

12-11-2006



THE MINNESOTA BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING,
LANDSCAPE ARCHITECTURE, GEOSCIENCE & INTERIOR DESIGN

December 8, 2006

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In The Matter Of The Amendment to Rules Of The Minnesota Board of Architecture,
Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design
Governing Classes of Buildings, *Minnesota Rules*, Chapter 1800.5000 to 1800.5800,
Governor's Tracking Number AR211

Dear Librarian:

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture,
Geoscience, and Interior Design intends to adopt rules Classes of Buildings, *Minnesota
Rules*, Chapter 1800.5000 to 1800.5800, Governor's Tracking Number AR211.
We plan to publish a Dual Notice Of Hearing in the December 11, 2006, State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota
Statutes, sections 14.131 and 14.23, the Board is sending the Library a copy of the Statement of
Need and Reasonableness at the time we are mailing our Notice of Intent to Adopt Rules.

If you have any questions, please contact me at (651) 296-2379.

Yours very truly,

A handwritten signature in cursive script that reads "Patricia Litchy, J.D.". The signature is written in dark ink.

Patricia Jane Litchy, J. D.
Rules Coordinator

Enclosure: Statement of Need and Reasonableness

85 East 7th Place, Suite 160, St. Paul, MN 55101
p. 651.296.2388 ■ f. 651.297.5310 ■ TTY 800.627.3529
www.aelslagid.state.mn.us

**Minnesota Board of Architecture, Engineering, Land Surveying, Landscape
Architecture, Geoscience and Interior Design**

STATEMENT OF NEED AND REASONABLENESS

**Proposed Amendment to Rules Governing Classes of Buildings, *Minnesota
Rules*, Chapter 1800.5000 to 1800.5800.**

INTRODUCTION

The nature of the proposed rule is to amend rules, which generally pertain to all licensees and all certificate holders within the Board's regulatory jurisdiction. The proposed rules will simplify existing rules by clarifying what type of structures require the professional services of those professions within the Board's regulatory jurisdiction.

These proposed rules do not include substantive changes to the current rules other than adding "retaining walls with over 4 feet of vertical exposed face" to the table under the Utility occupancy to clarify current and past practice related to retaining walls with less than 4 feet of vertical exposed face. This clarification is necessary since retaining walls are a necessary component of buildings when shaping final site grading at and around buildings. Contractors, building suppliers, unlicensed designers and licensed professionals generally understand that both exempt and non-exempt buildings includes use of the empirical standard allowing retaining walls up to 4 feet of vertical exposed face to be designed by unlicensed designers. It is also understood that retaining walls above 4 feet of vertical exposed face exceeds the use of empirical and prescriptive design standards and requires the practice of engineering to design the retaining wall. The modifications proposed are simply a reorganization of an existing rule. The reorganization is intended to increase the usability, enforceability, and clarity of the rule language so that individual users can rely on the rule and easily determine whether services related to particular structures and/or circumstances are required to be performed by a professional licensed by the Board. The Board does not intend to make any other modifications to the rules.

Currently, Minnesota Rules, Chapter 1800.5800, identifies various types of structures by conveniently using the categories articulated in the Minnesota State Building Code (hereinafter "MSBC") as occupancy classifications along with the Board's determination on which of those occupancies require the services of a professional licensed by the Board by a finding of no probable risk to life, health, property or public welfare. In keeping with the Board's previous findings the chart identifies those structures that require licensed design (nonexempt structures); circumstances where the services of a professional licensed by the Board are not required (exempt structures); and those circumstances where an occupancy that has been identified as exempt requires the services of a professional licensed by the Board based upon the complexity of the structure in particular circumstances

(exemption thresholds). Please note that the Board is not required to use the occupancy classifications articulated in the MSBC; however, it chose to do so in order to maintain continuity in the vernacular particular to structures, which has enhanced the usability and enforceability of the rule. The Board believes that its continued use of the occupancy classifications established by the MSBC will maintain the continuity it has already established to the benefit of all users.

The MSBC has been amended since the current rule was adopted. Several modifications were made to the occupancy classification categories used by the Board in Minn. R. ch. 1800.5800 during the last amendment to the MSBC^[1]. While these modifications do not impact the nonexempt, exempt, or threshold statuses pertaining to the structures identified in the rule, the Board should take rulemaking action so that the rule reflects the occupancy classifications currently in use. To do so is in keeping with the Board's goal of maintaining continuity within the vernacular particular to structures and will ensure that individual users of the rule are able to do so with ease and understanding rather than confusion.

Additionally, the Board has found that users are sometimes confused by the inclusion of nonexempt structures in the current rule because of the potential implication that there are thresholds that allow for the unlicensed design of nonexempt structures in certain circumstances. The Board intends to eliminate any confusion in this regard by deleting references to nonexempt structures entirely. This action is consistent with the previous findings of the Board, which identified the probable risk to life, health, property, or public welfare inherent in the unlicensed design of the types of structures identified as nonexempt.

The Board believes this rulemaking will enhance the usability, understanding, and enforceability of the rules for interested members of the public, code officials, building contractors, and the licensees and certificate holders within the Board's jurisdiction while meeting its mission of safeguarding life, health, and property, and promoting the public welfare.

This rulemaking does not make substantive changes to existing law with the exception of adding "retaining walls with over 4 feet of vertical exposed face" to the table under the Utility occupancy. Rather, this rulemaking will reorganize various categories of structures into the occupancy classifications currently used by the MSBC while retaining the exempt and threshold statuses that currently exist in rule.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Doreen Johnson Frost at the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design, 85 East 7th Place, Suite 160, St. Paul, Minnesota 55101. TTY users may call the Board at 1-(800) 627-3529.

STATUTORY AUTHORITY

All sources of statutory authority were adopted and effective before January 1, 1996, so Minnesota Statutes, section 14.125, does not apply. See Minnesota Laws 1995, chapter 233, article 2, section 58. The Legislature granted the Board's authority to engage in rulemaking in Minnesota Statutes § 326.06, which states in pertinent part:

"The board shall make rules to define classes of buildings with respect to which persons performing services described in section 326.03, subdivision 2, may be exempted from the provisions of sections 326.02 to 326.15, by a finding of no probable risk to life, health, property or public welfare."

Under this statute, the Board has the necessary statutory authority to adopt the proposed rules.

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below quote these factors and then give the Board's response.

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

The Board does not anticipate that these proposed rules will increase the number of classes of persons affected by the proposed rules. The classes of persons affected by the proposed rules are likely to remain those individuals requiring the services of professionals licensed by the Board, those individuals licensed by the Board, and Code Officials.

Those classes of persons that will bear the costs of the proposed rules will likewise remain the same: individuals requiring the services of professionals licensed by the Board, those individuals licensed by the Board.

Similarly, the classes of persons that will benefit from the proposed rules remain the same and can be identified as those individuals that frequent structures that require licensed design. Additionally, all users of the proposed rules will benefit in that the rules will be easier to understand and apply to particular circumstances.

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

The probable costs to the agency of the implementation of the proposed rule will include the costs associated with the rulemaking. The Board does not anticipate any increase or decrease in the costs pertaining to the implementation of the proposed rule since the rule already exists as law and has already been implemented. Likewise, the probable costs of enforcing the proposed rule is not expected to increase or decrease for the same reason.

The Board is charged with the implementation and enforcement of the proposed rule. As such, it does not anticipate any probable costs to any other agency of implementation and enforcement of the proposed rule.

The Board does not anticipate any effect on state revenue for the reasons stated above.

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;

This rulemaking is the least costly and the least intrusive method of achieving the purpose of the proposed rule since it is the most economical method available to continue implementing the purpose and intent of the existing rule.

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

The Board did not consider any alternative methods for achieving the purpose of the proposed rule.

(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;

The probable costs of complying with the proposed rule will remain the same regardless of whether or not the proposed rule is adopted since these requirements already exist in law. As such, the Board did not evaluate the costs of complying with the proposed rule. Likewise, the Board did not evaluate the portion of costs to be borne by identifiable categories of affected parties for the same reasons.

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable

categories of affected parties, such as separate classes of government units, businesses, or individuals;

The probable costs of not adopting the proposed rule is difficult to determine as quantifiable determinable costs in the monetary sense; however, the probable costs of not adopting the proposed rules are likely to include additional costs as it relates to various identifiable categories of affected parties.

For example, determining whether or not a license is required to perform professional services on particular types of structures may become progressively more difficult for all affected parties and in particular unlicensed individuals, licensees, other governmental agencies, and the Board. It is possible and quite likely that as the MSBC is amended the current rule will become increasingly antiquated and difficult to read, interpret, and apply to specific types of structures. This will require all users of the rule to invest additional time in determining the necessary and appropriate licensee(s) that are permitted or required to provide services on particular types of structures. Additionally, although the MSBC has not been adopted throughout Minnesota, licensees are required to adhere to the statutes and rules of this Board within Minnesota's boundaries and unlicensed persons are prohibited from practicing in the licensed professions within the Board's regulatory jurisdiction. To leave the rule in such a confusing state will result in additional costs to licensees and all other users of the rule.

Other governmental agencies are also likely to experience increased costs. For example, when using the current rule code officials are not able to easily or quickly determine when a licensed design professional is required for a particular structure. One consequence of not adopting the proposed rule will be the increased staff time and effort for the code official's agency to determine when licensure is or is not required.

As licensees and other governmental agencies experience increased costs that result from the perceived confusion present in the current rule, so too will the Board. Licensees and other governmental agencies look to the Board to read, interpret, and apply the statutes and rules within its jurisdiction and the Board is regularly contacted to determine which structures require the services of licensed professionals. The additional expenses associated with licensees and other governmental agencies are similar: added staff costs to address questions, provide explanation and interpretation, and to supply explanatory and reference materials.

Users of the rule are also likely to experience increased costs associated with the time required to seek answers to their questions regarding the application and interpretation of the rule.

The Board's adoption of these proposed rules will negate these potentially additive costs, which is in keeping with today's expectation and demand for streamlined, effective, and efficient government.

(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference;

There is no relationship between these rules and federal regulations.

PERFORMANCE-BASED RULES

Minnesota Statutes, § 14.002 and 14.131, require that the Statement of Need and Reasonableness describe how the Board, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the Board's regulatory objectives and maximum flexibility for the regulated party and the board in meeting those goals.

These rules are inherently prescriptive in that the appropriately licensed professional is either required or not required as it relates to particular types of structures. Having said that it is important to note that the MSBC is itself a performance-based standard that allows flexibility to the regulated party.

ADDITIONAL NOTICE

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a November 15, 2006 letter by Administrative Law Judge Beverly Jones Heydinger.

Copies of the Dual Notice of Intent to Adopt and the proposed rules will be mailed to:

- the League of Minnesota Cities;
- the Minneapolis/St. Paul Building Owners & Managers Association;
- the Construction Specification Institute;
- the Minnesota Mechanical Contractors Association;
- the Builders Association of the Twin Cities;
- the Minnesota Construction Association;
- the Department of Labor and Industry, Construction Codes & Licensing Division, Building Codes and Standards;
- the Minnesota State Fire Marshall;
- the Association of MN Building Officials;
- the Department of Labor and Industry, Construction Codes & Licensing Division, Electrical Licensing and Inspection; and
- the Department of Labor and Industry, Construction Codes & Licensing Division, Plumbing and Engineering.

A copy of the Dual Notice of Intent to Adopt, the proposed rules, and the

SONAR will be placed on the Board's website.

The Board's Notice Plan also includes giving notice as required by statute. We will mail the Dual Notice of Intent to Adopt and the proposed rules to everyone who has registered to be on the Board's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116.

CONSULT WITH FINANCE ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Board has consulted with the Commissioner of Finance. The Board did this by sending to the Commissioner of Finance copies of the documents sent to the Governor's Office for review and approval by the Governor's Office prior to the Board publishing the Notice of Intent to Adopt. We sent the copies on March 27, 2005. The documents included: the Governor's Office Proposed Rule and SONAR Form; almost final draft rules; and almost final SONAR. The Department of Finance sent a letter dated March 31, 2006 and had no comments.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city since the cost of complying with the current rule is not impacted by the adoption of the proposed rule.

The Board has made this determination because the proposed rules are not intended to make substantive modifications to existing rules, which it believes will result in no change to the cost of complying with the current rule.

LIST OF WITNESSES

If these rules go to a public hearing, each of the following Board members will be available to testify in support of the need for and reasonableness of these rules:

Mr. Harvey Harvala, Professional Engineer, Board Chair
Mr. Jerome Ritter, Architect, Board Vice Chair
Ms. Rachelle Schoessler Lynn, Certified Interior Designer, Board Secretary
Mr. Duane Blanck, Professional Engineer, Board Treasurer
Mr. James O'Brien, Architect, Certified Interior Designer, FAIA, Immediate Past Board Chair

Mr. William Arockiasamy, Professional Engineer
Mr. Donald Borcharding, Professional Engineer and Land Surveyor
Mr. William Brown, Land Surveyor, Board Treasurer
Mr. Douglas Hildenbrand, Architect
Ms. Mary Ives, Public Member
Ms. Diane Johnson, Public Member
Ms. Kristine Kubes, Public Member
Mr. Michael Kunz, Professional Geologist
Ms. Billie Lawton, Public Member
Mr. Doug Cooley, Professional Engineer
Ms. Caren Martin, Ph.D., Certified Interior Designer
Mr. Patrick Parsley, Public Member
Ms. Doris Preisendorf Sullivan, Landscape Architect, FASLA
Mr. William T. Sutherland, Professional Engineer
Mr. C. John Uban, Landscape Architect
Ms. Mary West, Professional Soil Scientist

The Board's Executive Director, Doreen Johnson Frost, may also testify regarding these rules.

RULE-BY-RULE ANALYSIS

The Board adopted rules related to building classes and the occupancy classifications of buildings in 1997. The rulemaking defined classes of buildings that are exempted from the requirement of licensed professional design by a finding of no probable risk to life, health, property or public welfare. The Board presented its findings in the table located in rule part 1800.5800, which, with specificity, identified the maximum thresholds to which an unlicensed individual can perform design services related to specific building classes/occupancy classifications without the individual's prior acquisition of a professional license in one or more of the professions regulated by the Board (the "threshold exemptions"). The Board also specifically identified unique circumstances in which the threshold exemptions would not apply based on a finding of probable risk to life, health, property or public welfare.

The Department of Administration Building Codes and Standards Division ^[2] (BCSD) amended the MSBC by adopting the International Building Code by reference except as qualified by applicable provisions in chapter 1300, part 1305.0021, and as amended in Minnesota Rules, Chapter 1305. The Board is proposing this rulemaking in response to the MSBC modifications because the definitions of several building classes/occupancy classifications were changed or modified, which directly impacts several building classes/occupancy classifications contained Minn. R. Ch. 1800.5800.

The modified MSBC has created confusion as it relates to the threshold exemptions contained in rule part 1800.5800, which has made the table difficult to

understand and apply. As a result, the Board has determined that a rulemaking is necessary to bring clarity to the rules and, in particular, the building classes/occupancy classifications discussed in Minn. R. 1800.5000-1800.5800.

The Board has further determined that a rulemaking is necessary to address any real or perceived inconsistencies between the building classes/occupancy classifications contained in the rules within its jurisdiction and the definitions contained in the MSBC.

The Board anticipates that this rulemaking will provide clarity to the rules by eliminating any real or perceived confusion contained in the building class/occupancy classification threshold exemptions. Additionally, the Board will propose clarifying language related to the exceptions currently in rule. Finally, modifications to the definitions of the terms used in the rules will be proposed where the MSBC definitions are no longer consistent with the intent of the Board's 1997 rulemaking.

For example: In circumstances where the MSBC has simply relabeled building classes/occupancy classifications without changing the correlating definitions, the Board anticipates fine-tuning its rule language accordingly. In circumstances where the MSBC has created confusion or the potential for interpretation inconsistencies within the rules, the Board will propose modification to the rules to address such changes via definitions or other clarifying language.

The chart below contains the language of rule part 1800.5800:

1800.5800 CLASSES OF BUILDINGS.

M.S.B.C Occ'y Group		Use	No. Stories and Basement	Maximum Gross Square Footage (GSF)
A	1	Assembly - 100 or more persons w/stage	NONEXEMPT	
	2	Assembly - less than 1000 persons, w/stage		
	2.1	Assembly/Educ. - 300 or more persons w/o stage		
	3	Assembly/Educ. - less than 300 persons w/o stage		
	4	Assembly - Stadia, Reviewing Stands, Etc.		
B		Business - Office, Service (other than group H occupancies below)	2-story and basement	2250 GSF

		Business - Dining/Drinking less than 50 persons (other than group A occupancies above)	1-Story, no basement	Seating for not more than 20 persons or 1000 GSF
E	1	Educational, 50 or more persons through 12th grade for more than 12 hrs/week or 4 hrs/day	NONEXEMPT	
	2	Educational - Less than 50 persons through 12th grade form more than 12 hrs/week or 4 hrs/day		
	3	Educational - Day care for more than 6 persons		
F	1	Factory/Industrial - moderate hazard	NONEXEMPT	
	2	Factory/Industrial - low hazard	1-story, no basement	3000 GSF
H	1	Hazardous - explosive hazard	NONEXEMPT	
	2	Hazardous - moderate explosive hazard		
	3	Hazardous - high fire or material hazard		
	4	Hazardous - repair garage (other than group S-3 occupancies)		
	5	Hazardous - aircraft hanger/heliport (other than group S-5 occupancies)		
	6	Hazardous - semiconductor fabrication w/hazardous production material		
	7	Hazardous - other health hazard		
I	1.1	Institutional - full time nurseries for children under 6 years of age, hospitals, sanitariums, nursing homes, and similar buildings (each accommodating more than 4 persons)	NONEXEMPT	

M.S.B.C Occ'y Group	Use	No. Stories and Basement	Maximum Gross Square Footage (GSF)
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I cont.	1.2	Institutional - detoxification centers, homes for children 6 years of age or over (each accommodating more than 5 persons)	NONEXEMPT	
	2	Institutional - nursing homes, homes for children under 6 years (each accommodating more than 4 patients or children)		
	3	Institutional - mental hospitals, jails, sanitariums, etc.		
M		Mercantile - retail/wholesale display and sales	2-story, basement	1500 GSF
R	1	Residential- hotels, apartment houses/ condominiums (4 units or more), and congregate residences (each accommodating more than 10 persons)	NONEXEMPT	
	3	Residential - dwellings, lodging houses, attached single-family dwellings/ townhomes, and congregate residences (each accommodating 10 persons or less)	EXEMPT	
S	1	Storage - Moderate Hazard (Other than Group S-2 or Group H Occupancies)	NONEXEMPT	
	2	Storage - Low Hazard and Noncombustible	1-Story, No Basement	5000 GSF
	3	Storage - Repair Garage and Parking (Other than Group S-4 Occupancies)	NONEXEMPT	
	4	Storage - Open Parking Garage		
	5	Storage - Aircraft Hangers and Helistops	1-Story, No Basement	3000 GSF
U	1	Utility - Private Garages, Barns, Carports, Sheds, and Agricultural Buildings (see 1800.5200 Subd. 2 Statutory Exception above)	1-Story, No Basement	1000 GSF
	2	Utility - Fences Higher then 8' 0", Tanks and Towers	NONEXEMPT	
Mixed Use or Occupancy		NONEXEMPT Exception: Buildings containing only R-3 and U occupancies may be considered exempt subject to the limitations listed above. See MSBC for further information regarding buildings of mixed use or occupancy.		
Buildings and		NONEXEMPT		

Structures requiring special inspections in accordance with MSBC	Exception: exempt buildings and structures requiring special instructions for limited structural elements may be considered exempt for the purposes of architectural design only. Those limited structural elements requiring special inspections shall be designed by an engineer licensed and practicing pursuant to Minnesota Statutes, section 326.03 to 326.15.
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The Board intends to delete the table as it is currently written and propose the following chart, which embodies the modifications discussed above.

Classifications	Elements that must be met to be exempt*
Assembly (as defined by the MSBC under occupancy group A2: Dining and drinking less than 50 persons)	Not greater than 1-story with no basement; and Seating for not more than 20 persons; and Not greater than 1,000 Gross Square Footage (GSF)
Business (as defined by the MSBC under occupancy group B)	Not greater than 2-story with a basement; and Not greater than 2250 GSF
Factory (as defined by the MSBC under occupancy group F2)	Not greater than 1-story with no basement; and Not greater than 3,000 GSF
Mercantile (as defined by the MSBC under occupancy group M)	Not greater than 2-story with a basement; and Not greater than 1,500 GSF
Residential (as defined by the MSBC under occupancy group, R)	Apartment houses/condominiums (3 units or less), dwellings, lodging houses, attached single family dwellings/townhomes, and congregate residences (each accommodating 10 persons or less)
Storage (as defined by the MSBC under occupancy group S1: Aircraft hangars and helistops)	Not greater than 1-story with no basement; and Not greater than 3,000 GSF
Storage (as defined by the MSBC under occupancy group S2 except for parking garages, open or enclosed)	Not greater than 1-story with no basement; and Not greater than 5,000 GSF
Utility (as defined by the MSBC under occupancy group U except for fences higher than 8 feet, tanks and towers, and retaining walls with over 4 feet of vertical exposed face)	Not greater than 1-story with no basement; and Not greater than 1,000 GSF

* All terms used in this table shall be as defined by the Minnesota State Building Code.

The chart has been restructured to provide users with clear and specific language that identifies the variety of structures that do not require the professional services of the professions licensed by this Board.

In keeping with the modifications made to the occupancy classifications articulated in the MSBC, the current rule language has been modified in the following manner:

1. The Business – Dining/Drinking less than 50 persons classification has been moved to the Assembly classification where it now resides in the MSBC. All other references to the Assembly classification have been removed because they remain nonexempt;
2. The Business occupancy classification retains the threshold currently in rule;
3. The Educational occupancy classification has been removed because all structures in this classification are nonexempt;
4. The Factory – Moderate Hazard (F1) occupancy classification has been removed because the structures in this classification are nonexempt;
5. The factory – Low Hazard (F2) occupancy classification retains the threshold currently in rule;
6. The Institutional occupancy classification has been removed because the structures in this classification are nonexempt;
7. The Mercantile occupancy classification retains the threshold currently in rule;
8. The Residential thresholds have been retained as currently written without the numerical designation of R1 and R3;
9. The Storage occupancy classification retains the thresholds currently in rule; and
10. The Utility occupancy classification retains the thresholds currently in rule, and adds the following: “and retaining walls with over 4 feet of vertical exposed face.” This item is to clarify current and past practice related to retaining walls with less than 4 feet of vertical exposed face which may or may not be integral with the exempt building foundations. This clarification is necessary since retaining walls are a necessary component of buildings when shaping final site grading at and around buildings. Other examples include use of retaining walls at light wells and window egress areas adjacent to building foundations. Contractors, building suppliers, unlicensed designers and licensed professionals generally understand that both exempt and non-exempt buildings includes use of the empirical standard allowing retaining walls up to and including 4 feet of vertical exposed face to be designed by unlicensed designers. It is also understood that retaining walls above 4 feet of vertical exposed face exceeds the use of empirical and prescriptive design standards and requires the practice of engineering to design the retaining wall.

The 4 foot empirical standard is related to a long term residential empirical standard for cantilevered masonry foundation retaining walls which limits the height to thickness ratio to 6:1 for solid masonry. For example, an 8 inch wide solid masonry cantilevered basement wall will be limited to 4 feet in height which is a standard that has been used for many years in MN, generally successfully in residential construction. This empirical exemption limitation of up to and including 4 feet of vertical exposed face has been extended and applied by the construction industry to related site retaining walls successfully while maintaining public health, safety and welfare

LIST OF EXHIBITS

In support of the need for and reasonableness of the proposed rules, the Board anticipates that it will not be entering exhibits into the hearing record.

CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

BOARD OF ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE
ARCHITECTURE, GEOSCIENCE, AND
INTERIOR DESIGN

8/10/06
[Date]

Harvey H. Harvala
Harvey H. Harvala, Professional Engineer
Board Chair

SONAR: Occupancy Classification Rules FY 2006, 08/10/2006