June 1980. Some municipalities still use the WUBC code for outbuildings and pre-1980 dwelling alterations and additions since such construction is not covered by the state UDC. It also covers local administrative procedures and levying of fines which are not covered by the UDC. The WUBC has a chapter numbering system starting with 30 which helps distinguish it from the UDC, chs. 320-325.

There is also a national model building code called the IRC (International Residential Building Code) that is prevalent in some neighboring states including Minnesota but is not enforced in Wisconsin.

320.02 Scope

The emphasis we should make in this paragraph is on the word "new." It is the intent of the code that these regulations **not** apply, as far as the state is concerned, to any house constructed prior to the effective date of the regulations. Chapter SPS 322 became effective December 1, 1978 and Chapters SPS 320, 321, 323, 324 and 325 became effective June 1, 1980. Homes built prior to these dates are not subject in any way to the Uniform Dwelling Code as far as the state is concerned. Local regulations may be stricter and retroactively apply the UDC to such older homes under their home rule authority. The separate state electrical and plumbing codes also applied before 1980. A separate state smoke detection code, SPS 328, does apply to houses built before 1980.

The Department of Agriculture, Trade and Consumer Protection administers Chapter Ag 110, Wisconsin Administrative Code, which regulates home improvement trade practices, but does not cover construction of new residences. This code includes language regarding prohibited trade practice, building permits, guarantees or warranties, home improvement contract requirements and preservation of buyer's claims and defenses, but not bonding. Foundation waterproofing contractors need to comply with ATCP 111.

For complaints about home improvement trade practices (not new home construction) or landlord/tenant relations, you may contact:

Wisconsin Dept. Of Agriculture Trade & Consumer Protection  
Trade And Consumer Protection Division  
2811 Agriculture Drive  
P O Box 8911  
Madison WI 53708  
1 (800) 422-7128  
datcp.wi.gov

320.02(1) Pre-1980 Dwellings

In the case of a burned or collapsed pre-UDC dwelling, a substantial portion of the dwelling that encloses space, such as a basement with a floor deck above, must remain in order for a reconstructed dwelling to be exempted from the UDC. Local regulations may be stricter by the use of the raze and remove procedures of state statute s. 66.0413.

It needs to be emphasized that only pre-existing dwellings and dwelling units are exempted. Buildings previously used for other purposes and converted to a dwelling are subject to the UDC upon conversion to residential use.

Also, the use of used lumber and other materials from an old dwelling in a new dwelling does not exempt it from the UDC.

320.02(1)(b)&(c) CBRF's or AFH's

**Question:** What constitutes a community-based residential facility (CBRF) or an Adult Family Home (AFH) versus a rooming house?

**Answer:** The key is that a CBRF or AFH must have a license issued by the state Department of Health Services (Tel 608-266-8481). The UDC covers those facilities constructed since 1980 serving 3 to 8 clients. Staff people are not counted.

### 320.02(1)(cs)

This section applies the UDC to certain, smaller home occupation businesses, rather than being subject to the Wisconsin Commercial Building Code, chs. SPS 360-366, which generally regulates commercial and multi-family dwellings. See SPS 320.04(6) for more discussion regarding the interaction of the two codes.

### 320.02(1)(h) Unattached, Adjacent Structures

This section applies the UDC to adjacent structures that are unattached to a dwelling but serve as an exit to the dwelling. This application extends no further than to the point at which a person arrives at grade and has free movement.

### 320.02(2) Municipal Ordinances

This requirement restricts the adoption of local ordinances which would be considered more or less restrictive than the Uniform Dwelling Code. Also refer to subsection SPS 320.06(1).

Note that this section does allow municipalities to enforce occupancy requirements on a UDC dwelling after the first occupancy. This would allow for housing ordinances that require basic maintenance of the structure after the original construction.

### 320.02(2)(b) Allowable Municipal Ordinances

"Land use" would include regulating such things as locating a house in a farming or business district.

"Zoning" ordinances are considered to be those which do not affect the design or assembly of a house or its appurtenances. Allowable zoning issues can include minimum dwelling size, exterior finish material, maximum dwelling height, minimum finished grade height and other items relating to the exterior appearance of the dwelling or to community property values.

"Setback" – For purposes of requiring minimum distances to lot lines, streets, other buildings, etc. for other than fire separation purposes, which is addressed by the UDC.

"Hazards at the job site" means during the period a house is being constructed.

### 320.02(2)(c) Items Not Within the Scope of the Code

Municipalities may adopt local ordinances covering the following:

"Construction" - Detached buildings such as garages, storage, agricultural buildings, fences, driveways, etc.

### 320.02(2)(c)

"Additions, alterations or repairs" - Additions, alterations and repairs to houses constructed before June 1, 1980. However, additions, alterations or repairs to houses built between December 1, 1978 and June 1, 1980, must comply with ch. SPS 322, Energy Conservation requirements.

#### 320.02(2)(c) Pre-1980 Dwellings

Municipalities may adopt any code under their home rule authority, including the UDC, to apply to homes built before June 1, 1980. In fact, they are encouraged to adopt the UDC for these older homes, especially alterations and additions, so as to simplify enforcement procedures and code understanding by builders and owners. However, any petitions for variances on pre-1980 dwellings would be handled by the local municipality only. Also, state inspector certification would not be necessary to enforce the UDC on older homes.

However, the Wisconsin Uniform Plumbing and Electrical Codes generally do apply to all buildings in the state, regardless of the age. Also, the Smoke Detectors and Carbon Monoxide Detectors Code, ch. SPS 328, requires older dwellings to have smoke detectors and carbon monoxide detectors, and the Rental Unit Energy Efficiency Standards Code, ch. SPS 367 requires rental residential property to meet energy conservation standards at the time of sale.

#### 320.02(3) Legal Responsibility

The compliance and penalty sections of the statutes and code first require the owner, designer and builder to conform to the law and the code even if there are no inspections performed. When plan review or inspections are performed, the code official is required by the same statute section to be certified. It is the responsibility of everyone involved to carry his or her respective share of the liability of complying with the laws and regulations. It is the duty of the governing bodies and inspectors to advise, inspect and cause compliance. It is not their duty to perform design and construction type activities. This is not to say that inspectors and their employing municipalities are exempt from liability in their actions.

#### 320.02(4) Retroactivity

The general rule is that for a regulation to be retroactive, it must be written with a statement that existing conditions must be brought into conformance. As the UDC is revised and updated, existing homes are not required to be brought up to the new standards. Because of this, it is important that inspectors keep their old code books for use in inspecting existing dwellings. Our agency has archived codes on its website.

A dwelling may continue to be built per the code **at the time of permit application**, despite any code changes that may take place during the period of construction, until the permit expires if the dwelling exterior is not completed within two years of permit issuance. The permit applicant may submit a revision to the previously approved plans, if he or she desires to be covered by a new code provision.

Repair work, as defined in s. SPS 320.07(61), also does not need to be done according to the new code but rather may be done per the code at the time of original construction. Alterations and additions per ss. SPS 320.07(2) and (4), to homes within the scope of the UDC, must be per the

current code. See s. SPS 320.07(61) of the code and this commentary for a discussion on repairs and alterations to UDC homes.

#### 320.02(5) Innovative Dwellings

The intent of this paragraph is to permit flexibility in the design and construction of houses. It is not the intent of the code to permit unsafe construction or hazardous conditions to occur. Therefore, when a house is designed outside the prescriptive or cookbook methods of this code, the designer must demonstrate to the enforcing authority that the house will perform as required by the code. Engineering performance standards are listed in ss. SPS 320.24, 321.02 and elsewhere.

#### 320.02(6) Landscaping

There will be few conditions or circumstances under which the landscaping would impact on the dwelling structure. One example would be in determining final grade where it may affect the need for treated sills, rim joists or siding and sheathing per SPS 321.10. Another example might be a sidewalk, landing, porch, or driveway not properly installed such that it is lifted through frost action to such an extent that a door required as an exit cannot be opened. Further examples would include window wells, used for emergency exits or light wells, guards when there is an elevation change of more than 24". Also s. SPS 321.12 requires that the grade slope away from the dwelling to provide good drainage. Landscaping may be part of an erosion control plan under SPS 321.125.

#### 320.03 Effective Date

The effective date of chs. SPS 320, 321, 323, 324 and 325 was June 1, 1980. The effective date of ch. SPS 322 was December 1, 1978. Additionally, there have been various revisions to all chapters of the code since the original effective dates. Check the "History Notes" at the end of each code section for effective dates of revisions. For purposes of determining what date a dwelling has begun "construction," use the date of permit application. In the case of a modular home, the date that its construction started determines the applicable code edition.

#### 320.04 Applications

Note that additions and alterations, as defined in ss. SPS 320.07(2) and (4), to dwellings that were originally covered by the UDC are subject to the edition of the code at the time the permit for the new work is applied for. Additions and alterations also require permit application as required by local ordinance, but **not** new state permit seals.

#### 320.04(3) Bed and Breakfast Establishments

Normally a commercial occupancy in which the public is served or three or more tenants are present, as in a residential inn, is subject to the Wisconsin Commercial Building Code. This section exempts certain bed and breakfast inns that meet section 254.61, Stats., (s. 97.01(1)(g), effective July 1, 2016), which defines a bed and breakfast such that it:

- "(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.

### 320.04(6)

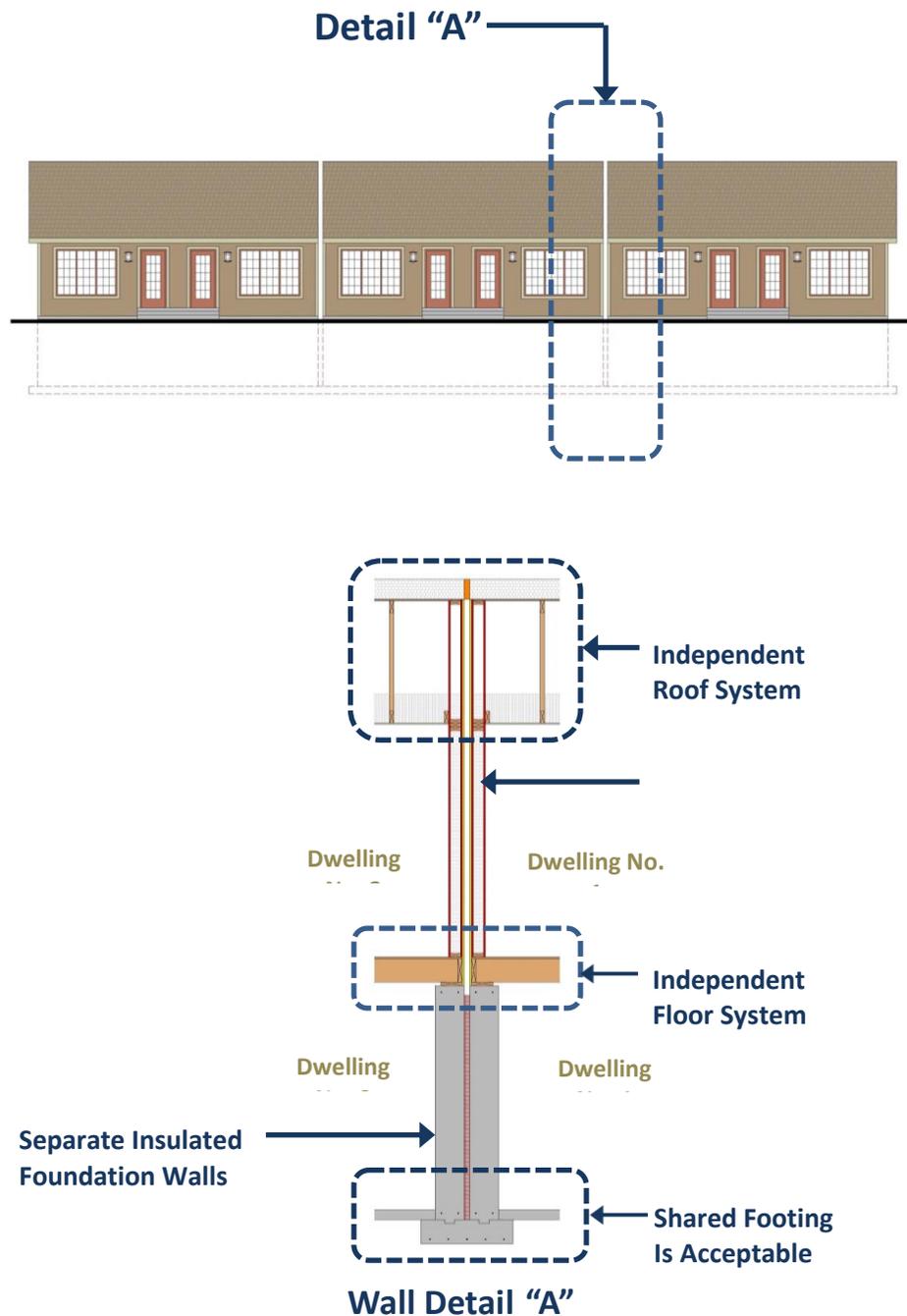
This exception to the Commercial Building Code applies to both pre- and post-1980 built dwellings. Such an establishment must be licensed by the Wisconsin Department of Health Services. (Tel. 608-266-1120).

Bed and Breakfast establishments must comply with all of the provisions listed above - (a) through (f). Those establishments that do not meet all of those provisions would need to comply with the Commercial Building Code. Examples of non-conformance with the bed and breakfast establishment provisions which would put the building into the category of Commercial Building would be: serving more than just breakfast, serving breakfast to other than the tenants or the owner does not occupy the residence at time of rental. As with the bed and breakfast establishment, this Commercial establishment that rents out rooms to tourists or transients and serves food would need to be licensed by the Wisconsin Department of Health Services, or later, the Wisconsin Department of Agriculture. Types of licensing assigned to this Commercial building by the Department of Health Services might be bed and breakfast establishment, tourist rooming house, hotel/motel or restaurant.

#### 320.04(6) Multi-Family Dwellings and Commercial Occupancies

The Wisconsin Commercial Building Code, chs. SPS 360 through 366, are the rules that apply to three- or more unit residential buildings as well as to commercial buildings that are places of employment and publicly-accessed buildings built after October 9, 1914. (There is an exemption for farming operations.) It also applies to dwelling or sleeping units that are in a building with commercial use in which the total combined number of commercial and residential tenant spaces is three or more. (The Buildings Constructed Prior to 1914 Code, chs. SPS 375-379, applies to commercial buildings built prior to this date.)

The Commercial Building Code also applies to a situation in which three or more rowhouses are “attached” per SPS 320.07(5m) together with construction, whether or not there is a property line, fire wall or both separating the units. See below:



The following residential units are subject to the Commercial Building Code:

- Two or more apartments or rooming occupancy bedrooms in a building also used for commercial purposes
- 1 or more apartments in a building also used by two or more commercial tenants
- 3 or more apartments or rooming occupancy bedrooms in a building

## 320.05

(A rooming occupancy is one in which bathing and cooking facilities may or may not be shared but sleeping rooms are separately leased and secured from each other.)

The Uniform Dwelling Code does apply to a single dwelling unit or sleeping room constructed after June 1, 1980, in combination with a single business tenant, while the applicable parts of chs. SPS 360-366 apply to the business portion of the building. (In general, the UDC applies to both non-transient and transient residential usages.) The residential portion would need to be considered in the overall building area for Commercial Building Code compliance, unless it was separated by a firewall.

Note that per state statute s. 101.12(3)(h), municipalities are prohibited from issuing local permits or licenses for construction or use of public buildings or places of employment until DSPS or its agent has approved plans for such buildings, unless otherwise exempted from plan review. See the DSPS website for further information, including the UDC Publications webpage.

### 320.05 Religious Waiver

There is a non-codified statutory waiver process available to individuals based on their religious beliefs. See the DSPD UDC Forms webpage for the necessary form, 1000IS.

### 320.05(3) Repairs

The intent of this section is to exempt repairs from plan submittal, permit application and inspection requirements only. It does not exempt repairs from having to be performed according to the code that was in effect at the time of original construction. See s. SPS 320.07(61) of the code and this commentary for a discussion of what constitutes a repair versus an alteration, the latter would require permit application. Note that s. 320.02(1)(c) allows municipalities to have more restrictive permitting requirements.

In order for a repair to occur, there needs to remain a dwelling, which means enclosed space needs to remain. A completely collapsed or totally burned out dwelling cannot be repaired.

### 320.05(5) Accessory Buildings

An open breezeway with a roof attachment between a house and a garage would create one building and cause the garage to be within the scope of the code even if it is located more than 10'-0" away from the dwelling and has open side-wall construction.

An outdoor pool is not subject to the UDC except for any electrical equipment located in the dwelling. Also, the electrical code independently governs any outside wiring. The Plumbing Code would also apply if there were any water or waste piping connecting the pool to the house.

### 320.05(5) Accessory Buildings - Decks

**Question:** Are detached decks considered accessory buildings?

**Answer:** If the deck is not attached to the dwelling and does not serve a door from the dwelling, then it shall be treated as an accessory structure, not covered by the UDC.

### 320.05(6) Farm Buildings

This code does not exclude a house located on a farm or a dwelling unit attached to an agricultural building.

### 320.09(9) Motor Homes & Recreational Vehicles

This section exempts these types of vehicles from the UDC if they have been titled by the WI Department of Transportation. In order for a recreational vehicle to be licensed it will need a towbar or hitch, chassis, axles and wheels for transportation. At the parking site, the chassis and axles shall remain on the unit, with towbar or hitch and wheels left at the site. Otherwise, the unit, even if called a "park model" shall comply with the UDC as a dwelling. Regardless, any on-site additions with a roof, to a motorhome or recreational vehicle are considered dwellings that shall comply with the UDC. If they are detached and do not provide sleeping space, then they would be considered accessory structures, not subject to the UDC.

## **Subchapter II — Jurisdiction**

### 320.06 Procedure for Municipalities Exercising Jurisdiction

Subchapter II of ch. 20 sets out the procedure by which governmental jurisdiction is accomplished. It is intended in both the law and code that state government has a minimum of involvement when local governing bodies take on the Uniform Dwelling Code as a set of local regulations. That is why local government is provided the authority to set fees, remedies, and penalties and to carry out joint enforcement efforts with other municipalities.

The prime intent of state government involvement under these circumstances is to maintain "uniformity" in the writing, adopting, interpreting, application and enforcement of the rules.

In the interest of uniformity on a statewide basis, the adoption of additional regulations relating to a subject within the scope of the Uniform Dwelling Code is not permitted at the local government level except through petitioning for a variance from the department.

### 320.06(1)(b) Enforcement Method

These enforcement options are available for both routine and nonroutine situations. This means that if the regular inspector would have a conflict of interest or will be unavailable for a period of time in excess of 48 hours (two business days), then the municipality should arrange for another inspector, perhaps from an adjoining municipality, to fill in while he is away.

Per this section, a municipality has broad discretion in the means of enforcing the UDC. Under the joint enforcement option, a municipality may delegate enforcement of the UDC erosion control requirements, including legal prosecutorial follow-up, to a county that has adopted the UDC by ordinance. Alternatively, the municipality may contract with the county to provide plan review and inspection services but retain legal prosecutorial follow-up.

### 320.06(1)(c) Submission of Ordinances

A local ordinance adopting the UDC for enforcement should include the following elements:

### 320.06(1)(d)

1. The ordinance which names the Uniform Dwelling Code as the construction regulation for the municipality;
2. The ordinance which establishes the office of building inspection or which sets forth the authority and duties for inspections to be made;
3. The ordinance granting authority to establish fees, with or without the actual fee values; and
4. The ordinance which spells out what steps must be followed to accomplish compliance and what fines or forfeitures will be assessed for failure of compliance.

Sample model ordinances are available from the state UDC Program in the Safety and Buildings Division. (A copy is included in the appendix of the UDC Codebook.)

#### 320.06(1)(d) Passage of Ordinances

**Question:** Once a municipality has adopted the code and have begun inspections, does it have the option of stopping it any time?

**Answer:** A municipality may withdraw from local enforcement of the code. Subsection SPS 320.06(1)(a) requires that prior to local adoption and enforcement of the UDC in a municipality, the department must be notified at least 30 days prior to the date of which the municipality intends to exercise jurisdiction. Repeal of a municipal ordinance for the purpose of withdrawing from participation in the program, should be accompanied by notification to the department that such a withdrawal will take place and what other methods of enforcement will be used in that community. If the ordinance is not repealed and not enforced, the town may be exposing itself to some liability.

#### 320.06(2) County Jurisdiction

This option offers potential advantages of a centralized building, zoning and sanitary permit issuing office. It was also expected to be a more uniform and efficient enforcement method than each individual town, village or city hiring its own inspector. Counties have the option of enforcing the UDC wherever a municipality of over 2500 population does not have a UDC enforcement program. In addition, DSPS will typically delegate UDC enforcement in non-enforcing municipalities of 2500 or less population to a county that has a UDC program.

#### 320.06(3) Departmental Jurisdiction

The department currently only seeks contracts with independent inspection agencies for UDC enforcement in those municipalities which fail to adopt an ordinance, unless the municipality is covered by an enforcing county. See the DSPS UDC Publications webpage for a listing of municipalities under state-contracted enforcement.

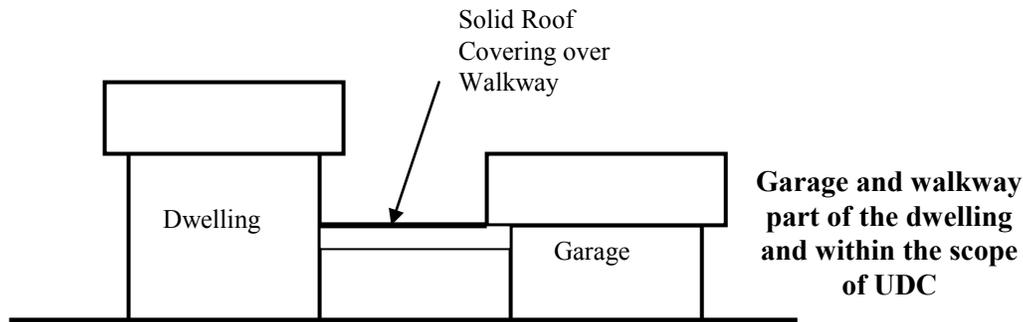
#### 320.065(1) State Jurisdiction

Per this the state statute referenced in this section, the Department may monitor municipalities for compliance with the UDC erosion control provisions and for general performance.

### Subchapter III — Definitions

#### 320.07(5m) Attached Structures

Two structures are attached if they share a roof, floor or foundation. However, it was not the intent of this section to consider a slab-on-grade or deck-on-sleepers as being either a shared floor or foundation between two structures.

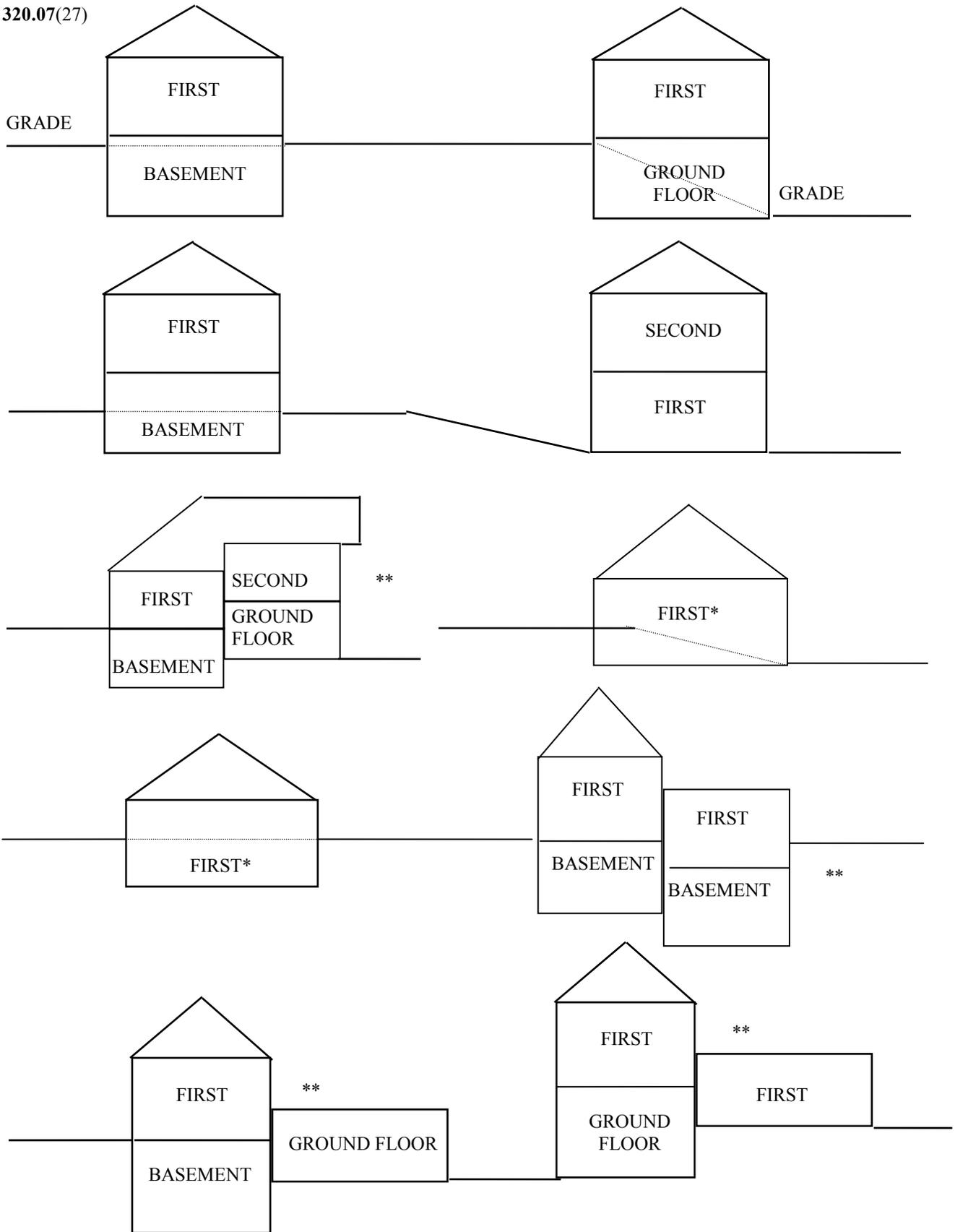


#### 320.07(27) Dwelling Unit

**Question:** What constitutes separate dwelling units within the same dwelling?

**Answer:** The key phrase in the definition is “. . . common household, to the exclusion of all others.” So if two living areas have exiting separated from the other’s living area and have no common living areas, then they are separate dwelling units, requiring proper dwelling unit separations per SPS 321.08. The separate exiting could go through common areas that are not living areas. There may also be common mechanical or utility spaces. However, per the scope of the Commercial Building Code, if there are three or more separate tenants in a building with individual leasing arrangements, then the building is considered a commercial building occupancy, even if there may be shared living areas.

320.07(27)



\*There is always a first floor in a dwelling \*\*See s. SPS 321.03(11)

s. SPS 320.07 (8), (34k), 36m)

BASEMENT, FIRST FLOOR AND GROUND FLOOR DEFINITIONS

320.07(37) Unfinished “Habitable Rooms”

**Question:** What constitutes a habitable room in terms of completion? Oftentimes a plan shows a "future" room, but at the time of final inspection, such a room appears to be used as a recreation room without being completed. When should all habitable room features, such as ceiling height, natural light, ventilation, electrical outlets, wall and ceiling finishes, be required?

**Answer:** If a room is intended to be habitable at the time of occupancy, then the required "habitable room features" must be present. An inspector may give conditional occupancy with these unfinished rooms as long as they are not inhabited when the owner wishes to occupy the rest of the dwelling. The owner shall call for a follow-up inspection to release any occupancy conditions. However, in no case should partially completed rooms pose an increased health or safety hazard such as in the case of exposed wiring. See the discussion regarding final inspections under section 320.10 of this commentary.

320.07(50) Loft

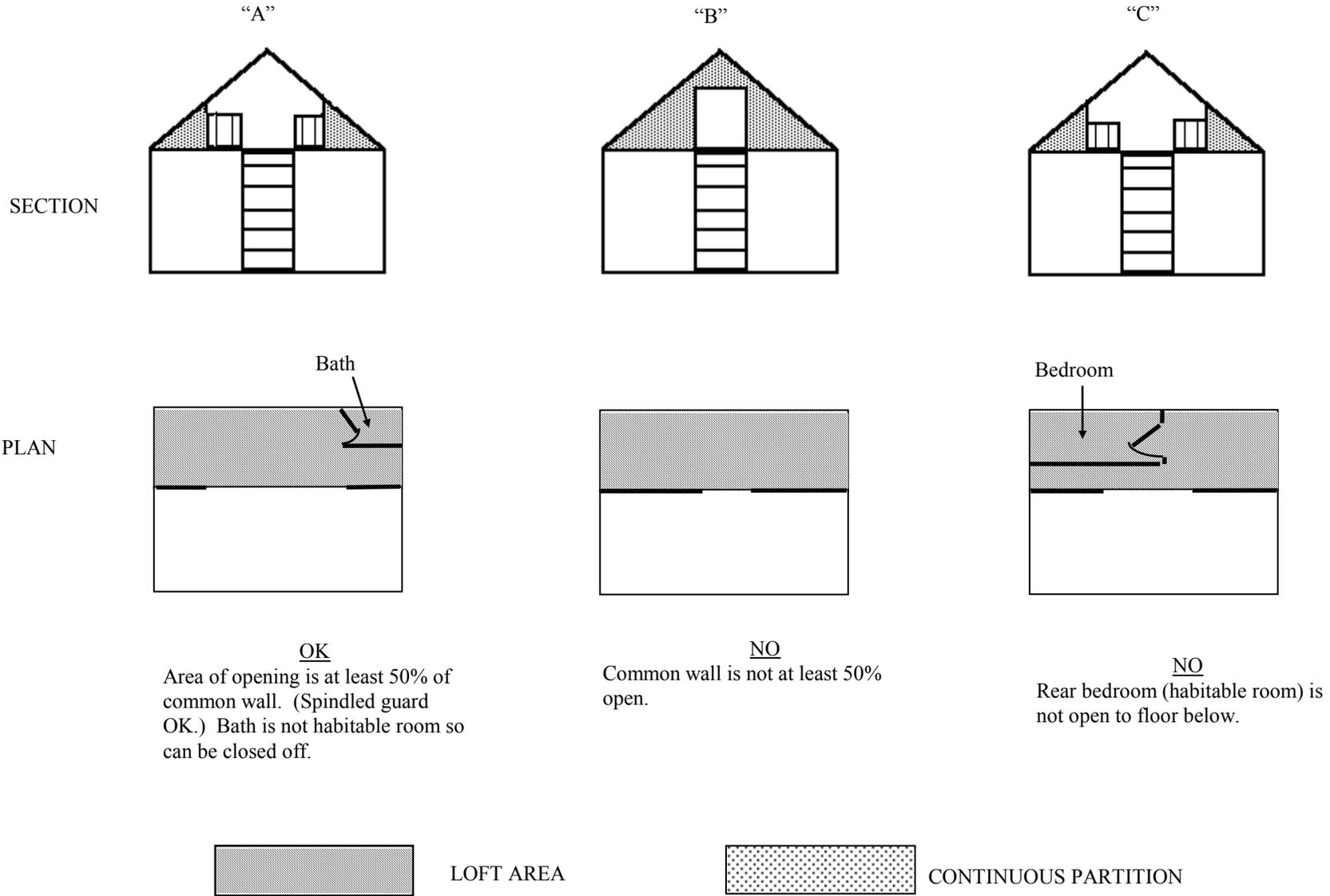
It is important that a loft be open to the floor below so that there is good sound communication, clear sight lines and adequate air (and odor) movement between levels as well as the possibility of jumping down between levels. These factors are important so that occupants are quickly alerted to any problems elsewhere in the dwelling. This early alert offsets the relaxed exiting requirement in s. SPS 321.03(4). This section requires only one stairway or ladder and no egress windows, no matter what level above grade that the loft is. Note that the definition requires all habitable rooms to be open to the floor below. See diagrams.

320.07(53f) Modular Home

This is the new term for what was previously referred to as a manufactured dwelling in the UDC and are produced in factories to the requirements of the UDC. They are different than manufactured homes that are produced in factories to the federal HUD standards.

320.07(53f)

DESIGNS



OK  
Area of opening is at least 50% of common wall. (Spindled guard OK.) Bath is not habitable room so can be closed off.

NO  
Common wall is not at least 50% open.

NO  
Rear bedroom (habitable room) is not open to floor below.

s. SPS 320.07(50) LOFT - ACCEPTABLE DESIGNS PER DEFINITION

### 320.07(61) Repairs

The determination of what constitutes a repair is often best made by the local building inspector. Many municipalities have guidelines to distinguish between repair and alteration. Some consider square footage, cost of construction, or whether it affects exiting or structural features. The following discussion should be considered supplemental to local guidelines.

A **repair** normally involves work to maintain an existing system or feature of the building without changing it from its original condition at the time of original construction. In order for a repair to occur, there needs to remain a dwelling, which means enclosed space needs to remain. A complete collapse or totally burned out dwelling cannot be repaired. An **alteration** normally involves a change or modification of an existing system or feature to the extent that is now subject to different code regulations.

Examples:

1. The replacement of a swinging door with a patio type door would be an alteration and not repair or maintenance. The door width, exit operation (swing) and header size would be altered and deserves code review under the current code.
2. The replacement of a toggle type light switch with a dimmer type light switch would be considered repair or maintenance.
3. Replacement of siding could be considered an alteration if its intent was to affect compliance with the energy conservation rules. However, new siding placed over the top of old siding would be considered maintenance or repair not coming within the scope of the code.

## **Subchapter IV — Approval and Inspection of One- and 2-Family Dwellings**

### 320.08 Overview

An overview of the approval and enforcement process:

1. Owner or agent submits a Uniform Building Permit Application and complete building plans to the municipality or third party agency administering and enforcing the code.
2. The certified inspector approves or disapproves the plans based upon a review of the submittal documents, prior to permit issuance.
3. If the plans are approved then the applicant is issued a Uniform Building Permit. If this is the original construction of the dwelling, the building permit shall have a Building Permit Seal attached or number entered.

320.09(1)

4. The Wisconsin Uniform Building Permit shall be posted at the construction site. Inspections shall be recorded by the inspector when they are performed.
5. The administering and enforcing agency shall inspect the building in various required stages of completion. A record of these inspections shall be kept by the enforcing agency.
6. When the final inspection report is issued without any health or safety violations, the home may be occupied.

Forms and seals needed for administering and enforcing the code can be obtained by municipalities from the state Document Sales office, [www.docsales.wi.gov](http://www.docsales.wi.gov).

Records generated by the plan review and inspection functions are subject to the open-records law. It is also advisable that inspectors maintain logs of permits issued and inspections made.

320.09(1) Wisconsin Uniform Building Permit

See UDC Codebook Appendix or the DSPS UDC Forms webpage for sample forms.)

A Wisconsin Uniform Building Permit card (Form SBD-5824) must be issued prior to any construction of, including excavation, one- and two-family dwellings that are not exempted by s. SPS 320.05. Note that repairs as defined in s. SPS 320.07(61), do not require a permit, although continued compliance with the Code at time of original construction is required. Per s. SPS 320.04(1), additions and alterations may require a permit per local ordinance and are subject to current code. See s. SPS 320.07(61) of the code and this commentary for the definition and discussion of "repairs."

Failure to obtain a permit prior to construction may result in fines and increased permit fees as required by local ordinance. Also, any concealed work may need to be uncovered to allow inspection.

Municipalities may issue one building permit to cover all categories of construction or the municipalities have the option of issuing building permits to individually cover each category of construction (construction, heating/ventilating/air conditioning, electrical and plumbing). A separate building permit should not be issued for energy since the energy conservation measures are integral with the four major construction categories. Builders also have the option of applying for separate permits.

Regardless of whether separate heating, plumbing or electrical permits are used, only **one** permit seal per dwelling should ever be issued and it should accompany the initial "construction" building permit.

The Wisconsin Uniform Building Permit Application may be used locally for all project types. However, UDC seals would only be issued on new one- and two-family projects. Also, a municipality may request additional information on their forms.

320.09(2) Filing of the Wisconsin Uniform Building Permit Application

Where a municipality or county does not enforce the code, an applicant must file the application with the inspection agency contracted by DSPS for enforcement services.

On a monthly basis, municipalities and inspection agencies shall submit a copy of the Uniform Building Permit Applications issued for new homes where a seal is required (see below) to the department.

The department strongly encourages municipalities to adopt a one-stop permit program for UDC requirements, as well as non-UDC requirements, so as to minimize the regulatory burden on permit applicants.

320.09(3) Fees

Municipalities administering and enforcing the code may establish fees to cover expenses. State statute 66.0628 limits municipal fees to the cost of the services provided. The fees charged should allow for administration cost, plan review, inspections and Building Permit Seal.

A Wisconsin Building Permit Seal must be assigned to each new dwelling by the municipality or state-contracted inspection agency. They shall be purchased by the municipality or inspection agency from State Document Sales, , [www.docsales.wi.gov](http://www.docsales.wi.gov) . A Building Permit Seal is only required with the **initial construction permit** (either full permit or footing & foundation approval) for a dwelling. Seals must be issued for both site-built and factory-built homes, including manufactured homes manufactured after April 1, 2007 and modular homes. Subsequent permits for additions and alterations do not require a seal. Seals are assigned to a single living unit contained in a commercial building or to the conversion of a nonresidential building to a new dwelling.

Following is an example seal. (Seal Color is Orange)

320.09(5) Required Building Plans

The agency approving the plans has the right to request additional information to clarify drawings and data necessary to ensure that the building shall comply with the Uniform Dwelling Code when built. It should be remembered that it is much easier to correct a design on paper than when it is built.

Although modular and manufactured homes will have their in-plant construction plans approved by other agencies, the plans for any on-site construction are submitted to the enforcing

### 320.09(5)(c)

municipality along with the Building Permit Application. A UDC Seal is assigned to the on-site work just as for any new dwelling.

Following is a checklist for plan submittals. Also following is a cross-sectional drawing showing major code items.

The use of each room shall be shown to allow proper review for light, ventilation, exiting and other requirements.

#### 320.09(5)(c) Architect- or Engineer-Stamped Plans

This section details the procedures for obtaining a Uniform Building Permit, including plan submission requirements. This section allows municipalities to require engineered plans and calculations but prohibits a municipality or the department to require such plans or calculations to be **prepared or stamped** by a registered architect, engineer or designer. However, the inspector should require that the plans or calculations clearly indicate they were prepared for the dwelling in question. The inspector should also require that preparers identify themselves and date the plans and/or calculations. An exception to this prohibition is s. SPS 321.33 and 321.34 regarding construction in floodplains.

If the inspector does not feel qualified to review innovative or structurally complex designs, the inspector can forward the plans and calculations to DSPS for review and approval. The inspector should specify what issues that they are requesting state review. The department will charge a fee for such a review per ch. SPS 302. Since DSPS would perform this service for the municipality, the municipality would be billed for the review. The balance of the review, permit issuance and all inspections would remain the responsibility of the municipality.

#### 320.09(5) Plan Submittal Checklist

This is a checklist for submitting drawings and information when making application for a Wisconsin Uniform Building Permit. It is applicable to the on-site construction of dwellings. In addition, it is necessary to submit adequate information regarding any factory-built portion so that 1) the plan reviewer may analyze any loads (structural, plumbing, electrical, heating, etc.) that are transferred between the site-built and factory-built portions and 2) the inspector may verify proper connection and installation of the factory-built portion in the field.

The asterisked (\*) items below shall be provided as a minimum if just a footing and foundation approval is requested initially.

Code officials are permitted per s. SPS 320.09 to request additional supporting information for submitted projects in order to determine compliance.

The minimum required two sets of bound drawings must be legible and drawn to scale or dimensioned and include:

- \*1. A plot plan showing the location of the dwelling and any other buildings, erosion control measures, wells and disposal systems on the property and property lines. For

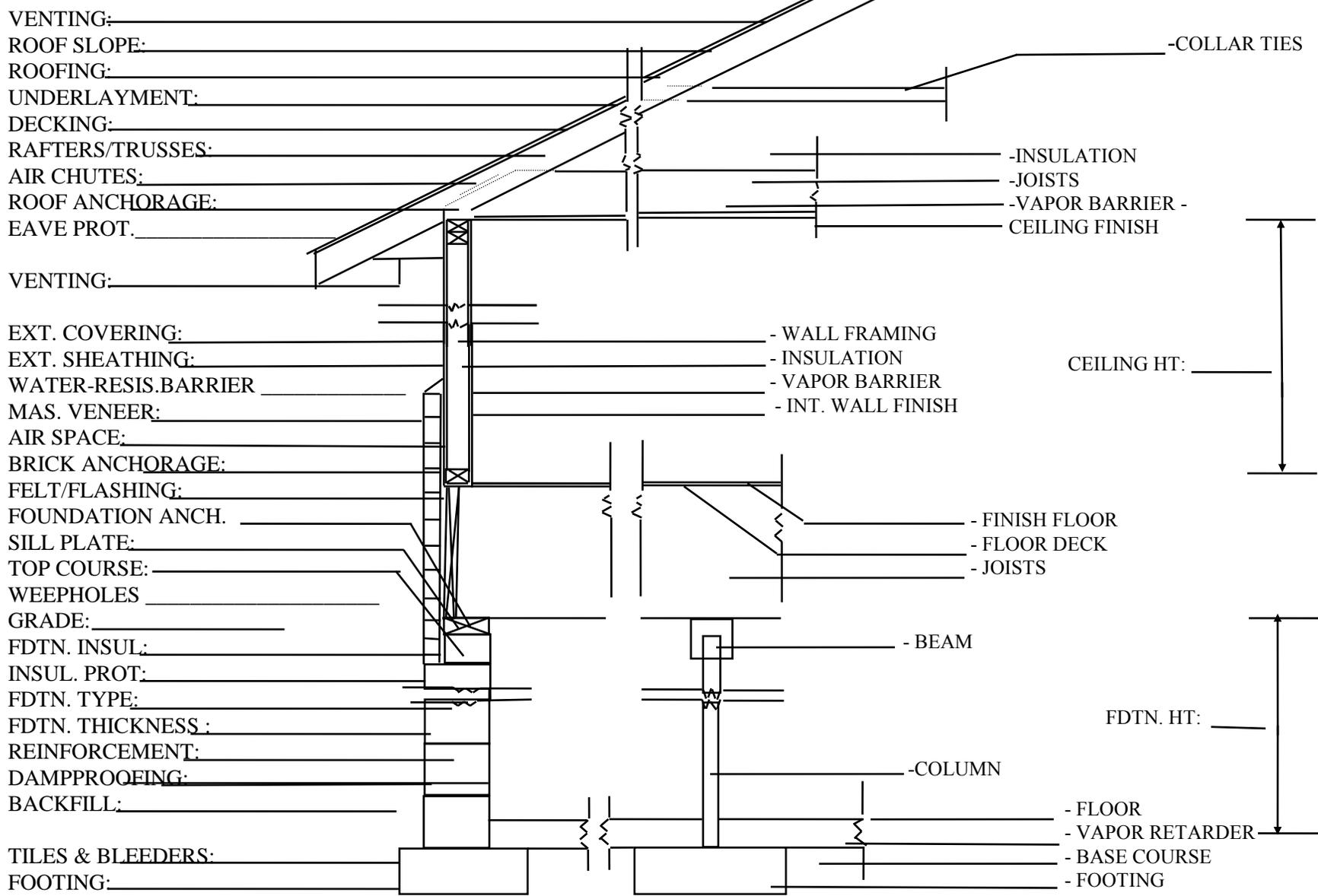
- rural areas, include directions for locating dwelling. See UDC Appendix for additional information on erosion control measures.
2. Floor plan which shows the size and locations of:
    - A. Rooms
    - B. Doors
    - C. Windows including safety glazing by doors, stairs and tubs & showers.
    - D. Room use
    - E. Structural features - size, species and grade of lumber or other structural material for braced wall lines, joists, beams, rafters, trusses, headers, studs (including tall wall details), and columns; strength, thickness, and reinforcement (if any) of concrete for footings, foundations, floors and any other concrete work; height and thickness of concrete and/or masonry construction. Include structural calculations if not designed per the UDC tables or provide manufacturer's tables.
    - F. Braced wall plan – this may be by use of the Wall Bracing Compliance Worksheet (see ch. 321 Commentary or the DSPS UDC Forms webpage) and the location and construction details of required braced wall panel on the floor plans or providing all of the information on the plans, including what would otherwise be shown on the Worksheet.
    - G. Exit passageways (hallways) and stairs (including all stair dimensions - riser height, tread width, stair width, headroom and handrail & guard heights)
    - H. Fire separation between dwelling and garage and between dwelling units
    - I. Plumbing fixtures (bathroom, kitchen, etc.) - lavatory, water closet, water heater, softener, etc.
    - J. Location of any exhaust fans to be installed
    - K. Any masonry chimneys
  3. Elevation drawings which show:
    - A. Information on exterior appearance
    - B. Indicate the location, size and configuration of doors, windows, roof, chimneys and exterior grade level
  4. Cross-sectional drawing which shows (see optional aid for one-story buildings):
    - \*A. Exterior grade level
    - \*B. Footing and foundation wall sizes, drain tile system and types of materials
    - C. Exterior wall construction identifying materials used (including insulation and vapor retarders)
    - D. Roof construction identifying materials used and spans (including insulation and vapor retarder)
    - E. Floor construction identifying materials used and spans (including insulation, if used)
  5. If the building will be heated with other than renewable fuels, then submit either a completed 2009 IECC RESCheck report (available at [www.energycodes.gov](http://www.energycodes.gov)) or RemRate energy report or a completed 2016 Wisconsin UDC Compliance Certificate from the DSPS UDC Forms webpage or ch 322 of this commentary. Plans shall show any heated slabs. Ensure that the documentation matches the actual dwelling, especially for modular dwellings that may be supplied with a default energy report that may incorrectly ignore onsite-constructed conditioned spaces.

6. The following additional information shall be submitted at time of original permit application or for later heating, plumbing or electrical approval (please indicate in your plan submittal what you are applying for initially or for later):
  - A. HVAC approval:
    - i. Heat loss calculation
    - ii. Equipment type and capacity
    - iii. Combustion air worksheet, if requested by inspector – see the DSPS UDC Forms webpage or ch. 323 of this document
    - iv. Heating supply and return register locations on floor plans
  - B. Electrical approval:
    - i. Electrical Service Load Calculation Worksheet, if requested by inspector – see ch. 324 of this document.
    - ii. Location of electrical outlets, lights, switches, main distribution panel and smoke detectors on floor plans, if requested by inspector.
  - C. Plumbing approval: Water Calculation Worksheet for determining the size of the water distribution system, if requested by inspector. See ch. 325 of this document.

NOTE:

With proper detailing of building dimensions, material types, spans, sizes, spacing, F<sub>b</sub>, properties, etc., and strikeouts of non-applicable details, this cross section would provide an acceptable plan drawing. With the local inspection authority's permission, this drawing may be detailed and submitted as part of a plan package for plan review. (F<sub>b</sub> - Fiber bending stress of selected lumber. Alternatively, grade and species information may be noted.)

OWNER: \_\_\_\_\_  
PROJ. LOC: \_\_\_\_\_  
DATE: \_\_\_\_\_  
DESIGNER: \_\_\_\_\_



320.09(8) Approval of Plans and Issuance of Permits

UDC building plans must be reviewed and approved by a DSPS-certified UDC inspector with the proper categories of credential(s).

"Substantial conformance" of the plans to the code is a determination to be made by the plan examiner. If the noncode-complying items found can be corrected without major structural or design revision, the plans may be stamped "Conditionally Approved." Any noted conditions that must be met in order for the building to comply must be indicated in writing on either the Permit Application or by letter to the permit applicant.

Should the plan examiner (or inspector) should miss any items that do not comply with the code at the time of permit issuance or inspection, the owner must still correct the omitted item if the noncompliance is discovered at a later date.

The Wisconsin Uniform Building Permit card (see UDC Appendix or the DSPS UDC Forms webpage for a copy) is issued only after the plans have been approved. The information contained on the building permit card is obtained from the application. The Wisconsin Building Permit Seal is affixed or its number recorded on the permit card at this time. The number is also recorded or affixed on the application form. Only one permit seal is ever assigned for a dwelling despite any subsequent additions or alterations. A permit seal is issued regardless if it is a site-built or premanufactured dwelling.

320.09(9)(a) Summary of State Contractor Credentialing

The following types of activities generally require credentialing by the State Division of Safety and Buildings. There may be owner exemptions.

- Contractors taking out construction or energy conservation permits for one and two family dwellings, regardless of its age, shall possess the Dwelling Contractor certification and have on staff an individual with the Dwelling Contractor Qualifier certification.
- Plumbers
- Electricians
- Automatic fire sprinkler fitters and contractors
- Certified soil testers for private sewage systems
- Structural welders for commercial buildings
- Refrigeration and air conditioning technicians
- Installers and removers of underground and flammable liquid storage tanks.
- HVAC & refrigerant contractors.
- Elevator contractors and installers

Other state agencies also have licensing programs for trades allied with construction.

- The state Division of Health (608-266-9382) certifies roofing and siding contractors working with asbestos containing materials, as well as for other asbestos related activities. They also certify contractors dealing with lead-based paint removal.

- The Department of Natural Resources (608-266-0162) licenses well drillers and pump installers.
- The Department of Regulation and Licensing (608-266-1397) licenses architects and engineers, which are required to design foundations in floodplains per s. SPS 321.33 and 321.34.
- The Department of Regulation and Licensing (608-266-5511) licenses "Home Inspectors" involved in the sales of existing homes (secondary market homes) which may or may not have been built to the UDC requirements call (608)261-8500 for further information.

All businesses are obligated to comply with any applicable Worker Compensation requirements (608-266-1340), Unemployment Compensation requirements (608-266-3114), sales, use or withholding taxes (608-266-2776) and corporate registration requirements (608-266-9869). Municipalities may have additional licensing requirements.

#### 320.09(9)(a)5. Expiration of Permit

**Question:** The code requires that a permit shall expire 24 months after issuance if the exterior is not completed. What happens in the case where the dwelling exterior has been completed within 24 months but construction may continue for several years or more before the building interior is completed?

**Answer:** The 24-month period before the permit expires was set up so that there was a time limit on how long a permit was valid for building a dwelling's shell. Otherwise, s. SPS 320.04 merely requires that a completed or uncompleted dwelling conform to the code in effect at the time the permit is issued. In the case of an uncompleted dwelling with a completed shell, the interior may continue to be completed under the code in effect at permit date. If alterations to the original plan approval occur, revised plans shall be submitted and reviewed under the current code. Occupancy may not be allowed if health or safety violations exist per s. SPS 320.10(1)(b)4a. & b..

Inspectors or other local officials may be able to invoke the raze and remove orders of s. 66.0413, Wis. Stats., in cases where a dwelling is a public hazard because construction has started and then ceased for more than two years.

Also, municipalities may require additional fees to extend the original time period of a permit.

#### 320.09(9)(b) Permit to Start Construction of Footings and Foundation

If an application wishes to start construction of only the footings and foundations of a dwelling before the plans have been reviewed and approved, a Permit to Start Construction (Form SBDB-6072) (see UDSPS UDC Forms webpage for a copy) may be issued. This permit allows construction to begin on the footing and foundation and erosion control measures only. The applicant agrees to make any changes that may be required as a condition of plan approval while maintaining erosion control measures.

Subsequent non-foundation work may not proceed until the building permit is issued.

320.09(9)(c) Sanitary Permits

A concern here is the determination of whether an existing septic system "satisfies all applicable requirements" of the codes. Typically, the county sanitary inspector would be the person to contact for such a determination. The system's capacity, operating condition and the maintenance of the required setbacks are considered by the county inspector. See the UDC Appendix for further information.

Related to this question is the need to get proper zoning or floodplain authorization for a dwelling. This would typically come from the local municipality and sometimes the county, especially in smaller municipalities. Also, some counties require well permits to be obtained prior to drilling.

320.09(10) Action to Approve or Deny

The plan examiner must notify the applicant in writing within ten business days that the plans have been:

1. Conditionally approved
2. Approval withheld pending receipt of additional information. In this case, the code required time period to take action to approve or deny begins anew.
3. Not approved.
4. Sent to DSPS for review.

If plan approval is being withheld pending additional information, the applicant must be informed in writing what the additional information is required.

320.10 Inspections – Inspector Certification

State statute 101.66 and the Uniform Dwelling Code s. SPS 320.10, require that any inspections made for the purpose of administering and enforcing the Uniform Dwelling Code shall be performed by persons certified by DSPS. The DSPS UDC website has a listing of certified inspectors. If a builder or designer suspects that an inspector(s) is not properly certified in one or more UDC categories of construction, HVAC, electrical or plumbing, you may request to see their certification card. The State UDC Program will investigate such cases upon complaint.

Municipalities can jointly exercise jurisdiction through the use of an independent inspection agency or by coordinating their inspectors. For example, Municipality "A" may contract with Municipality "B" for electrical inspections; and Municipality "B" may contract with Municipality "A" for heating inspections. Municipality "A" and "B" may also have arrangements for inspectors to cover for each other when on leave.

By state Attorney General's opinion, DSPS is not liable for actions by inspectors it certifies.

**Question:** Does a local building inspector have the authority to enter a house, without permission, where there is no building permit issued?

**Answer:** This might be better addressed by a municipality's legal staff. However the Wisconsin Statutes in ss. 66.122 and 66.123 describe a building inspector as a

"peace officer" and explains the purpose for which he or she may make inspections and the procedure to be used if refused entry. When a state inspector is denied entry to a building to perform his or her duties, we request the local circuit court to issue an inspection warrant for us to continue with our duties.

### 320.10 On-Site Inspections of Modular and Manufactured Homes

The inspections shall follow the same general procedure as the stick-built home. There shall be an inspection of the excavation, footing, foundation, below and above grade foundation insulation, and a final inspection. All of the rough inspections on the home itself will have been made by certified inspectors in the plant. The municipality or agency performing on-site inspections will be responsible for inspecting the electrical, plumbing, structural and insulation systems installed at the site.

Although in-plant work may be done by non-licensed workers, any on-site work must be done by properly credentialed workers and contractors.

### 320.10 Inspections - General

Inspections are to ascertain whether the structure conforms to each of the following:

1. The approved plans;
2. The conditions of approval of the Uniform Building Permit; and
3. The provisions of the code.

Note that the inspector may inspect for compliance with the approved plans that showed items that were above and beyond the minimum code requirements. If it is no longer desired to build the dwelling as originally designed and approved, the applicant may need to submit revised plans to the inspector for review and approval.

Occasionally, an inspector will discover a noncompliance that was missed on a prior inspection or plan review. The inspector clearly has authority to order correction. The use of checklists will help to minimize this.

In order to start the formal enforcement process, corrections must be ordered in writing with copies to the owner and permit applicant. The municipality may use its own inspection forms or DSPS Inspection Report and Notice of Noncompliance Form, (SBD-6025). (See UDC Appendix or DSPS UDC Forms webpage for a copy.) There is also an inspection checklist aid on the DSPS UDC website.

### 320.10(2)(b)3. Inspection Notice

Several clarifications on this issue:

- This provision requires that the contractor wait at least two full business days after the day of inspection request before covering up the work if an inspection has not been performed.
- The work shall be ready for inspection when the request for inspection is made, or the request should indicate when the work will be ready and that is when the two-day period would begin.

### 320.10(3)

- The two business days' notice of the UDC supersedes the 24-hour notice requirement of the Plumbing Code in s. SPS 382.21.
- Notification of an inspection request would as a minimum be by face to face contact or voice contact. Other means, as indicated by the code official, such as voice-mail or email, would be acceptable.
- Note that SPS 320.07(10m) defines business day any day other than Saturday, Sunday or a legal holiday.

**Question:** Are there guidelines for inspectors that would require them to be available during normal working hours?

**Answer:** There are no specific guidelines regarding such availability. Section SPS 320.10 details the type of inspections required and notification of inspection responsibilities. It also requires the inspections to be conducted within two normal business days of notification. Nothing would require the inspector to be available at certain times of the day. From a practical standpoint, a municipality should develop a procedure to clarify how the builder may contact the inspector. It may also be a good idea for the inspector to formalize his or her hours of availability. There are some valid concerns about non-business hour inspections including adequate daylight conditions, inspector access to the site, and contractor availability if question should arise. Such concerns may be best addressed to the inspector or to his or her superior.

### 320.10(3) Inspection Types

Depending on the number of inspectors involved, coordination of the trades and the type of construction, the number of separate inspections could vary from four to eleven. There may be additional inspections necessary due to callbacks regarding incomplete work, phased construction or noncomplying conditions.

Prior to performing any inspections, an inspector should review the approved plans. Particular notice should be given to any deviations or unusual conditions that may exist.

### 320.10(3)(c)&(d) Footing and Foundation Inspections

Some points regarding footing and foundation inspections:

- If there are no required drain tiles, no required reinforcement or no forms, i.e. "dug footings", then an inspection can be made of the dwelling excavation in advance of the footing work to check for proper soil conditions. The next inspection can be made after the placement of footing and foundation materials and prior to backfill to verify footing dimensions.
- If there are required drain tiles, the code requires that the bleeders be inspected prior to pouring the footing.
- Reinforcement for basement window headers, reinforced masonry walls and foundation stepdowns do require inspection prior to pouring of concrete or laying of subsequent masonry courses. Note that some short-span poured foundation step-downs, where the foundation is unsupported by the earth for only several feet may not require reinforcement based on arching action.

- Reinforcement for masonry walls does need verification prior to grouting of the cores.
- Wood Foundations - Inspected after framing and exterior sheathing and prior to the placement of gravel.

Depending on construction, it is possible that the footings and foundation could be inspected along with the rough inspections discussed below.

### 320.10(3)(f) Rough Inspections

The important principle to remember is that all work must be inspected prior to concealment. It is possible that all of the construction trades are coordinated enough so that all the rough-in inspections can be accomplished during one inspection. However, it is unlikely that the insulation inspection can be done at the same time because the insulation normally conceals the other work. Also, the rough framing inspection is best done after the electrical and heating work is done so that notching and boring can be checked.

Occasionally, a contractor will not properly call for an inspection so that the inspector does not have the opportunity to verify compliance prior to concealment of some work. Possible options that the municipality may consider are:

- removal of all covering work so a full inspection can be made,
- removal of representative section(s) of covering work as chosen by the inspector,
- alternative testing of materials,
- affidavits by witnesses verifying the original work, or
- noting on the permanent file, and possibly on the property deed, that compliance of certain items was not verified.

Selection of the option(s) is at the discretion of the municipality and may be done in consultation with the municipal legal counsel.

### 320.10(3)(f)1.c. Rough Electrical

Section 101.865 of the Wisconsin Statutes requires that the utility furnishing the electrical current obtain proof that the wiring complies with these standards before furnishing the power. Proof must be a certificate furnished by the inspection department which may be the certified independent inspection agency or the municipality administering and enforcing this code. The electrical utilities will require a certificate of inspection prior to energizing the electrical services, be they temporary or permanent installations. If there is no certified agency or municipality, proof consists of an affidavit furnished by the contractor or other person doing the wiring.

### 320.10(3)(f)1.d. Rough Plumbing Inspections

There may be separate required inspections for the sewer and water laterals, underslab plumbing and the rest of the rough plumbing.

### 320.10(3)(g) Insulation

Generally, the insulation and vapor barrier are installed after all other rough inspections have been made so as to avoid displacement of the insulation by the heating, electrical or plumbing systems. Note that s. SPS 321.25(2) requires that the wall's water-resistive barrier and roof's

### 320.10(3)(h)

underlayment be installed prior to insulation of the exterior walls.

#### 320.10(3)(h) Final Inspection-Inspector Certification

A final inspection prior to occupancy requires inspections of the construction, HVAC, electrical and plumbing systems by an inspector or inspectors certified in all of those categories.

#### 320.10(3)(h) Final Inspection - Health and Safety Items

Special attention should be given the words "health and safety" in this section. It is clearly not the intent of the Uniform Dwelling Code to prevent persons from moving into their homes where certain cosmetic items have not been completed. For example, unpainted rooms, uncompleted trim work, lack of carpeting, etc., would not prevent occupancy.

On the other hand, incomplete exiting arrangements, open electrical boxes, missing handrails and guards, open plumbing drains, etc., could constitute items affecting health and safety and would prevent occupancy.

No wires or equipment shall be exposed so as to create a hazard to the safety of the occupant. All electrical receptacle outlets and lighting outlets shall have the receptacles with faceplates and fixtures installed. In the case of NM electrical cable, it must be covered or closely follow the surface of building finish.

Basic plumbing requirements for personal hygiene and culinary purposes that must be installed in the dwelling are a toilet, wash basin, tub or shower, kitchen sink and hot water. All must be fastened in place and must be functional. This means water service and drain, waste and vent piping must be provided and operational. The wash basin, kitchen sink, tub or shower must have hot water connections and all unused sewer connections must be sealed.

Occupancy may take place after the fifth full business day after the day of request for a final inspection is made and no inspection is made, assuming that the dwelling is ready for inspection at that time. Otherwise the clock starts at the time when the dwelling is ready.

Note that this ability to occupy does not address the need to satisfy any additional zoning or utility requirements prior to legal occupancy.

#### 320.10(3)(h) Basement Dwellings

This section would allow occupancy of a portion of a dwelling, including just a basement, prior to the completion of the full dwelling if it would otherwise comply with the code. Several code requirements should be kept in mind:

- s. 320.07(34K) Definition of first floor requires that there always be a first floor. Therefore, unless there is a substantially complete upstairs, the basement must be treated as the first floor.
- s. 321.05(1) Requires natural light to all habitable rooms. The exception in s. 321.05(1)(a) for habitable rooms, other than bedrooms, in basements and

groundfloors does **not** apply here since this is now considered the first floor. Skylights may be used to meet this requirement as may the exception in s. 321.05(1)(b) that allows borrowing of light between rooms.

- s. 322.06/22.12 Requires compliance with envelope insulation requirements. The ceiling must be insulated per these sections and protected with a vapor barrier.

This is not a complete listing of applicable code requirements - just those in the UDC needing highlighting. The Electrical and Plumbing Codes must be complied with, including proper outlet placement and fixture venting. Also, the final inspection, per s. 320.10(1)(b)3., requires all health and safety items to be completed.

The intent of this code application to partially completed dwellings is to ensure that the dwelling will safely perform as a dwelling until, and if, the rest of the dwelling is completed. If there is a short timeline to completion of the dwelling, then the code official may allow lesser compliance.

#### 320.10(3)(h) Occupancy Permit

**Question:** Under the UDC is an "occupancy permit" required?

**Answer:** The UDC does not describe or require an "occupancy permit" procedure. The "occupancy permit" is a document issued by some municipalities. Wisconsin Statutes recognizes this in s. 62.23(9) and such a procedure would be in the local building inspection department's ordinances.

#### 320.10(4) Notice of Compliance or Noncompliance

The enforcing authority must notify the **applicant and owner in writing** of any noncompliances in order to begin a legal enforcement action or to prevent occupancy. Oral orders or notes posted at the jobsite would have limited, if any, legal significance. The municipality enforcing this code may in fact wish to notify the applicant or owner by Registered Mail of violations.

Thirty days after notice without correction, the inspector should write a citation if they have that authority or refer uncorrected orders to the municipal legal counsel, who may initiate legal action as in s. SPS 320.22, Penalties & Violations, if corrections have not been made. Each day after the 30 days shall constitute a separate violation per s. 101.66 of the Wisconsin Statutes.

Form SBD-6025 "Inspection Report and Notice of Noncompliance" should be used to issue written notice unless the municipality has developed an alternate form. (See UDC Codebook Appendix.) **Note that a specific code section shall always be cited.**

Municipalities may charge additional inspection fees as necessary to determine if noncompliances have been corrected.

This section also requires notice even if no noncompliances were found so that contractors will clearly know that they can proceed. This may be written on the permit card or other visible location at the jobsite.

Municipal legal counsels have broad latitude in judging whether to pursue legal action against a noncomplying builder or owner. But this is the counsel's decision, not the inspector's, to make. The inspector should write the orders as he or she sees them.

### 320.10(5) Voluntary Inspection

Because the state inspection staff has limited available time, DSPS normally refers homeowners and builders to independent inspectors when they are seeking a voluntary inspection of their house. They may be seeking inspection services because of lender requirements or to satisfy their own quality assurance concerns.

An inspector in this situation does not have municipal or state enforcement authority. Rather, he or she is providing a report which the owner or lender can use to pursue compliance and/or private litigation if necessary. Also, per state statute 101.02(11), an owner may withhold payment to a contractor that fails to comply with the UDC.

### 320.11 Suspension or Revocation of Wisconsin Uniform Building Permit

**Question:** Can a local building inspector issue a "stop work" order under the UDC?

**Answer:** The UDC does describe a "stop work" order in SPS 320.10(1)(c). The enactment of 1991 Wisconsin Act 309 now gives stop work authority to the department, city, village, town or county for violations of erosion control requirements. This authority (State Statutes ss. 101.653 (7)(b)) is only for erosion and not extended to other UDC requirements.

When the UDC is adopted by a municipality, it may use its ordinances for administrative procedures. Under state statute ss. 62.11(5) and 62.17, municipalities have broad powers to enforce ordinances. We are aware of many municipalities using "stop work" orders, also known as "red tagging" procedures.

## **Subchapter V — Approval and Inspection of Modular Homes and Their Components**

### Overview

Most of this subchapter sets the procedures for manufacturers of modular homes to get their product approved by the state. These dwellings are typically of closed-panel construction that would be difficult to inspect at the installation site without removing finish materials. They may be of panelized or modular type construction. They are inspected in the plant by DSPS or a certified inspection agency. Strict compliance assurance procedures must be followed by the manufacturer and inspection agency.

This should not be confused with manufactured homes (formerly called mobile homes) which are regulated by Federal Housing and Urban Development (HUD) rules. The state mobile home program, also in DSPS, is under contract with HUD to enforce the rules in Wisconsin.

For readers other than manufacturers, your attention is directed to ss. 320.13 and 320.15 which relate to on-site installation.

### 320.13(1) Manufacture and Sale

An approved Wisconsin modular home must display a Wisconsin Insignia to indicate that the manufactured portion of the unit has been constructed and inspected in compliance with the Uniform Dwelling Code.

Typical locations are on the electrical service box, under the kitchen sink, in the bathroom vanity or in a closet. Following is a sample of an insignia.

Each unit is also required to bear a manufacturer's data plate (see s. 320.14(6)(e)). The data plate indicates the equipment furnished with the unit design loads and testing. This information should be reviewed and compared with site requirements. If required testing has not been performed in the plant, the system should be tested on site. The data plate also indicates the unit serial number. This number and the Wisconsin insignia number are necessary to track production records if a problem or question should arise.



*Insignia Color is Red*

In addition, DSPS is allowed to enter into reciprocity arrangements with other states (see s. 320.14(7)) regarding modular homes.

### 320.13(2) Installation

On-site work for modular homes such as foundations, basements, heating systems, electrical systems, plumbing systems, and additions are subject to the same plan submittal and inspection requirements as site-built dwellings. This includes permit procedures and permit seal issuance.

**320.13(2)**

Installation and connection details should be checked for conformance to the manufacturer's instructions. The installer is required to furnish the inspector with installation instructions upon request.

Any damage to the manufactured portion of the dwelling as a result of transporting or on-site handling should also be investigated by the inspector. Any questions regarding the repair should be directed to the manufacturer and the inspection agency. Major repairs or modifications may require on-site inspection by the manufacturer's inspection agency to ensure compliance with the approved building system.

## Contact List Modular Home Manufacturers

January 2016

	<b>Name/ Address</b>	<b>Insp Agency</b>	<b>Phone</b>	<b>CA Personnel</b>
1.	All American Homes 551 15th Ave. S.E. P.O. Box 219 Dyersville IA 52040-0219	PFS	563- 875-2421	Aaron Hirsch, Eng Mgr <a href="mailto:ahirsch@allamericanhomes.com">ahirsch@allamericanhomes.com</a>
2.	Blue Ridge Log Cabins, LLC 625 East Frontage Road Campobello, S.C., 29322	PFS	864 457-7343	Jason Huntzinger
3.	Blu Homes 760 Main St Waltham MA 02451	PFS	866 887-7997	Andy Collins <a href="mailto:andrew.collins@bluhomes.com">andrew.collins@bluhomes.com</a>
4.	Champion Homes 308 Sheridan Dr. Topeka IN 46571	PFS	260 593-2962	Bob Gile, QC Mgr, Ext 168 <a href="mailto:bgile@championhomes.net">bgile@championhomes.net</a> Bobby Campbell
5.	Champion Homes-Division 270 451 Southern Ave Stratton PA 16258	PFS	814 764-5581	Chris Hepfer Dan Rhodes
6.	Commodore Homes 1423 Lincolnway East Goshen IN 46528	PFS	574 534-3067 534-7100	Rodney Davis- QC Mgr <a href="mailto:qc@commodorehomes.com">qc@commodorehomes.com</a> Bill Pobocek-Service Mgr <a href="mailto:bpobocek@commodorehomes.com">bpobocek@commodorehomes.com</a>
7.	CMH Plant #995 437 N. Main St. P.O. Box 1218 Middlebury IN 46540	NTA	574 825-4461	Joe Drake, Engineering 574 862-4461 <a href="mailto:joe.drake@clayton.net">joe.drake@clayton.net</a>
8.				
9.	Design Homes 600 N. Marquette Rd. P.O. Box 239 Prairie Du Chein WI 53821	PFS	608 326-6041	Mike Mason- QC
10.	Dickinson Homes 1500 W. Breitung Ave. P.O. Box 2245 Kingsford MI 49802-2245	PFS	906 774-5800	Bill Wagner, QC <a href="mailto:billwagner@dickinsonhomes.com">billwagner@dickinsonhomes.com</a>
11.	Fairmont Homes	PFS	574	Chad Reeve, QC

	502 South Oakland Ave Nappanee IN 46550		773-7941	Ext 3400 <a href="mailto:creeve@fairmonthomes.com">creeve@fairmonthomes.com</a>
12.				
13.	Hi-Tech Housing Inc. 1103 S Maple St Bristol IN 46507	TRA	574 848-5593	<a href="mailto:qa@hitech-housing.com">qa@hitech-housing.com</a>
14.	Homeway Homes 100 Homeway Court Deer Creek IL 61733	PFS	309 447-6267	Jim Stoller ext 211 <a href="mailto:jimstoller@homewayhomes.com">jimstoller@homewayhomes.com</a>
15.	Canadian American Homes 337 Liberty Dr. P.O. Box 110 Dorchester WI 54425	NTA	715 654-5355	Neil Blume, QC
16.	Manufactured Housing Enterprises 09302 State Road 6 Bryan OH 43506	PFS	419 636-4511	John Bailey III
17.	Madison Area Technical College 3550 Anderson St Madison WI 53704-2599  Attn: John Stephany	Contracted inspectors per unit	608 246- 5273	John Stephany <a href="mailto:Stephany@MATCMadison.edu">Stephany@MATCMadison.edu</a>
18.				
19.	Ritz-Craft Corporation of MI 118 Deal Parkway, P.O. Box 5 Jonesville, MI 49250	NTA	517 849-7425	Al Wagler
20.	Rochester Homes 1345 Lucas St. P.O. Box 587 Rochester IN 46975	NTA	219 224-7325	Brian Ungerer <a href="mailto:eng@rochesterhomesinc.com">eng@rochesterhomesinc.com</a>
21.	Skyline Homes Hwy 61 N.E. P.O. Box 590 Lancaster WI 53813-0590	PFS	608 723-4171	Jay Mcdowell, Plant Mgr Steve Kruser, QA Mgr Ken Carlson, Service Mgr
22.	Stratford Homes P.O. Box 37 Stratford WI 54484	NTA	715 687-3133	Craig Hayes <a href="mailto:chayes@stratfordhomes.com">chayes@stratfordhomes.com</a>
23.				
24.	Terrace Homes 1553 11th Dr. Friendship WI 53934	PFS	608 339-7888	Deb Reichenberg Darrel Hildenbrand

25.	Vertical Works, Inc 3834 East Puetz Rd. Oak Creek WI 53154	PFS	414 762-0950	Justin Kreger <a href="mailto:justinkreger@verticalworksinc.com">justinkreger@verticalworksinc.com</a>
26.	Wisconsin Homes 425 W. McMillan St. Marshfield WI 54449	NTA	715 384-2161	Dan Wald Joe Goodbrand, ext 128 <a href="mailto:jgoodbrand@wisconsinhomesinc.com">jgoodbrand@wisconsinhomesinc.com</a>

### Inspection Agencies

PFS Corporation 1507 Matt Pass Cottage Grove WI 53527	608 839-1013	See PFS directory Mark Severson Ron Reindl <a href="mailto:RReindl@pfscorporation.com">RReindl@pfscorporation.com</a> Jim Rothman <a href="mailto:JRothman@pfscorporation.com">JRothman@pfscorporation.com</a> Bob Gorlesky Tim Busche
NTA, Inc P.O. Box 490 Nappanee IN 46550-0490	219 773-7975	David Tompos, Pres David Bartz, Acct Mgr Michael Faller Kelly Cook, Insp 574 371-7445
Radco 18414 Northrop Dr. Goshen IN 46526	(574) 831-6833 (office) (574) 903-9192 (cell)	Dennis Webber, Mgr <a href="mailto:radco@bnin.net">radco@bnin.net</a> Larry Randolph- insp.
TRA 700 E. Beardsley Ave. Elkhart IN 46515	574 264-0745 574 264-0740 fax	Robert Tanager, Pres Steve Gattman, Acct Mgr Bob Seirks, Insp

This list subject to change as approved manufacturers are added or deleted.

#### 320.14 Approval Procedures

DSPS' UDC Program has an informational and submittal packet available for modular home manufacturers interested in our modular home program.

#### 320.14(7) Reciprocity

Other states may have manufactured dwelling approval and inspection programs equivalent to Wisconsin's. If a reciprocity agreement is in effect the states will accept dwellings approved, inspected and provided with an insignia of the state of manufacture. The dwelling must be inspected to conform to the code of the state where it will be located. Wisconsin currently has a reciprocity agreement with Minnesota and thus recognizes dwellings bearing the "IBC" or 'Industrialized Building Commission' labels.

#### 320.15 Effect of Insignia

A dwelling bearing a Wisconsin Insignia is presumed to be code complying. A local building inspector may not require the opening up of closed walls or other components coming from the plant. However, if noncompliances are otherwise noted, they should be cited by the inspector. DSPS should be notified for further investigation at the manufacturing plant.

#### 320.15(3) Right to Install

A dwelling bearing a Wisconsin Insignia must be accepted by a municipality as would a site-built home. It would be subject to any zoning requirements.

### **Overview of Subchapters VI, VII & IX**

These subchapters describe some of the special UDC administrative procedures. It is worthwhile to briefly highlight the differences in the purposes of these administrative procedures as well as other associated UDC procedures:

- **Engineered Design/Structural Analysis** - This is a design that falls outside of the prescriptive or cookbook design tables and specifications of the UDC. A local inspector can accept them as long as the underlying code requirements, such as design load requirements, are met. Typical acceptable engineering standards are listed in ss. 320.24 and 321.02. Local inspectors may request state review as in s. 320.09(5)(a) of this commentary.
- **Building Product Approval** - Manufacturers and distributors of alternative materials or methods often use this procedure. It can save time for all parties by substituting for the Engineered Design/Structural Design procedure where the material or design will be used repetitively in a number of dwellings.

- **Alternate Standard** – Typically trade associations, testing agencies or research organizations would request approval of their design standard in lieu of those adopted in SPS 320.24.
- **Individual Variance** - If an applicant cannot conform to a specific code section and desires to provide equivalence to the code by other means, then a petition for variance must be submitted to the state.
- **Municipal Variance** - A municipality may submit a variance request to DSPS when it believes that its climatic or soil conditions require a different application of the UDC for homes in its jurisdiction. Such a variance would apply to all homes in that municipality. There are currently none of these in effect.
- **Appeals**
  - **To Local Authorities** - An appeal at the local level can only be on the basis of improper enforcement of the code as written. It cannot be to request a variance to a code requirement.
  - **To State Authorities** - An appeal to the state can be for one of the following reasons:
    - An appeal of local enforcement after local appeal procedures have been exhausted;
    - An appeal of the state's determination on an individual variance;
    - An appeal of the state's determination on a municipal variance.

## Subchapter VI — Approval of Materials

### 320.18 Materials

Basic material performance standards are set forth in the various chapters of the code. All alternate or new materials and new construction methods not covered by these standards may be submitted and reviewed by DSPS for use in one- and two-family dwellings. This may speed along the approval process for individual homes so that local inspectors do not individually need to deeply review the acceptability of these alternate materials and methods. Local inspectors may also review alternate materials, for specific projects, to determine if they meet the adopted engineering standards of the UDC.

Manufacturers or distributors request 'Building Products Evaluations' from the department using the form available on the DSPD UDC Forms webpage. A fee has been established by the department, and shall accompany the application. The department will review all data, tests and claims of equivalent performance of the alternate material or method with respect to the health, welfare and safety performance standards of the code. Manufacturers or distributors may request a submittal information packet from our division.

Manufacturers or distributors of reviewed materials should provide DSPS material evaluation approval numbers or report when requested. Copies of our material approvals are available on our website. If there are any questions as to the acceptability of a material for use in one- and two-family dwellings by a building inspector or manufacturer, please call DSPS. You may view

current material approvals on our website: [www.dsps.wi.gov](http://www.dsps.wi.gov) under the one and two family program.

## **Subchapter VII — Variances, Appeals, Violations and Penalties**

### 320.19 Individual Variance From a Specific Rule

It should be noted that only administrative code items may be petitioned for a variance. This means that if an item is required by the state statutes (which may be repeated in the administrative code), it may not be granted a variance. An example of this are minimum smoke detector requirements.

An approvable variance application must demonstrate that the proposed design provides alternative measures that provide an equivalent degree of health, safety or welfare. Economic hardship, "it's not my fault," or "due to an error in construction" arguments themselves do not justify a variance.

Variances are processed by the state only for dwellings originally built since June 1, 1980. Variances for older dwellings, even though possibly subject to the UDC by local ordinances, are processed by the municipality.

**Question:** How does one go about applying for a variance to the Uniform Dwelling Code?

**Answer:** All variance requests shall be submitted to DSPS via the enforcing municipality, if applicable. A complete submittal includes an Application Form (SBD-9890), including the Municipal Recommendation and the required fees per SPS 302.52(2) (currently \$125.00) (Forms are available in the UDC Appendix or our Forms webpage, [www.dsps.wi.gov](http://www.dsps.wi.gov) . A copy of relevant building plans, sketches, photographs, or other documents clarifying the statements on the application forms will be necessary in almost all cases. The municipality may also charge a variance processing fee.

### 320.21 Appeals of Orders and Determinations

Individuals (owners and/or builders) have the right to appeal any municipal or DSPS order or determination. The procedures in appealing such orders or determinations are set forth in s. SPS 320.21. Note that an individual may not formally appeal a municipal decision to DSPS until they have exhausted the municipal appeal process. Also note that the administrative appeals process may not be used once an order has been referred to the responsible legal authorities (city attorney, district attorney, Attorney General).

Occasionally, a building inspector's cited violations will be appealed to the local municipality following these procedures. Appeals of whether a particular code section applies to a particular situation may be decided locally.

DSPS welcomes enforcing municipalities to contact us to clarify code requirements at this point or even before writing orders. Generally it is **not** desirable to refer builders or designers to us directly regarding a specific project until the inspector first discusses it with department staff.

Appeals that require granting of a variance to a specific UDC requirement cannot be approved by any municipality. All requests for a variance from the code must ultimately be submitted to DSPS for approval, conditional approval or denial (SPS 320.19). The Uniform Dwelling Code, in order to maintain statewide uniformity, did not extend to the building inspectors and/or municipalities the authority to deviate by local variance from specific code requirements on specific projects.

#### 320.22 Extensions of Time

Normally cited violations shall be corrected within 30 days after written notification in accordance with s. SPS 320.10(1)(c). However, municipalities may grant extensions of time for varying reasons.

#### 320.22 Penalties

It is not the intent of the department to set or receive penalties or forfeitures for violations of the code where municipalities are effectively administering and enforcing the Uniform Dwelling Code by establishing their own remedies and penalties. A municipality exercising jurisdiction should adopt ordinances for remedies and penalties for violations of this code.

### **Subchapter IX — Adoption of Standards**

#### 320.24 Adoption of Standards

All dwellings are required to be designed by the method of engineering analysis or the method of accepted practice outlined in each chapter of the code. Dwellings designed by the method of engineering analysis shall comply with the standards and manuals listed in this section. Other acceptable engineering standards are listed in s. SPS 321.02. Refer to the specific adopting section in the code to determine what portion is adopted. In general, where the standard is more specific, that controls over more general code language.