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Commercial Buildings Frequently Asked Questions

Building Occupancy

IBC 202 Is an occupied roof a story?

Answer: No. A roof, whether occupied or not, is not included in the definition of story in IBC 202. (June 30, 2008)

IBC 303.1 For the requirements under IBC Chapters 3, 5, and 9, are conference, break, or training rooms that are exclusively for the employees in a nonassembly-occupancy building considered to be a separate, distinct A occupancy?

Answer: No. In addition to the allowance for accessory-use areas under IBC 508.2, for the purposes of IBC Chapters 3, 5, and 9, these rooms are considered to be accessory-use areas for the occupancy they serve. (September 1, 2011)

SPS 361.02(3)(e) Due to the size and complexity of farm operations, there is some confusion with respect to farming. **What is and what is not considered farming, exempt from code requirements?**

Answer: The WI Commercial Building Code deals with buildings and the use of those buildings, not with corporate structure or size. As farming is defined broadly as the cultivation and planting, raising, harvesting, processing, storage, delivery to market, and delivery to the final consumer of farm products, and, the operation must be accomplished by the farmer (individual, employee of the individual, or employee of a corporation involved with the above farming operations). The below tests can be applied to determine if the building is exempt.

1. Is the building used for storage, processing, packing, etc., of farm products, 90 percent of which were raised by the building owner on farms the building owner owns?

2. Is the building used for the storage of seed, fertilizer or other products, 90 percent of which the building owner will use to raise the farm product on farms owned by the building owner?

3. Is the building used for the storage or repair of equipment the building owner will use to raise, process, or deliver farm products, of which 90 percent were raised by the building owner?

4. Is the building used for the sale of farm products raised by the building owner on farms owned by the building owner, and no more than 10 percent of the retail sales area is devoted to sale of other items?

5. Is the building used for office purposes to run the operations only on farms, all of which are owned by the building owner?

If the answers to questions such as the above are yes, the building is farming and exempt, regardless of the size of the farm operation or the number of employees involved in the farming operation.

The term "owned" as used here can also mean "rented" such as with a tenant farmer. The tests must be applied to the entire building; however, a storage building, for example, portions of which are rented to several different farmers for storage of farm products, would be considered as a building under the scope of the code as 90 percent of the stored products in the building were not raised by the building owner.

Some examples of operations which are NOT farming:

- Horse riding stable: Business is riding, not raising horses.
- Horse boarding stable: Business is storing of horses not owned by the stable owner.
- Co-ops: Products have not been raised by the co-op. They have been raised by members of the co-op. The co-op doesn't own the farms.

- Commercial processors (Oreida, Green Giant, etc.): 90 percent of products were not raised by the processor.
- Seed dealers: Seed being sold was not raised by the dealer.
- Commercial grain storage: 90 percent of grain was not raised by the storage facility operator.
- Poultry processing: Poultry processed was raised by other farmers, not by the processor.
- Saw mills: Statutory definition excludes from farming.

Reference 361.02(3)*(e) Buildings and structures that are on a farm premises and used exclusively for farming purposes, provided any use of the building or structure by the public consists only of consumers directly receiving farm commodities, substantially all of which have been planted or produced on the farm premises. In this application, "substantially all" means at least 90 percent of the commodities were planted or produced on the farm premises.*

Farming basically involves the entire process from the cultivating of the soil through harvesting and processing to delivery to market or to the final consumer of farm products. The farm products involved, however, must have been raised on the farm premise by the owner. Processing or handling of farm products received from another farmer is not permitted under the farming definition.

Some common occupancies associated with farming deserve comment. A horse riding arena is commercial even if the horses are owned by the building owner if the public enters the building for recreation. The building can be a B-Business, A3 or A4-Assembly occupancy depending on the number of people. A produce stand or building, operated by a farmer, is farming and exempt provided the farmer has raised substantially all of the produce being sold. However, if the stand or building sells items not raised by the owner of the structure, it is commercial.

Question 1: A large sod farmer has, in conjunction with his sod business, a significant office building, storage and repair garages which are provided for the farm equipment and semi-trailer trucks used to deliver the sod nationwide, and warehouse buildings which are provided for the storage of the seed, fertilizer and harvested sod. The sod farmer handles and delivers only sod which is raised on his farm. Do the Dept. of Safety & Professional Services commercial building codes apply to any of the buildings on the farm?

Answer: No. Even though the farmer has many employees, buildings with occupancies which appear to be covered by the code, and an interstate trucking operation, the operation is considered farming and therefore exempt from code requirements.

Question 2: The same conditions are present as in the previous question, however, the farmer, in addition to handling sod grown on his farm, also handles sod from other sod farms. Do any of the Dept. of Safety & Professional codes apply?

Answer: Yes. Because the farmer is now handling products which he has not raised on his farm, the operation becomes commercial falling under the scope of the commercial building code. It is possible that some buildings could still be considered farming and exempt. A warehouse storing fertilizer and seed for use only on that farmer's farm would be farming and exempt. The office, delivery truck garage, and facilities for repairing those delivery trucks would be commercial as they are involved with the sod from another farm.