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STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BUILDING CODES AND STANDARDS DIVISION

In the Matter of the Proposed
Adoption of Amendments to
Chapter 1340 of the Minnesota
State Building Code

STATEMENT OF NEED
AND REASONABLENESS

I. Introduction

The Commissioner of the Minnesota Department of Administration proposes to adopt amendments to chapter 1340 of the Minnesota State Building Code entitled, Facilities for the Handicapped. Present Minnesota State Building Code Rules, 1990 printing effective July 16, 1990, includes Minnesota Rules Chapter 1340 parts 1340.0200 to 1340.9900. These parts are being repealed in favor of all new material and an incorporation by reference of both a model building code and national standard.

The proposed rules include by reference in part 1340.0100, adoption of Chapters 11 and Divisions I and II of Appendix Chapter 11 of the *1994 Uniform Building Code* as promulgated by the International Conference of Building Officials (ICBO) in Whittier, California. In addition, *CABO/ANSI A117.1 - 1992* as promulgated by the Council of American Building Officials (CABO) of Falls Church, Virginia in conjunction with the American National Standards Institute (ANSI), is the national standard being adopted by reference in its entirety in section 1101.2 of the *1994 Uniform Building Code* (UBC). The proposed rules also contain certain amendments to the referenced chapters of the 1994 UBC and CABO/ANSI A117.1.

The department began the present rule notification process on July 8, 1991 publishing a note in the State Register (16 S.R. 68) soliciting opinions and information from the public on the rules regarding the Minnesota State Building Code.

II. Statement of Agency's Statutory Authority

The commissioner's authority to adopt the rule amendments is set forth in Minnesota Statute 16B.61 subdivision 1, which states:

Subdivision 1. Adoption of code. Subject to sections 16B.59 to 16B.75, the commissioner shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of state-owned buildings, governing matters of structural materials, design and construction, fire protection, sanitation, and safety. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state.

Model codes with necessary modifications and statewide specialty codes may be adopted by reference. The code must be based on the application of scientific principles, approved tests, and professional judgement. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of particular methods or materials. To that end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 16B.59 to 16B.75, the commissioner shall administer and enforce the provisions of those sections.

In addition, Minnesota Statutes Section 471.467 subdivision 1 states in part,

Subdivision 1. On the date on which rules promulgated by the commissioner of administration regarding building requirements for handicapped persons shall become effective, said rules shall exclusively govern the provision of facilities.

III. Statement of Need

Congress enacted the Federal Fair Housing Amendment Act (FFHA) in 1988 and the Americans with Disabilities Act (ADA) in 1990. These acts were passed as civil rights legislation to prevent discrimination against persons with disabilities in housing, employment, providing public services, and commerce. *Purpose*
The effect of both laws is that they add to and overlap the present accessibility provisions in Chapter 1340 of Minnesota Rule. This creates a problem because owners and designers of new and remodeled buildings are now responsible for complying with two sets of overlapping and sometimes conflicting laws that regulate building access for the disabled. In order to simplify and consolidate the regulatory process for building owners, architects and other building designers, it is necessary that Minnesota adopt a new building accessibility code that incorporates the technical provisions of the Americans with Disabilities Act, the Accessibility Guidelines (ADAAG), and the Federal Fair Housing Act. The proposed changes in the rule accomplish this and are needed to produce a current accessibility code that efficiently and comprehensively regulates buildings being constructed and remodeled in Minnesota. The need and reasonableness of each rule will be discussed in part V.

IV. Statement of Reasonableness

Minnesota Statutes Chapter 14 requires the agency to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. This means that the agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the department is appropriate. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

The proposed rules are reasonable because they adopt by reference the 1994 Uniform

Building Code (UBC), a "Model code" that is widely used throughout the United States. The UBC contains scoping provisions that describes where and when accessibility is required, and makes reference to a technical construction standard. The technical standard referenced in the UBC is *CABO/ANSI A117.1-1992*. This too is a widely referenced recognized standard that aligns with most of the technical provisions contained in the Americans with Disabilities Act Accessibility Guidelines (ADAAG), ADA and FFHA. When either the UBC's scoping provisions or CABO/ANSI's technical standards do not adequately satisfy either the ADA, FFHA or the ADAAG, rule parts have been established to align the standard with the ADA, FFHA or the ADAAG. When this is the case the individual statements of reasonableness will reference the applicable section of either the ADA, FFHA or ADAAG.

V. Need and Reasonableness of Individual Rules

Each item in this section begins with the rule part or subpart number and the title of the subject matter.

This is followed by the proposed rule identified as "**Rule**": Note: Underlined portions of the rule indicates language proposed by the agency; strike-outs indicate language from either UBC or CABO/ANSI proposed to be deleted by the agency; text with no underlines or strike-outs indicates language unchanged from that appearing in either the UBC or CABO/ANSI documents.

The last paragraph of each item is identified "**SONAR**." This contains the Statement of Need and Reasonableness for the individual rule part or subpart. Note: Only text being shown added or deleted by the agency will be addressed in the SONAR.

(1) 1340.0100 Adoption of Uniform Building Code Chapter 11 and Appendix Chapter 11 Divisions I and II by Reference

Rule:

Chapter 11 and Appendix Chapter 11, Division I and II, of the 1994 edition of the Uniform Building Code as promulgated by the International Conference of Building Officials, Whittier, California are incorporated by reference and made part of the Minnesota State Building Code except as amended in this chapter. The Uniform Building Code is not subject to frequent change and a copy of the Uniform Building Code is available in the office of the commissioner of administration. In this chapter, "UBC" refers to the Uniform Building Code.

SONAR:

See parts III and IV item A.

(2) 1340.1102; Section 1102, Definitions

Rule:

PUBLIC BUILDING, for purposes of this chapter, means a building and its grounds the cost of which is paid for by the state or local government or any department, agency, special purpose district, or other instrumentality of the state or local government.

SONAR:

The definition of a *public building* is needed as the term is used differently in this chapter than other sections of the code. Public buildings have more restrictive elevator requirements than do other types of facilities based on the Americans with Disabilities Act (ADA). The definition used in this section of the code is reasonable because it is taken from Title II, Subtitle A of the ADA.

(3) 1340.1103; Section 1103, Building Accessibility

Subpart 1. UBC Section 1103.1.1

Rule:

General. Accessibility to temporary or permanent buildings, or portions thereof, shall be provided for all occupancy classifications except as modified by this chapter. All levels of a floor located on an accessible route shall be accessible by ramp or elevator except as modified by this chapter. See also Appendix Chapter 11.

EXCEPTIONS: 1. Floors or portions of floors not customarily occupied, including, but not limited to, elevator pits; observation galleries used primarily for security purposes; elevator penthouses; non-occupiable spaces accessed only by ladders, catwalks, crawl spaces or freight elevators; piping and equipment catwalks; and machinery, mechanical and electrical equipment rooms.

2. ~~Subject to the approval of the building official, areas where work cannot reasonably be performed by persons having a severe impairment (mobility, sight or hearing) need not have specific features which provide accessibility to such persons.~~

3. Temporary structures, sites and equipment directly associated with the construction process such as construction site trailers, scaffolding, bridging or material hoists are not required to be accessible. This exception does not include walkways or pedestrian protection required by Chapter 30.

SONAR:

This section is needed to assure that all levels on a floor of access be accessible. Raised or lowered areas such as jury boxes, witness stands, daises, conversation pits, etc., need to be accessible to all individuals. This is reasonable as it satisfies the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), Section 4.1.3 and presently exists as Minnesota Rule part 1340.0300 subp. 3. There is also a need to delete exception number 2 as it requires a subjective determination on the part of the building official to establish what types of work certain individuals are capable of performing. This is reasonable because it deletes a task that the building official is not qualified to perform.

(4) Subpart 2. UBC Section 1103.1.2.7(3)

Rule:

3. In Group I, Divisions 1.1 and 2 nursing homes and long-term care facilities, at least one in every two patient rooms, or fraction thereof, including associated toilet rooms and bathrooms. All nonaccessible rooms shall be adaptable and located on an accessible route.

SONAR:

This section adds the requirement that all non-accessible patient rooms be designed to be adaptable. This is needed because residents in nursing homes and long-term care facilities have a very high probability of requiring adaptable or accessible features. Medical personnel are also likely to be involved in these types of facilities and would benefit from adaptable features. This is reasonable because it addresses a substantiated need for accessibility in these facilities.

(5) Subpart 3. UBC Section 1103.1.2.9.1

Rule:

General. Group R Occupancies shall be accessible or adaptable as provided in this chapter.

EXCEPTION: Owner-occupied dwelling units.

~~When accessible dwelling units, guest and sleeping rooms are required, Public- and common-use areas and facilities such as recreational facilities, laundry facilities, garbage and recycling collection areas, mailbox locations, lobbies, foyers, and management offices shall be accessible.~~

EXCEPTION: When recreational facilities are provided accessory to accessible dwelling units, only 25 percent of recreational facilities need be accessible, provided not less than one of each type in each group of such facilities shall be accessible. All recreational facilities of each type on a site shall be considered in determining the total number of each type which are required to be accessible.

SONAR:

There is a need to establish the term "adaptable" in addition to "accessible" in this section. This is reasonable because adaptability is the requirement of Section 100.205 of the FFHA. This section exempts owner occupied dwelling units from the requirements. A change to the public and common use area is needed in this section to assure that all public use and common use areas are covered by this section and meet the requirements of this chapter. This is reasonable in order to comply with Section 100.205 of the FFHA.

(6) **Subpart 4. UBC Section 1103.1.2.9.2**

Rule:

Apartment houses and residential condominium developments. In apartment houses and residential condominiums containing more than ~~20~~ seven dwelling units, at least 2 percent, but not less than one, of the dwelling units shall be accessible. All dwelling units on a site shall be considered to determine the total number of accessible dwelling units. All dwelling units on accessible routes shall be adaptable. Accessible dwelling units shall comply with CABO/ANSI A117.1 sections 4.3.3, 4.13.5, 4.25, and 4.33. Adaptable dwelling units shall comply with CABO/ANSI A117.1 sections 4.3.3, 4.13.5, 4.20.2.2, 4.22.2.1, 4.22.2.2, 4.25.3, 4.33.3.1, 4.33.3.2.1, 4.33.3.2.3, 4.33.3.4.1, 4.33.3.4.3, 4.33.3.5 Exception 2, 4.33.3.6, 4.33.4.1, and 4.33.4.2.

EXCEPTIONS: 1. ~~Dwelling units required to be accessible may be adaptable dwelling units.~~
2. Dwelling units with two or more stories in a nonelevator building need not be accessible; or adaptable.

SONAR:

This section establishes a requirement for both accessible and adaptable dwelling units. The requirement for adaptable dwelling units is needed to allow for accessible space within the unit without requiring specific accessible features. Provision of adaptable units is reasonable in order to comply with the requirements of Section 100.205 of the FFHA. The requirement for providing some accessible dwelling units in developments containing more than seven units is maintained from present Minnesota Rule part 1340.0400. This is needed in order to assure that an adequate supply of readily accessible housing is available to individuals having such a need. It is reasonable to require some accessible units because there is a portion of the population that is in need of such accessible housing. Also, accessibility features do not distract from the unit and installation at a later date can be difficult and costly. This section also defines accessible and adaptable dwelling units by reference to specific sections of ANSI A117.1. This is needed in order to differentiate between what is considered accessible and what is considered adaptable. Referring to specific sections of ANSI A117.1 is the only reasonable means of defining accessible and adaptable dwelling units. The deletion of exception number 1 under this section is needed as both accessible and adaptable dwelling units are to be provided. Deleting this exception is reasonable and necessary given that there is a distinction between accessible and adaptable dwelling units.

(7) **Subpart 5. UBC Section 1103.1.2.9.3**

Rule:

Hotels and lodging houses. In hotels ~~and lodging houses containing six or more guest rooms, one of the first 30 guest rooms and one additional guest room for each additional 100 guest rooms, or fraction thereof, shall be accessible. Bathing, toilet and other facilities accessory to an accessible guest room shall be accessible.~~ motels, lodging houses, resorts, dormitories, and other similar places of transient housing, accessible facilities shall be provided according to UBC Table No. 11-D including associated bathing, shower, and toilet facilities. In hotels with 51 or more guest rooms, 50 percent, but not less than one, of the accessible guest rooms shall have a roll-in shower.

EXCEPTION: Transient housing that contains not more than five rooms for rent and that is actually occupied by the proprietor of the facility as the residence of the proprietor.

(7a) TABLE NO. 11-D - NUMBER OF ACCESSIBLE UNITS

<u>NUMBER OF ROOMS</u>	<u>ACCESSIBLE ROOMS</u>
<u>1-25</u>	<u>1</u>
<u>26-50</u>	<u>2</u>
<u>51-100</u>	<u>3</u>
<u>76-100</u>	<u>4</u>
<u>101-150</u>	<u>5</u>
<u>151-200</u>	<u>6</u>
<u>201-300</u>	<u>7</u>
<u>301-400</u>	<u>8</u>
<u>401-500</u>	<u>9</u>
<u>501-1,000</u>	<u>2% OF TOTAL UNITS</u>
<u>Over 1,000</u>	<u>20 plus 1 for every 100 units</u>

In addition to the accessible guest rooms required above, guest rooms for persons with hearing impairments shall be provided in accordance with Table 11-B. Guest rooms for persons with hearing impairments shall be provided with visible and audible alarm-indicating appliances, activated by both the in-room smoke detector and the building fire-protective signaling system.

(7b) TABLE NO. 11-B - NUMBER OF ROOMS FOR PERSONS WITH HEARING IMPAIRMENTS

<u>TOTAL NUMBER OF ROOMS</u>	<u>MINIMUM REQUIRED NUMBER</u>
<u>6 1-25</u>	<u>1</u>
<u>26-50</u>	<u>2</u>
<u>51-75</u>	<u>3</u>
<u>76-100</u>	<u>4</u>
<u>101-150</u>	<u>5</u>
<u>151-200</u>	<u>6</u>
<u>201-300</u>	<u>7</u>
<u>301-400</u>	<u>8</u>
<u>401-500</u>	<u>9</u>
<u>501-1,000</u>	<u>2% OF TOTAL UNITS</u>
<u>Over 1,000</u>	<u>20 plus 1 for every 100 rooms or fraction thereof, over 1,000</u>

SONAR:

This section expands the examples of covered facilities to include motels, resorts, dormitories, and other similar places of transient housing. This change is needed in order to clarify the types of facilities covered under this section. This is reasonable because it satisfies the requirements of Section 9 of the ADAAG. The introduction of Table 11-D is needed to determine the number of accessible units required. Table 11-B is amended based on a need that all rooms are considered when determining accessibility requirements. Finally, the exception needs to be added in order to establish an exception for certain facilities. These changes are reasonable because they satisfy the requirements of Section 9 of the ADAAG.

(8) Subpart 6. UBC Section 1103.1.2.9.4.

Rule:

Congregate residences. In congregate residences with more than 20 occupants, at least 2 percent, but in no case less than one, of the sleeping rooms shall be accessible.

All nonaccessible sleeping rooms designed for congregate senior housing shall be adaptable and located on an accessible route.

SONAR:

The requirement that congregate residences for senior populations be designed so that all dwelling units are adaptable and located on an accessible route is needed as senior populations are more likely to have, or to develop, some type of disability. Therefore, accessible features should be provided with access to all areas. This access is necessary for residents, visitors and medical personnel. This is reasonable because it addresses a substantiated need for accessibility in these facilities.

(9) Subpart 7. UBC Section 1103.2.2

Rule:

Accessible route. When a building, or portion of a building, is required to be accessible or adaptable, an accessible route shall be provided to all portions of the building, to accessible building entrances, connecting accessible pedestrian walkways and the public way.

EXCEPTION: In other than public buildings as defined in chapter 1302 and part 1340.1102, the offices of health-care providers, transportation facilities and airports, multi-tenant Group B, ~~Division 2 M~~ retail and wholesale occupancies, floors above and below accessible levels that have an aggregate area of not more than 3,000 square feet (278.7 cm) and an aggregate occupant load of not more than 50 need not be served by an accessible route from an accessible level.

When floor levels are required to be connected by an accessible route, and an interior path of travel is provided between the levels, an interior accessible route between the levels shall be provided. When only one accessible route is provided it shall not pass through kitchens,

storage rooms, toilet rooms, bathrooms, closets or other similar spaces.

EXCEPTION: A single accessible route may pass through a kitchen ~~or storage room~~ in an accessible or adaptable dwelling unit.

When more than one building or facility is located on a site, accessible routes shall be provided connecting accessible buildings and accessible site facilities.

EXCEPTION: For Group R, Division 1 apartment occupancies, when the slope of the finished grade between accessible buildings and facilities exceeds 1 unit vertical in ~~12~~ 20 units horizontal (~~8.33~~ 5% slope), or when physical barriers of the site prevent the installation of an accessible route, a vehicular route with parking at each accessible building or facility may be provided in place of an accessible route.

SONAR:

The concept of adaptability is needed in this section in order to correlate with previous amendments which established a difference between adaptable and accessible dwelling units. This requirement is reasonable because it will assure that an accessible route is provided to and through adaptable dwelling units as required by Section 100.205 of the FFHA. The term *public building* is needed in the first exception to assure that elevators are provided in those type facilities. This is reasonable because it satisfies the requirements of the ADA found at 28 CFR Part 35.151. The ability of an accessible route to pass through a storage room in a dwelling unit has been deleted from the second exception in this section. This is needed to assure that the accessible route is in fact the main route of entry and not a "back" entry. This is reasonable because it assures that persons with disabilities are not discriminated against and forced to use an entrance other than the main entrance. The reference to finished grade contained in the final exception of this section is changed from 1:12 to 1:20. This is needed and reasonable in order to correlate with the amendment at section 1340.1106

(10) Subpart 8. UBC Section 1103.2.4
1103.2.4.1

Rule:

International symbol of accessibility. In addition to the requirements of Minnesota Statutes, section 16B.61, subdivision 5, paragraph (e), the following elements and spaces of accessible facilities shall be identified by the international symbol of accessibility:

1. Accessible parking spaces, ~~except where the total parking spaces provided are five or less~~ regulated in Minnesota Statutes, section 169.346, subdivision 2, paragraph (a).
2. Accessible areas of refuge.
3. Accessible passenger loading zones.

4. Accessible toilet and bathing facilities.

SONAR:

Reference to Minnesota Statute 16B.61 is needed to identify the accessibility symbol and to comply with State guidelines. Reference to Minnesota Statute 169.346 is needed to provide additional information for the State requirement for parking signage. These changes are reasonable because they comply with present Minnesota law. There is a need to delete the reference to "five or less" parking spaces in order to assure that all parking areas comply with the requirements of this Section. This is reasonable because it complies with Section 4.1.2(5) of the ADAAG.

(10a) 1103.2.4.2

Rule:

Other signs. Inaccessible building entrances, inaccessible public toilets and bathing facilities, and elevators not on an accessible route shall be provided with directional signage indicating the route to the nearest similar accessible element.

~~In~~ For assembly areas, a sign notifying the general public of the availability of assistive listening systems shall be provided at in the assembly area, ticket offices, ~~or~~ and similar locations.

Signage which provides direction to or information about functional spaces of the building shall be provided in accordance with CABO/ANSI A117.1 sections 4.28.2, 4.28.3, and 4.28.5.

Signage indicating exits, restrooms, and room numbers shall be provided in accordance with CABO/ANSI A117.1 sections 4.28.2, 4.28.5, 4.28.6, and 4.28.7.

Each door to an exit stairway shall have a tactile sign, including raised letters and Braille, stating EXIT and shall comply with CABO/ANSI A117.1.

At exits and elevators serving a required accessible space, but not providing an approved accessible means of egress, signs shall be installed indicating the location of accessible means of egress.

SONAR:

Signage indicating the availability of an assistive listening system is needed at the assembly area. This is reasonable in order to assure that adequate notification is provided to persons benefiting from its' availability. There is a need to reference specific sections of ANSI A117.1 as informational signage and signage for permanent spaces have separate requirements under the ADA. Language referencing specific sections of ANSI A117.1 is reasonable because it satisfies the requirements of Section 4.1.2(7) of the ADAAG.

(11) 1340.1104; Section 1104, Egress and Areas of Refuge
UBC Section 1104.2.5

Rule:

Two-way communication. Areas of refuge shall be provided with a two-way communication system ~~between the area of refuge and a central control point~~ which provides both visible and audible signals. Such system shall connect the area of refuge and a central control point, or, if the central control point is not constantly attended, the ~~area of refuge~~ communication system shall also have controlled access to a public telephone system. Location of the central control point shall be approved by the fire department.

~~EXCEPTION: Buildings four stories or less in height~~

SONAR:

A requirement that the two way communication system have both audible and visual signals is needed in this section. This is reasonable because it satisfies the requirements of Section 4.3.11.4 of the ADAAG. In addition, the exception has been deleted in order to align with Section 4.3.11.4 of the ADAAG wherre there is no exception for two-way communicaton due to building height.

(12) 1340.1105; Section 1105, Facility Accessibility
Subpart 1. UBC Section 1105.3

Rule:

All platform lifts ~~used in lieu of an elevator~~ shall be capable of independent operation.

SONAR:

The change that requires all platform lifts be operable independently is needed in order to comply with the governing definition of "accessible" in Section 1102 of the UBC which states, "Accessible describes a site, building, facility, or portion thereof that complies with this chapter and that can be approached, entered, and used by persons with physical disabilities." This is reasonable because it satisfies the intent that levels and spaces of an accessible floor be accessible to persons with disabilities without dependence on other personnel.

(13) Subpart 2. UBC Section 1105.4.1

Rule:

Drinking fountains. ~~On any floor where drinking fountains are provided, at least 50 percent, but not less than one fountain, shall be accessible.~~

Where more than one drinking fountain is provided on a floor, 50 percent shall be accessible in accordance with CABO/ANSI A117.1. When only one drinking fountain is provided, there shall be one discharge spout provided in accordance with CABO/ANSI A117.1 and one discharge spout provided at a higher location; or other equivalent water provision equipment shall be provided.

SONAR:

This change is needed to clarify and expand the requirements for drinking fountains. This is reasonable because it satisfies the requirements of Section 4.1.3(10) of the ADAAG.

(14) Subpart 3. UBC Section 1105.4.8

Rule:

Telephones. On floors where public telephones are provided, 25 percent, but not less than one shall be accessible and be provided with a telecommunication device for the deaf (TDD) and be evenly dispersed throughout the floor. On floors where two or more banks of telephones are provided, at least one in each bank shall be accessible and be provided with a telecommunication device for the deaf (TDD). In addition, 25 percent, but not less than one of all other public telephones, shall be equipped with volume controls and shall be dispersed among all types of public telephones, including closed circuit telephones, throughout the building or facility.

Public telephones without volume controls or TDD's shall be provided with directional signage indicating the location of the nearest such device.

If a public telephone is located in or adjacent to a hospital emergency room, hospital recovery room, or hospital waiting room, one public telecommunication device for the deaf (TDD) shall be provided at each such location.

SONAR:

There is a need to add requirements for telephones to this section as none are currently provided. This is reasonable because it satisfies the requirements of Section 4.1.3(17) of the ADAAG. There is a need for additional TDD requirements based on public need and comment. Additional TDD requirements are reasonable to assure that individuals needing this device have equivalent opportunity. This section also addresses the need to have accessible telephones evenly dispersed throughout the floor. This requirement is reasonable because it limits the distance between accessible features.

(15) Subpart 4. UBC Section 1105.4.9

Rule:

Swimming pools. When common- or public-use swimming pools, hot tubs, spas, and similar facilities are provided, they shall be accessible. Swimming pools shall be accessible by transfer tier, hydraulic chair, ramp, or other means. Hot tubs and spas and similar facilities designed for more than four shall be accessible as per the swimming pool requirements.

EXCEPTION: Pools used exclusively for diving.

SONAR:

There is a need to add requirements for swimming pools and similar amenities to this section as none are currently provided. This is reasonable because it satisfies the requirements of Title II, Section 202 and Title III, Section 301 of the ADA.

(16) 1340.1106; Appendix Section 1106, Accessible Exterior Routes

UBC Appendix Section 1106.1

Rule:

General. Accessible exterior routes shall be provided from public transportation stops, accessible parking and accessible passenger loading zones and public sidewalks to the accessible building entrance they serve. Exterior accessible routes shall not exceed a slope of 1:20.

EXCEPTION: Curb ramps shall comply with CABO/ANSI A117.1 section 4.7.

When more than one building or facility is located on a site, at least one accessible route shall connect accessible elements, facilities and buildings that are on the same site. The accessible route between accessible parking and accessible building entrances shall be the most practical direct route.

SONAR:

The requirement in Minnesota Rule part 1340.0300 for exterior accessible slope has been maintained in this section. This is needed due to weather conditions of ice and snow. This is reasonable because it provides a more level surface and has been demonstrated to be an effective solution as it has been a part of Minnesota Rule for more than 20 years. An exception which allows a steeper slope at curb cuts has been included. This is needed in order to provide an accessible transition at curbs. This is reasonable because it satisfies the requirements of Section 4.7 of the ADAAG.

(17) 1340.1107; Appendix Section 1107, Parking Facilities

UBC Appendix Section 1107.3

Rule:

Signs. Accessible and van-accessible parking spaces required by this section shall be identified by a sign complying with CABO/ANSI A117.1 and Minnesota Statutes, section 169.346, Subdivision 2, paragraph (a), which includes the international symbol of accessibility.

~~EXCEPTION: Accessible parking space signs need not be provided in parking garages or parking facilities that have five or less total parking spaces.~~

SONAR:

Reference to Minnesota Statute 169.346 is needed to provide additional information for Minnesota's requirement for parking signage. This change is reasonable because it complies

with present Minnesota mandate. Deletion of the exception to this section is needed in order to cover all parking facilities. This is reasonable because it satisfies the requirements of Section 4.1.3(5) of the ADAAG.

(18) 1340.1110; Section 4.3.3, Accessible Route
Section 4.3.3 of CABO/ANSI A117.1

Rule:

Width. Clear width of an accessible route shall be 36 in (915 mm) minimum, except at doors (see 4.13.5). See Fig. B4.3.3(a). Clear width of the accessible route with turns around an obstruction less than 48 in (1220 mm) wide shall have a clear space of 42 in by 48 in (1065 mm by 1220 mm) minimum. See Fig 4.3.3(b).

EXCEPTION: The accessible exterior route to building entrances shall be not less than 48 inches wide (1220 mm).

SONAR:

The present requirement in Minnesota Rule part 1340.0300 for the minimum width of exterior accessible walks has been maintained in this section. This is needed because it allows for individuals to pass freely without obstruction. This is reasonable because it provides additional passing space and has been demonstrated to be an effective solution. Also, the ADAAG Appendix Section Figure A1, shows the minimum width for an ambulatory individual and wheelchair user to pass as 48 inches.

(19) 1340.1120; Section 4.6.2, Parking Spaces
Section 4.6.2 of CABO/ANSI A117.1

Rule:

Parking Spaces. Parking spaces for persons with disabilities shall be 96 in (2440 mm) wide minimum and shall have an adjacent access aisle 60 in (1525 mm) wide minimum. See Fig. B4.6.2. Parking access aisles shall be part of the accessible route to the building or facility entrance and shall comply with 4.3. Two accessible parking spaces shall be permitted to share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.

Accessible parking spaces shall be identified by a sign centered on the head of the space, located a maximum of 96 inches (2400 mm) from the head of the space. Such sign shall be mounted from 48 inches (1200 mm) to 60 inches (1525 mm) between the bottom of the sign and the parking surface, showing the international symbol of accessibility complying with 4.28.8. Signs shall not be obscured by a vehicle parked in the space, and complying with Minnesota Statutes, section 169.346, subdivision 2, paragraph (a). The line of sight from the driver's position, in a vehicle parked in the space, to the sign shall not be obscured by permanent or temporary objects.

EXCEPTION: Parallel parking spaces shall have the sign located on the side at the head end

of the space.

SONAR:

There is a need to change this section in order to provide specifications regarding the location and description of parking signage. It is reasonable as it will clarify for the public and enforcing authority the exact location of the parking space and help separate the parking space from the access aisle. Parallel parking space requirements have been provided as well and are needed because no prior requirements exist. It is reasonable because it adequately addresses the location of the signage for such spaces.

(20) 1340.1130; Section 4.10.1, New Elevators

Subpart 1. Section 4.10.1.12.1 of CABO/ANSI A117.1

Rule:

Control buttons shall be 3/4 in (19 mm) minimum in their smallest dimension. Control buttons shall be raised; or flush; ~~or recessed~~.

Control buttons shall be arranged with numbers in ascending order. When two or more columns of buttons are provided they shall read from left to right. See Fig. B4.10.1.12(a).

SONAR:

There is a need to delete the allowance of recessed control buttons. This is reasonable because it satisfies the requirements of Section 4.10.12 of the ADAAG.

(21) Subpart 2. Section 4.10.1.14 of CABO/ANSI A117.1

Rule:

Emergency Communications. If provided, car emergency signaling devices between the elevator and a point outside the hoistway shall comply with ~~ASME/ANSI A17.1 chapter 1307~~. The highest operable part of a two-way communication system shall be ~~54 in (1370 mm) maximum above the floor for parallel approach and~~ a maximum 48 in (1220 mm) ~~maximum~~ above the floor ~~for front approach~~. If the device is located in a closed compartment, the compartment door hardware shall comply with 4.25. The device shall be identified by raised symbols and lettering complying with 4.28 and located adjacent to the device. If the system uses a handset, the cord from the panel to the handset shall be 29 in (735 mm) long minimum. The car emergency signaling device shall not be limited to voice communication. If instructions for use are provided, essential information shall be presented in both tactile and visual form.

SONAR:

There is a need to limit the height of the emergency communication system to 48 inches above the floor. This is reasonable because it satisfies the requirements of Section 4.10.14 of the ADAAG.

(22) 1340.1140; Section 4.10.2, Existing Elevators
Section 4.10.2.5.1 of CABO/ANSI A117.1

Rule:

Car control buttons shall be 3/4 in (19 mm) minimum in their smallest dimension. Control buttons shall be raised; or flush ~~or recessed~~.

SONAR:

There is a need to delete the allowance of recessed control buttons. This is reasonable because it satisfies the requirements of Section 4.10.12 of the ADAAG.

(23) 1340.1150; Section 4.13.6, Maneuvering Clearances at Doors
Section 4.13.6.2 of CABO/ANSI A117.1

Rule:

Front approaches to push side of swinging doors, equipped with ~~both closer and a~~ latch, shall have maneuvering space that extends 12 in (305 mm) minimum beyond the latch side of the door and 48 in (1220 mm) minimum perpendicular to the doorway. See Fig. B4.13.6(a).

SONAR:

This section deletes the requirement for a door closer and requires that clear floor space be provided on any door having a latch. This is needed in order to assure that a person using a mobility device will have adequate clear floor space to approach the door, access the latch, and open the door. This is a reasonable solution because it bases the requirement for floor clearances on the fact that persons with disabilities need to access the latch - whether the door has a closer or does not have a closer is irrelevant.

(24) 1340.1160; Section 4.16.7, Diaper Changing Tables
CABO/ANSI A117.1 Section 4.16.7

Rule:

Diaper changing tables. When changing tables are provided, the work surface shall be mounted no higher than 34 inches (864 mm) above the floor.

SONAR:

This section is needed in recognition of the increased provision of diaper changing tables and the need that they be accessible. This is a reasonable solution because the mounting height is based on CABO/ANSI standard 4.31.4 for the height of work surfaces and service counters.

1340.1170; Section 4.17, Water Closets

(25) Subpart 1. Section 4.17.2 of CABO/ANSI A117.1

Rule:

Clear Floor Space. Clear floor space for water closets ~~not in stalls~~ shall be 48 in ~~minimum~~ (1220 mm) in front of the water closet and 42 in (1065 mm) from the center line of the water closet on the side not adjacent to the wall. see Fig. B4.17.2.

SONAR:

This section calls for 48 inches of space in front of the water closet. This is needed because it is based on the clear floor space required for wheelchairs found in other sections of this code. This is reasonable because it is based on CABO/ANSI standards set forth in other sections of this code and recognizes that a water closet has the same space requirements whether in a stall or not.

(26) Subpart 2. Section 4.17.4.1 of CABO/ANSI A117.1

Rule:

Horizontal side wall grab bar shall be 42 in (1065 mm) long minimum, located 12 in (305 mm) maximum from the rear wall and extending 54 in (1370 mm) minimum from the rear wall. see Fig. B4.17.3. In addition to the horizontal grab bar, a vertical grab bar shall be installed at least three inches (76 mm) but not more than six inches (152 mm) above the horizontal grab bar and be a minimum of 18 inches (458 mm) in length, located from 11 to 13 inches (280 to 330 mm) in front of the leading edge of the water closet. See Figure 1340.1260 B4.17.3.

SONAR:

The vertical grab bar requirement of the present State code found in Minnesota Rule part 1340.0500 is maintained in this section. The vertical bar is necessary for ambulatory individuals who are not provided with proper leverage from horizontal bars. This is reasonable because it provides the necessary leverage and has been demonstrated to be an effective solution. Over thirty letters, with many more signatures, have been received from individuals and organizations supporting the need for vertical grab bars.

(27) Subpart 3. Section 4.17.6 of CABO/ANSI A117.1

Rule:

Dispensers. Toilet paper dispensers shall comply with 4.25.4 and shall be installed ~~between~~ below the horizontal grab bar between 7 in and 9 in (180 mm and 230 mm) in front of the water closet. The outlet of the dispenser shall be located ~~between a minimum of 15 in and 48 in (380 mm and 1220 mm)~~ above the floor with at least two inches of clearance between the top of the dispenser and the horizontal grab bar. There shall be a clearance of 1 1/2 in (38 mm) minimum below and 12 in (305 mm) minimum above the grab bar. Dispensers shall not be of a type that control delivery, or that do not allow continuous paper flow. See Figure 1340.1260 B4.17.3.

SONAR:

Toilet paper dispensers need to be located below the horizontal grab bar in order to assure that both the horizontal and vertical bars are unobstructed and remain accessible. This is reasonable because it satisfies the requirements of Section 4.16.6 of the ADAAG.

1340.1180; Section 4.18.3, Wheelchair Accessible Stalls

(28) Subpart 1. Section 4.18.3.1 of CABO/ANSI A117.1

Rule:

Wheelchair accessible stalls shall be 60 in (1525 mm) wide minimum and ~~56 in (1420 mm) deep minimum for wall hung water closets and 59 in (1500 mm) deep minimum for floor mounted water closets~~ See Fig. B4.18.3.1. provide 48 inches (1220 mm) minimum clear space in front of the water closet. See Figure 1340.1270 B4.18.3.1.

SONAR:

This section calls for 48 inches of space in front of the water closet. This is needed because it is based on the clear floor space required for wheelchairs found in other sections of this code. This is reasonable because it is based on CABO/ANSI standards set forth in other sections of this code. See also Rule 1340.1170 of this code.

(29) Subpart 2. Section 4.18.3.2 of CABO/ANSI A117.1

Rule:

If the door swings into the stall, the required depth shall be ~~increased by 36 in (915 mm) minimum. See Fig. B4.18.3.2.~~ 66 inches (1677 mm) minimum clear space in front of the water closet. See Figure 1340.1280 B4.18.3.2.

SONAR:

This amendment takes into account the requirement at Rule 1340.1170 that all water closets will have 48 inches of space in front of them. This is needed because adding an additional 36 inches in front of the toilet if the door swings into the stall as the original section required, is not necessary. It is reasonable because it provides adequate space inside the stall for a wheelchair to turn and exit the stall.

(30) 1340.1190; Section 4.20, Lavatories and Sinks

Section 4.20.5 of CABO/ANSI A117.1

Rule:

Faucets. Faucets shall comply with 4.25.4. Self-closing faucets, when used, shall remain open for 10 seconds minimum. Self-closing faucets which require an individual to reach forward and push down to activate the mechanism shall not be used at accessible locations.

SONAR:

It has long been held by the disability community that self-closing faucets are difficult to use at best. When the control is located at the base of the faucet the motion required to reach across and activate the mechanism can be impossible. This section is needed as it prohibits the use of these type fixtures at accessible locations. It is reasonable because it resolves a hardship for persons with disabilities and because there are several other types of accessible controls available.

(31) 1340.1200; Section 4.21, Bathtubs

CABO/ANSI A117.1 Section 4.21.4.4

Rule:

Vertical Grab bar. A vertical grab bar shall be installed on the control end of the bathtub midway between the shower head and the entrance opening to the bathtub. The bar shall be a minimum of 24 inches (610 mm) in length and be mounted at least three inches (76 mm) but not more than six inches (152 mm) above the horizontal bar.

SONAR:

This section is needed to provide a vertical grab bar in the bathtub. It is reasonable because the location of the bar will assist individuals as they enter and exit the bathtub, and adjust the faucet control or the shower head. Vertical grab bars have been required in Minnesota Rule part 1340.0500 subpart 4 and have the support of many within the disability community.

(32) 1340.1210; Section 4.22, Shower Stalls

CABO/ANSI A117.1 Section 4.22.4.3

Rule:

A vertical grab bar shall be installed on the control side of the unit midway between the shower head and the entrance opening to the unit. The bar shall be a minimum of 24 inches (610 mm) in length and be mounted at least three inches (76 mm) but not more than six inches (152 mm) above the horizontal grab bar. When the control for the shower is mounted on the rear wall of the unit, a vertical bar shall be mounted on each side a maximum of nine inches (229 mm) away from the shower head.

SONAR:

This section is needed to provide a vertical grab bar in the shower. It is reasonable because the location of the bar will assist individuals as they enter and exit the shower, and adjust the faucet control or the shower head. Vertical grab bars have been required in Minnesota Rule part 1340.0500 subpart 5 and have the support of many within the disability community.

(33) 1340.1220; Section 4.24, Grab Bars

Section 4.24.2.2 of CABO/ANSI A117.1

Rule:

Position of Grab Bars. Grab bars shall be mounted in a horizontal position, 33 in to 36 in (840 mm to 915 mm) above the floor, except where a supplemental grab bar is installed in relation to a fixture rim or surface. Vertical grab bars shall be installed as required for water closets, bathtubs, and showers.

SONAR:

It is necessary and reasonable to reference vertical grab bars in this section in order to correlate and reinforce the mandate in sections 4.17.4.1, 4.21.4.4, and 4.22.4.3.

(34) 1340.1230; Section 4.31.5, Checkout Counters

Section 4.31.5 of CABO/ANSI A117.1

Rule:

Checkout Counters. Checkout counter surfaces shall be ~~38 in (965 mm)~~ 34 inches (865 mm) maximum above the finished floor. The top of the counter edge protection shall be ~~40 in (1015 mm)~~ 36 inches (915 mm) maximum above the finished floor.

SONAR:

The heights of checkout counters is adjusted in this section to reflect requirements for working heights and service counters found at Section 7.2 of the ADAAG. This is needed in order to assure access to these areas for persons with disabilities and it is reasonable because the requirements comply with ADAAG.

(35) 1340.1240; Section 4.33, Dwelling Units

Subpart 1. Section 4.33.2 of CABO/ANSI A117.1

Rule:

~~Adaptability. Both adaptable dwelling units and units in which fixtures are permanently installed within the heights specified in 4.33.3 and 4.33.4 shall be considered accessible dwelling units.~~

SONAR:

Deletion of this section of CABO/ANSI is needed because the definition of adaptability as presented conflicts with the distinction made between both accessible and adaptable dwelling units in proposed rule part 1340.1103 subparts 3 through 6.

(36) Subpart 2. Section 4.33.3.1 of CABO/ANSI A117.1

Rule:

Doors. Doors shall not swing into the clear floor space required for any fixture unless ~~the toilet or bathroom is for individual use only, or~~ a clear floor space complying with 4.2.4.1 is provided beyond the arc of the door swing within the room.

SONAR:

This amendment is needed to assure that all bathrooms in accessible or adaptable dwelling units will have adequate clear floor space. Providing an exception for bathrooms designed for individual use effectively eliminates the requirement altogether as all bathrooms in dwelling units are intended for individual use. This is reasonable because it satisfies the requirements of Section 100.205 of the FFHA.

(37) Subpart 3. Section 4.33.3.2.3 of CABO/ANSI A117.1

Rule:

Grab bars complying with 4.24 shall be installed, or structural reinforcement or other provisions shall be made that will allow installation of grab bars meeting these requirements.

EXCEPTION: Grab bars complying with section 4.24 shall be installed in accessible dwelling units.

SONAR:

The exception requires the installation of grab bars in dwelling units required to be accessible. This is needed and reasonable because proposed rule part 1340.1103 subparts 3 through 6 require accessible dwelling units.

(38) Subpart 4. Section 4.33.3.2.4 of CABO/ANSI A117.1

Rule:

The toilet paper dispenser shall comply with ~~4.16.4~~ 4.17.6.

SONAR:

Changing the reference for the location of the toilet paper dispenser to CABO/ANSI 4.17.6 is needed and reasonable in order to correlate with the provisions of proposed rule part 1340.1170 subpart 3.

(39) Subpart 5. Section 4.33.3.4.3 of CABO/ANSI A117.1

Rule:

Grab bars shall be installed in compliance with 4.21.4 or structural reinforcement shall be made that will allow installation of grab bars meeting these requirements.

EXCEPTION: Grab bars in accessible dwelling units shall be installed in compliance with section 4.21.4.

SONAR:

The exception requires the installation of grab bars in dwelling units required to be accessible. This is needed and reasonable because proposed rule part 1340.1103 subparts 3 through 6 require accessible dwelling units.

(40) Subpart 6. Section 4.33.3.5 of CABO/ANSI A117.1

Rule:

Showers. Where a shower is provided, it shall comply with 4.22.

Exception 1. In lieu of providing a seat, the wall opposite the controls in a shower stall shall be structurally reinforced the full depth of the stall at a height from 16 in to 20 in (405 mm to 510 mm) measured from the bathroom floor, to allow for the installation of a shower seat.

Exception 2. Structural reinforcement shall be permitted that will allow installation of grab bars complying with 4.22.4 in adaptable dwelling units.

SONAR:

Exception 2 has been amended to allow reinforcement for grab bar installation in adaptable dwelling units only. This is needed and reasonable because proposed rule part 1340.1103 subparts 3 through 6 require adaptable dwelling units.

(41) 1340.1250 Appendix B of CABO/ANSI A117.1

Rule:

The figures contained in this Appendix have been amended to comply with chapter 1340 and are provided only to illustrate some of the criteria in the standard. They are not part of the standard and are not intended to introduce criteria that are not contained in the standard.

SONAR:

This section simply states that due to some of the amendments to the code requirements, changes to the illustrations were necessary as well.

VI. Small Business Considerations

Minnesota Statute 14.115, subdivision 2 (1994) requires the department, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses;

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

The division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods listed above for reducing the impact of the rules on small businesses. The adoption of these rule amendments may have some affect on small businesses in Minnesota.

Since these Rules contain no scheduling deadline or reporting requirements, aspects of items (a) (b) and (c) are not applicable.

The "consolidation and simplification of compliance" as identified in item (c) is addressed in the "Statement of Need." The "Statement of Need" in part III explains how

these proposed rules are intended to consolidate and simplify compliance between the accessibility provisions contained in the Federal government's ADA and FFHA and Minnesota's contained in chapter 1340.

The rules in this chapter are performance based for all uses; not just for small businesses identified in item (d).

Item (e) is not applicable as the code is required by Minnesota Statute 16B.59 to provide basic and uniform performance standards for all residents of the state.

VII. Fiscal Impact

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

VIII. Conclusion

Based on the foregoing the proposed amendments to Minnesota Rules Chapter 1340 are both needed and reasonable.

Date 5/12/95



Elaine S. Hansen, Commissioner
Department of Administration