

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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DIVISION OF INDUSTRY SERVICES

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Contact Through Relay

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

[www.wisconsin.gov](http://www.wisconsin.gov)

**Tony Evers, Governor**

**Dan Hereth, Secretary**



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**NOTICE OF VIOLATIONS AND ORDERS**

March 13, 2023

Douglas and Susan Ninneman

N4691 County Road HH

Mauston, WI 53948

SITE: Motovation Fitness and Golf

N4691 HWY HH

Mauston, WI 53948

Town of Marion

Parcel No. 290260526

**ORDER 0008431**

**Regulated Objects:**

Nature of Complaint Summary: Change of use to building without submitting building plans to the Department.

Object Type: Complaint (22 COM 155)

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**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: The Department became aware of a building that allegedly underwent a change of use without proper plan submittal, approval, and inspections. The Department inspected the property and spoke with the owners. The owners indicated that they were told by the Town of Marion that no plan submittal was required. The Department informed the owners that was incorrect and told them that plan submittal is required. These Orders stem from this inspection and discussion. The Department finds that the site has undergone a change of use without proper plan submittal. Respondent shall hire a licensed engineer or architect to assist with the drawing and submittal of plans as required by Wis. Admin. Code § SPS 361.31(1). The Department is also contacting the Town of Marion to educate the Town regarding commercial building code compliance.**

The following violations were revealed:

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

**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.

(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:

1. Pre-manufactured and pre-engineered structural components.
2. Heating, ventilating and air conditioning systems.
3. Fire protection systems.

(b) Component or systems plans shall be submitted in one of the following manners:

1. Included with the plans under sub. (1) (a).
2. Submitted as a separate plan for the component or system.

**Required Action:** Hire a design professional and have them submit building, HVAC, and fire suppression plans for review and approval of use of the site as a commercial building OR – discontinue use of site and do not allow the public to enter or use the building.

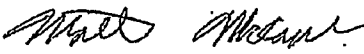
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You are hereby ordered to have the installation corrected to conform to the indicated provisions of the Wisconsin Administrative Code and/or Wisconsin Statutes. This installation shall be corrected by the compliance date noted, and upon correction 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 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 Jon Molledahl at 608-225-6520.

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   |                |                               |
| PHONE/WORK HOURS: (608) 266-9814   |                |                               |
| E-MAIL: matthew.mccasland@wisconsin.gov  |                | INVESTIGATION TYPE: Requested |
| SIGNATURE:   | DATE:          | INVESTIGATION SOURCE: Other   |
|  | March 13, 2023 | COMPLIANCE DATE: 6/19/2023    |
|  |                |                               |
|  |                |                               |

cc: Lucas Dederich

Jon Molledahl