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Via Electronic Mail

City of Two Rivers
1717 E Park Street
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Re: Proposed UDC Compliance Threshold for Pre-1980 Dwellings

Plan Commission,

This memorandum provides proposed drafting direction for the pending amendment to Section 11-1-2(D) of the City of Two Rivers Municipal Code concerning application of the Wisconsin Uniform Dwelling Code to one- and two-family dwellings constructed prior to June 1, 1980.

The objective is to make clear that the current Uniform Dwelling Code applies to work performed on older dwellings, while avoiding an unintended requirement that owners bring an entire existing home into current UDC compliance when the project is limited to an addition, basement finish, interior remodel, or similar limited work.

Background

The current draft amendment would amend Section 11-1-2(D) to provide that the Wisconsin Uniform Dwelling Code, chapters SPS 320 through 325 of the Wisconsin Administrative Code, and all subsequent amendments, apply to "all additions and alterations" to one- and two-family dwellings constructed prior to June 1, 1980.

That language is clear in one respect: new additions and alterations to pre-1980 dwellings are intended to comply with the UDC. However, the phrase "all additions and alterations" may be read too broadly if it is applied to require unrelated existing portions of the home to be upgraded whenever any permit work is performed.

The policy concern is that a homeowner should not be required to bring an entire dwelling into current UDC compliance when the existing home was lawful when built and the proposed addition itself complies with the current UDC. Similarly, ordinary basement finishing should not, by itself, require an existing staircase to be widened unless the staircase is part of the permitted work, is directly affected by the permitted work, or presents an unsafe condition.

Potential Revisions

I recommend revising subsection 11-1-2(D) to include three concepts: first, new work must comply with the UDC; second, existing lawful construction is not required to be upgraded unless the existing component is part of, directly affected by, or made unsafe by the permitted work; and third, broader existing-dwelling compliance may be required only for defined major reconstruction projects.

This approach preserves the City's ability to enforce the UDC for new construction and substantial reconstruction, while avoiding disproportionate requirements for ordinary residential improvements.

Drafting Option 1: Bright-Line Major Reconstruction Threshold

Option 1 is the clearer and more homeowner-protective approach. It creates a defined "major reconstruction" threshold and an express safe harbor for additions, basement finishes, repairs, and limited interior work.

Suggested ordinance language:

1. Pre-1980 additions, alterations, and major reconstruction. The Wisconsin Uniform Dwelling Code, chapters SPS 320 through 325 of the Wisconsin Administrative Code, and all subsequent amendments thereto, is hereby adopted by reference and shall apply to additions and alterations, as those terms are defined in chapters SPS 320 through 325 of the Wisconsin Administrative Code, to one- and two-family dwellings constructed prior to June 1, 1980, only as provided in this subsection.
    1.1 New work to comply. Any addition, alteration, repair, or other work performed after the effective date of this subsection shall comply with the Wisconsin Uniform Dwelling Code to the extent the Code applies to the portion of the dwelling or work being added, altered, repaired, or constructed.

1.2 Existing lawful construction not required to be upgraded. Except as provided in paragraph 3, this subsection does not require an existing portion of a one- or two-family dwelling constructed prior to June 1, 1980 to be reconstructed, enlarged, replaced, or otherwise brought into compliance with the Wisconsin Uniform Dwelling Code solely because an addition or alteration is made to another portion of the dwelling, provided that the existing portion was lawful when constructed and is not made less safe by the proposed work.

1.3 Major reconstruction. Compliance with the Wisconsin Uniform Dwelling Code may be required for existing portions of the dwelling directly affected by the work when the Building Inspector determines that the project constitutes major reconstruction. For purposes of this subsection, "major reconstruction" means work that: removes, replaces, or reconstructs more than fifty percent (50%) of the dwelling's exterior walls, roof framing, floor framing, or other primary structural elements; increases the dwelling's gross floor area by more than fifty percent (50%); changes the use or occupancy of a substantial portion of the dwelling in a manner that materially affects life-safety, egress, structural, electrical, plumbing, heating, or ventilation requirements; or otherwise creates a condition in an existing portion of the dwelling that is unsafe or noncompliant as a direct result of the proposed work.

1.4 Limited work safe harbor. The following work shall not, by itself, require existing portions of the dwelling to be brought into compliance with the Wisconsin Uniform Dwelling Code: finishing or remodeling an existing basement, attic, or interior room without expanding the dwelling's exterior footprint or altering primary structural elements; constructing an addition that independently complies with the Wisconsin Uniform Dwelling Code and does not make an existing portion of the dwelling unsafe; repair or replacement of existing materials, fixtures, equipment, or components with substantially similar materials, fixtures, equipment, or components; or work that is limited to the portion of the dwelling for which a permit is issued.

1.5 No whole-dwelling upgrade absent nexus. The Building Inspector shall not require an existing stairway, hallway, doorway, ceiling height, foundation, structural member, or other existing building component to be widened,

enlarged, relocated, replaced, or otherwise brought into compliance with the Wisconsin Uniform Dwelling Code unless the component is part of the permitted work, is directly affected by the permitted work, or is determined to present an unsafe condition.

Drafting Option 2: Nexus-Based Compliance Standard

Option 2 preserves more administrative discretion. It does not rely as heavily on a numerical threshold, but it requires a connection between the permitted work and any existing component that the City requires to be upgraded.

Suggested ordinance language:

2. Pre-1980 additions, alterations, and reconstruction. The Wisconsin Uniform Dwelling Code, chapters SPS 320 through 325 of the Wisconsin Administrative Code, and all subsequent amendments thereto, is hereby adopted by reference and shall apply to additions and alterations, as those terms are defined in chapters SPS 320 through 325 of the Wisconsin Administrative Code, to one- and two-family dwellings constructed prior to June 1, 1980, subject to the limitations in this subsection.
   2.1 Scope of compliance. Compliance with the Wisconsin Uniform Dwelling Code shall be required for the addition, alteration, or other work for which a permit is issued. Existing portions of the dwelling that are not part of the permitted work shall not be required to be brought into compliance with the Wisconsin Uniform Dwelling Code unless required under paragraph 2.
   2.2 Compliance for affected existing portions. The Building Inspector may require an existing portion of the dwelling to comply with the Wisconsin Uniform Dwelling Code only to the extent reasonably necessary to address a condition that is created, altered, intensified, or made unsafe by the permitted work.
   2.3 Major reconstruction threshold. A project shall be deemed major reconstruction, and may require compliance beyond the immediate area of work, if the project involves reconstruction or replacement of more than fifty percent (50%) of the dwelling's structural framing or exterior building envelope; addition of new dwelling area equal to more than fifty percent (50%) of the existing dwelling area; relocation or reconstruction of primary

means of egress, stairways, load-bearing walls, foundations, roof framing, or floor framing serving the existing dwelling; or work that substantially changes the dwelling's configuration so that existing life-safety, structural, electrical, plumbing, heating, or ventilation systems are no longer adequate for the dwelling as modified.

2.4 Allowance for compliant additions and limited interior improvements. An addition that complies with the Wisconsin Uniform Dwelling Code shall not require the remainder of the dwelling to be brought into compliance solely because the existing dwelling was constructed prior to June 1, 1980. Finishing a basement, remodeling an existing room, replacing fixtures, or making similar limited interior improvements shall not require widening, enlarging, or replacing an existing stairway or other existing building component unless that stairway or component is part of the permitted work or is rendered unsafe by the permitted work.

2.5 Written determination. If compliance is required for an existing portion of the dwelling outside the immediate scope of the permitted work, the Building Inspector shall identify in writing the existing component required to be upgraded, the connection between the required upgrade and the permitted work, and the Wisconsin Uniform Dwelling Code provision on which the requirement is based.

Drafting Option 3: Value-Ratio Threshold

Option 3 uses an objective financial threshold. It treats a project as major reconstruction only when the construction value of the permitted work is large enough, relative to the assessed value of the existing dwelling improvements, to justify broader compliance review. This may be easier to administer than a purely structural test, provided staff is comfortable using permit valuations and assessed improvement values.

Suggested ordinance language:

3. Pre-1980 additions, alterations, and value-threshold major reconstruction. The Wisconsin Uniform Dwelling Code, chapters SPS 320 through 325 of the Wisconsin Administrative Code, and all subsequent amendments thereto, is hereby adopted by reference and shall apply to additions and alterations, as those terms are defined in chapters SPS 320 through 325 of the Wisconsin Administrative Code, to

one- and two-family dwellings constructed prior to June 1, 1980, subject to the limitations in this subsection.

3.1 New work to comply. The addition, alteration, repair, or other work for which a permit is issued shall comply with the Wisconsin Uniform Dwelling Code to the extent the Code applies to the portion of the dwelling or work being added, altered, repaired, or constructed.

3.2 Existing dwelling safe harbor. Existing portions of the dwelling that are not part of the permitted work shall not be required to be brought into compliance with the Wisconsin Uniform Dwelling Code solely because the dwelling was constructed prior to June 1, 1980 or because a permit is issued for work on another portion of the dwelling, unless compliance is required under paragraphs 3 or 4.

3.3 Construction-value threshold. A project constitutes major reconstruction if the aggregate construction value of all additions, alterations, repairs, and related work included in the permit application, together with any substantially related work performed or permitted within the preceding twenty-four (24) months, exceeds fifty percent (50%) of the current assessed value of the principal dwelling improvements, excluding land value, as shown on the City assessment roll in effect when the permit application is filed.

3.4 Scope of compliance after threshold is met. If a project constitutes major reconstruction under paragraph 3, the Building Inspector may require existing portions of the dwelling to comply with the Wisconsin Uniform Dwelling Code only to the extent reasonably related to the permitted work, the reconstructed area, affected structural systems, means of egress, fire and life-safety systems, electrical systems, plumbing systems, heating systems, ventilation systems, or other building components materially affected by the project.

3.5 Limited project allowance. A project whose aggregate construction value does not exceed the threshold in paragraph 3 shall not require existing portions of the dwelling to be brought into compliance with the Wisconsin Uniform Dwelling Code, except for components that are part of the permitted work, are directly affected by the permitted work, are made unsafe by the permitted work, or are determined by the Building Inspector to present an unsafe condition.

3.6 Permit valuation. For purposes of this subsection, construction value shall be based on the value stated in the permit application, subject to verification and adjustment by the Building Inspector using generally accepted construction-cost information, contractor estimates, or other reliable information. The Building Inspector may treat separate permits or phases as one project if they are reasonably related in scope, timing, ownership, or design.

3.7 Examples. Finishing an existing basement, remodeling an existing room, replacing fixtures, or constructing an addition that independently complies with the Wisconsin Uniform Dwelling Code shall not, by itself, require an existing stairway or other existing building component to be widened, enlarged, relocated, replaced, or otherwise brought into compliance unless the applicable threshold is met or the component is part of, directly affected by, or made unsafe by the permitted work.

3.8 Written determination. If compliance is required for an existing portion of the dwelling outside the immediate scope of the permitted work, the Building Inspector shall identify in writing the existing component required to be upgraded, the basis for determining that the project constitutes major reconstruction or otherwise affects the component, and the Wisconsin Uniform Dwelling Code provision on which the requirement is based.

Recommendation for Staff Review

I recommend circulating Options 1 and 3 for comment. Option 1 is the simplest from a drafting standpoint because it relies on physical project characteristics, while Option 3 may be easier to administer at intake if staff can reliably verify permit valuation and assessed improvement value.

If the City prefers a bright-line rule, I would use Option 1. If staff wants a more objective permit-screening metric, I would use Option 3, with three safeguards retained: use assessed improvement value rather than total parcel value, aggregate related permits within a twenty-four (24) month period, and require a written determination before existing portions outside the immediate scope of work must be upgraded.

I would not use Option 2 as the primary draft unless the City believes there will be many unusual projects that require more discretion. It is workable, but it gives less up-front certainty to homeowners because the trigger depends more heavily on staff judgment.