

Promoting Safe Home Repairs Through Application of the Wisconsin Uniform Dwelling Code

September 11, 2018

The Alliance for Regulatory Coordination recommends changing the Wisconsin Uniform Dwelling Code to more fully address repairs. We recommend using provisions similar to the Wisconsin Commercial Building Code.

Background

In January 2018, the Wisconsin Department of Safety and Professional Services posted on their web site a question and answer regarding repairs to dwellings. In answer to the question: "...does the Uniform Dwelling Code apply to repairs to dwellings?" the Department said "...Wis. Admin. Code Section SPS 320.05(3) exempts repairs from the Uniform Dwelling Code. A municipality is unable, due to this provision, from applying the Uniform Dwelling Code to a repair."

The DSPS answer refers to UDC Section SPS 320.05 (3), which reads:

Section SPS 320.05 (3) REPAIRS. *The provisions of this code do not apply to repairs or maintenance to dwellings or dwelling units, or to the repair of electrical, plumbing, heating, ventilating, air conditioning and other systems installed therein.*

Discussion

Electrical and Plumbing Code Provisions

Unfortunately, the UDC is not well coordinated with the Wisconsin Electric Code and Wisconsin Plumbing Code; since both require that repairs must comply with applicable code provisions.

The Confusing UDC Definition of Repair

The term "Repair" as defined in UDC Section SPS 320.07 (61), contains two important qualifiers, both related to application of the UDC to repairs. Those qualifiers are underlined in the following reprint of the UDC definition.

SPS 320.07 (61) *"Repair" means the act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs or maintenance, or the replacement of existing fixtures, systems or equipment with the equivalent fixture, system or equipment.*

Within the definition of "repair", the UDC invokes its own standards of "soundness" for that which is being restored. The UDC also invokes its own standards relative to the replacement of existing fixtures, systems or equipment. To determine whether something has been restored to original soundness, or whether the fixtures, systems or equipment are equivalent, one must apply the UDC standards.

Code definitions generally do not contain such qualifiers because they lead to logic problems. What would we call an act or process that does not restore something to original soundness, or does not replace with equivalent fixture, system or equipment? Are those acts not regulated?

The Confusing UDC Provisions for Permits

The UDC requires permit applications, for repairs, be filed with municipalities and counties that require such permits by ordinance. The UDC also requires all permit applications be reviewed by a certified UDC inspector, and requires inspection of all dwellings for which a permit has been issued. Those requirements are shown in the following reprint, with salient points underlined.

Section SPS 320.09 (2) (b) Additions, alterations and repairs. (partial reprint)

1. When required by local ordinance, permit applications for additions, alterations and repairs shall be filed with municipalities and counties in accordance with their adopted ordinances.

Section SPS 320.09 (2) (c) General requirements.

1. The permit application shall be reviewed by a certified UDC inspector.

2. A permit may be issued only after approval of the requirements under this section by a certified UDC inspector.

3. Dwellings for which a permit has been issued shall be inspected in accordance with s. SPS 320.10.

These requirements reflect a valid regulatory purpose for permits and inspections concerning repairs to UDC dwellings. That purpose relates to the qualifiers of “original soundness”, and “equivalent”, as contained in the definition of the term “Repair”, shown earlier. If there truly are no UDC standards that can be applied to dwelling repairs, the above-mentioned UDC provisions related to local permit and inspection processes would be unnecessary and local permits and inspections for repairs to UDC homes would be useless.

Recommendation

The Alliance for Regulatory Coordination recommends changing the UDC to include text similar to what is contained in the Wisconsin Commercial Building Code as it relates to application of that code to repairs. Also, we recommend changing the UDC definition of the term “repair” to remove the problematic qualifiers identified earlier.

We ask the Wisconsin Department of Safety and Professional Services to promulgate these changes with input from the Uniform Dwelling Code Council and other interested parties.

Clarity of the Commercial Building Code

Repairs are addressed clearly and fully in the Wisconsin Commercial Building Code as shown in the following reprint.

SPS 361.03 (10) REPAIRS. *Those portions, elements, systems or components of existing buildings and structures repaired shall conform and be maintained in accordance with the rules of this code as the rules exist on one of the following:*

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

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

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

(d) The date repair is initiated.

The Alliance for Regulatory Coordination is a consortium of 17 organizations involved in building design, construction and regulatory services. Alliance membership consists of business, labor, advocacy, professional and governmental groups; numbering thousands of members, all committed to promoting more coordinated and efficient regulatory services for citizens and businesses of Wisconsin.

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