

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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DIVISION OF INDUSTRY SERVICES

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MADISON WI 53705

Contact Through Relay

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

www.wisconsin.gov

Tony Evers, Governor

Dan Hereth, Secretary



NOTICE OF VIOLATIONS AND ORDERS

August 5, 2022

ORDER 0008071

Oscar Steinbauer

Bibiana Steinbauer

N535 State Highway 57

Random Lake WI 53075

SITE:

State Road 57

Random Lake WI 53075

Town of Sherman

Parcel # 59028426582

Regulated Objects:

Nature of Complaint Summary: Building has not been kept in compliance with Wisconsin commercial building code.

Object Type: Complaint (22 COM 009)

Last Inspection Date: February 2022

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.

INVESTIGATION NOTES: This Order concerns a commercial property (Oscar's Auto Sales) that is being used/occupied in ways that are not compliant with the commercial building code. The building itself is being used for two separate uses and is connected via a hallway. The building to the north is being used as a grocery store and restaurant. The building to the south is being used for auto repair. However, since the buildings are connected the Department is entering one order against the property.

The building to the south had an addition constructed with a plan approval on March 3, 2009. That plan approval indicated that the space was a "non-heated warehouse addition". Conditions on that approval indicated the building had no toilets and was approved as unoccupied storage only. An inspection by the Department found the building not being used for this purpose.

The building to the north had a plan approval for a "non-heated warehouse addition" which again was conditioned that indicated the building lacked toilets and was approved as "unoccupied storage only". An inspection by the Department found the building not being used for this purpose.

An inspection found that the site use is not in compliance with the plan approvals and therefore new plans need to be submitted or the property must stop being used "as is" until compliance is gained.

The following violations were revealed:

1.) Violation: Alteration and/or change of use to a building under the scope of the Commercial Building Code without submitting the required plans for review and approval prior to the alteration and use of the building.

Wis. Admin. Code § SPS 361.03(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(1) Plan review and approval. (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.

Wis. Admin. Code § SPS 361.40 Supervision.

(1) General.

(a) Except as provided in par. (b), the proposed construction of a project within the scope of chs. SPS 361 to 366 shall be supervised by one or more Wisconsin registered architects or engineers, except that Wisconsin registered designers may supervise the installation of heating, ventilating and air conditioning systems, fire protection systems, and illumination systems. The person responsible for supervision shall also be responsible for the construction and installation being in substantial compliance with the approved plans and specifications. If the supervising architect, engineer, or designer is confronted with a nonconformance with the code during or at the end of construction, that party, together with the designing architect, engineer, or designer shall effect compliance or shall notify the department of the noncompliance.

(b)

1. A project does not require supervision by a Wisconsin registered architect or engineer, if the project qualifies under one of the following conditions:

- a. The building contains less than 50,000 cubic feet total volume.
- b. An addition to an existing building does not cause the entire building to contain or exceed a volume of 50,000 cubic feet.

Suggested Action: Since the entire structure is being used for commercial purposes that were not previously approved - plans are required to be submitted showing how any all of the structures being used for commercial purposes comply with the current commercial building code or will be modified / altered to bring into compliance with current commercial building codes. Note that compliance with all codes (Building, HVAC, Plumbing and Electrical) is required.

2.) Violation: HVAC was installed without obtaining the required HVAC plan approvals.

Wis. Admin. Code § SPS 361.30 (3) TYPES OF BUILDING COMPONENTS. (a) Except as provided in sub. (4), building component or system plans shall be submitted to and approved by the department or authorized representative prior to installation of the component or system, for each of the following type components or systems:

2. Heating, ventilating, and air conditioning systems.

Suggested Action: Plans are required to be submitted for the HVAC systems that have been installed and or are required to be installed.

3.) Violation: The electrical wiring throughout the building is a hazard to life, health or property.

Wis. Admin. Code § SPS 316.003 Application.

(3) Existing installations. Existing electrical installations shall conform to the electrical code that applied when the installations were installed. An existing electrical installation may be required to be brought into compliance with the current code's requirements by the department and within the time period determined by the department when a hazard to life, health or property exists or is created by the installation.

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:

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

Suggested action: Obtain permit and bring electrical wiring to code.

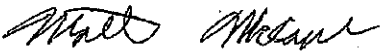
You are hereby ordered to have the installation corrected to conform to the indicated provisions of the Wisconsin Administrative Code and/or Wisconsin Statutes. This installation shall be corrected by the compliance date noted, and upon correction of violations I must be notified. If you fail to comply,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

If you have any questions regarding this matter, please feel free to contact me at the number listed below 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: 2/2022
PHONE/WORK HOURS: (608) 266-9814		
E-MAIL: matthew.mccasland@wisconsin.gov		INVESTIGATION TYPE: Requested
SIGNATURE:	DATE:	INVESTIGATION SOURCE: Other
	08/05/2022	COMPLIANCE DATE: 10/28/2022

cc: Lucas Dederich

Brian Noe