

STATE OF MINNESOTA  
DEPARTMENT OF ADMINISTRATION

In the Matter of the Proposed  
Amendment to the 1985 Uniform  
Building Code, Specifically  
Chapter 8, Section 801, (Child  
Day Care) 802 and Table 33-A

STATEMENT OF NEED  
AND REASONABLENESS

The above-captioned proposed rules are amendments to the existing Minnesota State Building Code as they relate to building code requirements for child day care facilities.

Pursuant to MN Stat. Section 16B.59 to 16B.73, the Commissioner of Administration is charged with the responsibility of promulgating the Minnesota State Building Code. It is the duty of the commissioner to amend the Minnesota State Building Code to maintain the most modern code standards regarding minimum safeguards of life, limb, health, property and public welfare together with regulating and controlling the design, construction, quality of materials, use and maintenance of buildings and structures.

The Minnesota State Building Code Rules, 1987 printing, effective February 17, 1987, Minnesota Rules 1300.0100 to 1300.2000, 1305.0100 to 1305.7100, 1310.0100 to 1310.9300, 1315.0200 to 1315.0400, 1320.0100 to 1320.2400, 1325.1000 to 1325.9500, 1330.0100 to 1330.2100, 1335.0200 to 1335.3000, 1340.0200 to 1340.9900, 1345.0010 to 1345.3300, 1350.0100 to 1350.9200, 1355.0100, 1360.0100 to 1360.3600, 1365.0200 to 1365.0800, 4215.0100 to 4215.6100 and 4715.0100 to 4715.0100 to 4715.6000, adopted the 1985 Edition of the Uniform Building Code by reference with certain amendments as a portion of the Minnesota State Building Code. The amendments to the 1987 publication of the rules updates the Minnesota State Building Code to incorporate the adoption of the 1985 Edition of the Uniform Building Code as promulgated by the International Conference of Building Officials, Whittier, California.

The proposed rules contain certain amendments to the Minnesota State Building Code, Chapter 1305 which adopts and includes amendments to the 1985 Edition of the Uniform Building Code.

The proposed rules reflect amendments for regional utilization in keeping with the legislative intent of MN Stat. Section 16B.61. The amendments provide for a modification of certain sections, change wording to clarify the intent, adopt and update to the recommendation of the Legislative Commission for the Review of Administrative Rules.

Any business entity which constructs, expands or remodels buildings is required to comply with the Minnesota State Building Code. When adopted, these proposed rules become part of the Minnesota State Building Code and will be applicable to all future construction. The rules are not applicable to existing structures unless they are declared unsafe (hazardous and substandard buildings, MN Stat. Section 463.15 to 463.26) or as otherwise modified by Section 104 of the Uniform Building Code, 1985 Edition.

The Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by MN Stat. Section 14.115, subd. 2, for reducing the impact of the rules on small businesses. The proposed rules do not require businesses to make reports so the requirements for reporting identified in items (a), (b) and (c) are not applicable.

Compliance requirements of items (a), (b), (c) and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for construction of all public, private, commercial, industrial or residential

structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. MN Stat. Section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the proposed rulemaking, MN Stat. Section 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of building standards is in the public interest. MN Stat. Section 16B.85 states in part:

The (building) code and any amendments thereof shall conform insofar as practicable to model building codes generally accepted and in use throughout the United States.

Minnesota Statute Section 14.115, subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The code and its amendments are based on the application of scientific principles, approved tests and professional judgement; and to the extent practicable, are in terms or results rather than requiring specific methods or materials. The Building Code uses performance standards wherever possible. Since the performance standards apply across the board to all entities subject to the Building Code, the methods of reducing the impact of the rules provided by Subdivision 2(d) has been utilized. No special changes are necessary for small businesses.

The Building Codes and Standards Division has evaluated the effects of MN Stats. 3.981 to 3.983 and 14.131 and believe that the promulgation of these proposed rules will not result in the expenditure of additional monies by local public bodies nor have an impact on agricultural land and meets the test of the exceptions to fiscal notes as provided by MN Stat. 3.983.

Elroy Berdahl, Supervisor, and Alvin Kleinbeck, Code Administrator, of the Building Codes and Standards Division will appear on behalf of the proposed rules at the hearing if a hearing is required. They will testify regarding the need for and reasonableness of the proposed rules. The substance of the testimony is set forth herein.

The following is the evidence and argument which supports the need for and reasonableness of the proposed rules.

1305.2050

UBC Section 801

Occupancies Defined

The number of the children defined in the occupancy classification as a day care use is increased from "more than 6" to "more than 10" to reflect a correlation between code requirements and the direction given by the Legislative Committee for the Review of Administrative Rules in relation to day care provider provisions.

UBC Section 802(c)

Special Provision Day Care

and Others

This item is amended to be consistent with national model code language for day care application.

1305.6200

UBC Table 33-A

The deletion and changes of the footnotes identified are editorial for the 1985 UBC. Line item #18 changes the number of occupants from 7 to 10 to reflect the recommended change from L.C.R.A.R.

Date:

July 29, 1987

Sandra J. Hale

SANDRA J. HALE, COMMISSIONER

DEPARTMENT OF ADMINISTRATION