

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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DIVISION OF INDUSTRY SERVICES

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MADISON WI 53705

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<http://dsps.wi.gov/programs/industry-services>

www.wisconsin.gov



Tony Evers, Governor

Dawn B. Crim, Secretary

NOTICE OF VIOLATIONS AND ORDERS

October 5, 2021

Mark L Metz

Levenson, Lucy & Metz S.C.

3030 W Highland Blvd.

Milwaukee, WI 53208

SITE: Rusty Bucket Farm

6435 Wiesner Road

Omro WI 54963

Town of Winneconne

ORDER 0007611

Regulated Objects:

Nature of Complaint Summary: Rusty Bucket Farm – Change of use to buildings without proper plan submittal

Object Type: Complaint (21 COM 73)

Last Inspection Date: May 26, 2021

INVESTIGATION NOTES: The May 26, 2021, inspection performed by Brian Noe covered the barn, cabins, and outbuildings.

There was a small building where a toilet room with shower was recently constructed to provide accessible toilet facilities to the public. Noe found that this building is small enough to be exempt from plan submittal requirements as allowed by Table SPS § 361.30-1, however, if used by the public the building would need to comply with commercial code and accessibility requirements.

Noe found that the other outbuildings appear to be able to be licensed under the cabin and campground provisions or the Bed and Breakfast provisions of the UDC Code, and not covered under the Commercial Building Code. These structures would be subject to inspection by the local UDC inspector.

NOTE: Due to the uncertainty caused by COVID-19 the Department will extend compliance dates so long as work is being made on gaining compliance with orders or if the site is not being used due to restrictions.

This DEPARTMENT ORDER is issued as a result of an inspection on the above referenced site. Violations identified in this order are not all encompassing. Continued work without submittal and approval of buildings plans could add to the list of violations and the overall expense of the project. The property owner shall not conceal any work that has not been inspected and approved.

The following violations were revealed:

Barn

1. Violation: Change of use of the site without proper plan review.

Wis. Admin. Code § SPS 361.03 Application.

(1) Standards.

(a) The design and construction of public buildings and places of employment shall comply with s. SPS 361.05, except as otherwise provided in chs. SPS 361 to 366.

(b) The codes and standards that are referenced in this chapter, and any additional codes and standards which are subsequently referenced in those codes and standards, shall apply to the prescribed extent of each such reference, except as modified by this chapter.

(c) The requirements in IBC Appendix C may be applied to certain agricultural buildings, as specified in s. SPS 362.3600 (2), in lieu of corresponding, otherwise applicable requirements of chs. SPS 361 to 366.

(11) Change of occupancy or use.

Except as provided in sub. (12), no change may be made in the use or occupancy of any building or structure, or any space within a building or structure, that would place the building, structure or space either in a different division of the same group of occupancies or in a different group of occupancies, unless the building, structure or space complies with the requirements of chs. SPS 361 to 366 for the new division or group of occupancies, as these requirements exist on one of the following dates:

(a) Pursuant to s. SPS 361.30, the date when plans for the change in occupancy or use are approved by the department or authorized representative.

(b) The date a local building permit is issued, if plan submittal and approval is not required under s. SPS 361.30.

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

(d) The date an occupancy permit is issued, where pars. (a) to (c) do not apply.

Wis. Admin. Code § SPS 361.30 Plan review and approval.

(1) Types of buildings.

(a) Except as provided in par. (b), Table 361.30-1, and sub. (4), the construction of, the alteration of, or the addition to a public building or a place of employment may not commence unless plans for the project have been submitted to and approved by the department or its authorized representative in accordance with s. SPS 361.31.

Required Action: Submit building plan for review and approval of use of the barn as a commercial building open to the public – OR – discontinue use of the barn as a commercial building and do not allow the public to enter or use that building.

2. Violation: Electrical work performed without obtaining the proper permit and inspection.

Wis. Admin. Code § SPS 316.012 Permits.

(1) (a) Except for an electrical wiring project described in s. 101.875 (2), Stats., and as provided in par. (b), no electrical wiring project may commence unless the owner of the premises where the installation is to occur or their agent holds a permit from the designated inspection agency if the project involves the installation of new or an addition to any electrical service, feeder, or branch circuit serving any of the following:

1. A farm.
2. A public building, structure, or premises.
3. A place of employment.

Wis. Admin. Code § SPS 316.013 Inspections.

(1) Except as provided under s. 101.875 (2), Stats., electrical wiring installations shall be subject to inspection.

(2) Inspections of electrical wiring installations described under s. SPS 316.012 (1) (a) shall be conducted by a certified commercial electrical inspector.

(3)

(a) The building owner or their agent shall notify the inspection agency designated by the department to provide electrical inspections when the electrical wiring installation is ready for inspection.

(b) Except as provided in par. (c), to facilitate inspection all of the following shall apply:

1. Electrical wiring shall remain accessible and exposed for inspection purposes.
2. Electrical wiring may not be energized.

Required Action: Obtain the required electrical permit – no matter whether the barn remains agriculture or is converted into a commercial building it is subject to electrical code requirements and a permit is required to be obtained by a licensed electrical contractor.

Miscellaneous Outbuildings

Any outbuildings used by the public shall comply with SPS 361-366. Noe came across a small building where a toilet room with shower was recently constructed to provide accessible toilet facilities to the public. This building is small enough to be exempt from plan submittal requirements, however, if used by the public the building would need to comply with commercial code and accessibility requirements.

Wis. Admin. Code § SPS 361.03 Application.

(1) Standards.

(a) The design and construction of public buildings and places of employment shall comply with s. SPS 361.05, except as otherwise provided in chs. SPS 361 to 366.

Cabins

NOTES: Property owner received a letter from Anne Boyce, Environmental Health Supervisor for Winnebago County Health Department dated June 25, 2021 laying out licensing requirements for any sites. If the cabins were built or converted on or after February 6, 2017 then the requirements found in SPS Chapter 327 are applicable. See Wis. Admin. Code §SPS 327.04.

Violation: Buildings on site are not in compliance with the campground code.

Wis. Admin. Code § SPS 327.08 Definitions.

(8) “Campground” has the meaning given in s. ATCP 79.03 (3). Note: ATCP 79.03 (3) reads: “Campground” means a parcel or tract of land owned by a person, state, or local government that is designed, maintained, intended, or used for the purpose of providing campsites offered with or without charge, for temporary overnight sleeping accommodations.

(9) “Camping unit” means a framed structure or a tent, teepee, yurt, or other structure with fabric roof or walls that is 400 square feet or less in area, which is placed by a campground owner or operator in a campground for which a permit is issued under s. 97.67, Stats., and used for seasonal overnight camping.

Wis. Admin. Code § SPS 327.09 Wisconsin camping unit building permit.

(1) Where required. A Wisconsin camping unit building permit shall be obtained from the municipality administering and enforcing this code or from a registered UDC inspection agency administering and enforcing this code in a municipality where the department has jurisdiction pursuant to s. 101.651 (3) (b), Stats., before any construction of a camping unit may begin.

(2) Inspections. A person who obtains a Wisconsin camping unit building permit from a registered UDC inspection agency shall retain the same agency to conduct the inspection of the camping unit under s. SPS 327.11.

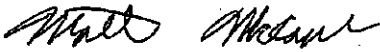
Required Action: Outbuildings that have been converted and being used as camping units are required to obtain the camping unit permit and be inspected by the municipal UDC inspector.

You are hereby ordered to have the buildings corrected to conform to the indicated provisions of the Wisconsin Administrative Code and/or Wisconsin Statutes. This installation shall be corrected by the compliance date noted, and upon correction of violations Brian Noe and I must be notified. If you fail to comply, this order is enforceable in circuit court pursuant to Wis. Stat. 101.02(13), Stats., with forfeitures ranging from \$10 to \$100 per day for each violation.

If you have any questions regarding this matter, please feel free to contact me or Brian Noe at 920-420-4796

Wis. Admin. Code § SPS 303.03 Permits any person affected by a rule of the department to petition for a variance of the rule. The petition needs to establish equivalency to the rule, be provided on the form from the department and be submitted with accompanying fee and municipal recommendation.

Wis. Stat. § 101.02(6) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the department in the manner provided in this subchapter. All requests must be received within 30 days of the date of this Order and shall set out specifically and in full detail the order upon which a hearing is desired and every reason why such order is unreasonable, and every issue to be considered by the department on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the order upon which a hearing is sought other than those set forth in the petition.

ATTORNEY NAME: Matthew McCasland		INVESTIGATION DATE: 5/26/2021
PHONE/WORK HOURS: (608) 266-9814		
E-MAIL: matthew.mccasland@wisconsin.gov		INVESTIGATION TYPE: Requested
SIGNATURE:	DATE:	INVESTIGATION SOURCE: Other
	10/05/2021	COMPLIANCE DATE: 1/15/2022

cc: Brian Noe

Lucas Dederich