

326B.106 GENERAL POWERS OF COMMISSIONER OF LABOR AND INDUSTRY.

Subdivision 1. **Adoption of code.** Subject to sections 326B.101 to 326B.194, the commissioner shall by rule and in consultation with the Construction Codes Advisory Council establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control. The code must also include duties and responsibilities for code administration, including procedures for administrative action, penalties, and suspension and revocation of certification. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation. 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 judgment. 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 specifications 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 326B.101 to 326B.194, the commissioner shall administer and enforce the provisions of those sections.

The commissioner shall develop rules addressing the plan review fee assessed to similar buildings without significant modifications including provisions for use of building systems as specified in the industrial/modular program specified in section 326B.194. Additional plan review fees associated with similar plans must be based on costs commensurate with the direct and indirect costs of the service.

Subd. 2. **Administration by commissioner.** The commissioner shall administer and enforce the State Building Code as a municipality with respect to public buildings and state licensed facilities in the state. The commissioner shall establish appropriate permit, plan review, inspection fees, and surcharges for public buildings and state licensed facilities.

Municipalities other than the state having an agreement with the commissioner for code administration and enforcement service for public buildings and state licensed facilities shall charge their customary fees, including surcharge, to be paid directly to the jurisdiction by the applicant seeking authorization to construct a public building or a state licensed facility. The commissioner shall sign an agreement with a municipality other than the state for plan review, code administration, and code enforcement service for public buildings and state licensed facilities in the jurisdiction if the building officials of the municipality meet the requirements of section 326B.133 and wish to provide those services and if the commissioner determines that the municipality has enough adequately trained and qualified building inspectors to provide those services for the construction project.

The commissioner may direct the state building official to assist a community that has been affected by a natural disaster with building evaluation and other activities related to building codes.

Administration and enforcement in a municipality under this section must apply any optional provisions of the State Building Code adopted by the municipality. A municipality adopting any optional code provision shall notify the state building official within 30 days of its adoption.

The commissioner shall administer and enforce the provisions of the code relating to elevators statewide, except as provided for under section 326B.184, subdivision 4.

Subd. 3. Enforcement by certain bodies. Under the direction and supervision of the commissioner, the provisions of the code relating to electrical installations, plumbing, boilers, high pressure steam piping and appurtenances, and ammonia refrigeration piping shall be enforced by the Department of Labor and Industry. Fees for inspections conducted by the commissioner shall be paid in accordance with the rules of the department. Under direction of the commissioner of public safety, the state fire marshal shall enforce the State Fire Code as provided in chapter 299F. The commissioner shall adopt amendments to the mechanical code portion of the State Building Code to implement standards for process piping.

Subd. 4. Special requirements. (a) **Space for commuter vans.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **Smoke detection devices.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **Doors in nursing homes and hospitals.** The State Building Code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **Child care facilities in churches; ground level exit.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a belowground space in a church building is exempt from the State Building Code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) **Family and group family day care.** Until the legislature enacts legislation specifying appropriate standards, the definition of dwellings constructed in accordance with the International Residential Code as adopted as part of the State Building Code applies to family and group family day care homes licensed by the Department of Human Services under Minnesota Rules, chapter 9502.

(f) **Enclosed stairways.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(g) **Double cylinder dead bolt locks.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(h) **Relocated residential buildings.** A residential building relocated within or into a political subdivision of the state need not comply with the State Energy Code or section 326B.439 provided that, where available, an energy audit is conducted on the relocated building.

(i) **Automatic garage door opening systems.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(j) **Exit sign illumination.** For a new building on which construction is begun on or after October 1, 1993, or an existing building on which remodeling affecting 50 percent or more of the enclosed space is begun on or after October 1, 1993, the code must prohibit the use of internally illuminated exit signs whose electrical consumption during nonemergency operation exceeds 20 watts of resistive power. All other requirements in the code for exit signs must be complied with.

(k) **Exterior wood decks, patios, and balconies.** The code must permit the decking surface and upper portions of exterior wood decks, patios, and balconies to be constructed of (1) heartwood from species of wood having natural resistance to decay or termites, including redwood and cedars, (2) grades of lumber which contain sapwood from species of wood having natural resistance to decay or termites, including redwood and cedars, or (3) treated wood. The species and grades of wood products used to construct the decking surface and upper portions of exterior decks, patios, and balconies must be made available to the building official on request before final construction approval.

(l) **Bioprocess piping and equipment.** No permit fee for bioprocess piping may be imposed by municipalities under the State Building Code, except as required under section 326B.92 subdivision 1. Permits for bioprocess piping shall be according to section 326B.92 administered by the Department of Labor and Industry. All data regarding the material production processes, including the bioprocess system's structural design and layout, are nonpublic data as provided by section 13.7911.

(m) **Use of ungraded lumber.** The code must allow the use of ungraded lumber in geographic areas of the state where the code did not generally apply as of April 1, 2008, to the same extent that ungraded lumber could be used in that area before April 1, 2008.

Subd. 5. **Recycling space.** The code must require suitable space for the separation, collection, and temporary storage of recyclable materials within or adjacent to new or significantly remodeled structures that contain 1,000 square feet or more. Residential structures with fewer than four dwelling units are exempt from this subdivision.

Subd. 6. **Radon code.** The commissioner of labor and industry shall adopt rules for radon control as part of the State Building Code for all new residential buildings. These rules shall incorporate the radon control methods found in the International Residential Code appendix as the model language, with necessary amendments to coordinate with the other adopted construction codes in Minnesota.

Subd. 7. **Window fall prevention device code.** The commissioner of labor and industry shall adopt rules for window fall prevention devices as part of the State Building Code. Window fall prevention devices include, but are not limited to, safety screens, hardware, guards, and other devices that comply with the standards established by the commissioner of labor and industry. The rules shall require compliance with standards for window fall prevention devices developed by ASTM International, contained in the International Building Code as the model language with amendments deemed necessary to coordinate with the other adopted building codes in Minnesota. The rules shall establish a scope that includes the applicable building occupancies, and the types, locations, and sizes of windows that will require the installation of fall devices. The rules will be effective July 1, 2009. The commissioner shall report to the legislature on the status of the rulemaking on or before February 15, 2008.

Subd. 8. **Review of plans for public buildings and state licensed facilities.** Construction or remodeling may not begin on any public building or state licensed facility until the plans and specifications have been approved by the commissioner or municipality under contractual agreement pursuant to subdivision 2. The plans and specifications must be submitted for review, and within 30 days after receipt of the plans and specifications, the commissioner or municipality under contractual agreement shall notify the submitting authority of any corrections.

Subd. 9. **Accessibility.** (a) **Public buildings.** The code must provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by persons with disabilities, although this does not require the remodeling of public buildings solely to provide accessibility and usability to persons with disabilities when remodeling would not otherwise be undertaken.

(b) **Leased space.** No agency of the state may lease space for agency operations in a non-state-owned building unless the building satisfies the requirements of the State Building Code for accessibility by persons with disabilities, or is eligible to display the state symbol of accessibility. This limitation applies to leases of 30 days or more for space of at least 1,000 square feet.

(c) **Meetings or conferences.** Meetings or conferences for the public or for state employees which are sponsored in whole or in part by a state agency must be held in buildings that meet the State Building Code requirements relating to accessibility for persons with disabilities. This subdivision does not apply to any classes, seminars, or training programs offered by the Minnesota State Colleges and Universities or the University of Minnesota. Meetings or conferences intended for specific individuals none of whom need the accessibility features for persons with disabilities specified in the State Building Code need not comply with this subdivision unless a person with a disability gives reasonable advance notice of an intent to attend the meeting or conference. When sign language interpreters will be provided, meetings or conference sites must be chosen which allow hearing impaired participants to see their signing clearly.

(d) **Exemptions.** The commissioner may grant an exemption from the requirements of paragraphs (b) and (c) in advance if an agency has demonstrated that reasonable efforts were made to secure facilities which complied with those requirements and if the selected facilities are the best available for access for persons with disabilities. Exemptions shall be granted using criteria developed by the commissioner in consultation with the Council on Disability.

(e) **Symbol indicating access.** The wheelchair symbol adopted by Rehabilitation International's Eleventh World Congress is the state symbol indicating buildings, facilities, and grounds which are accessible to and usable by persons with disabilities. In the interests of uniformity, this symbol is the sole symbol for display in or on all public or private buildings, facilities, and grounds which qualify for its use. The secretary of state shall obtain the symbol and keep it on file. No building, facility, or grounds may display the symbol unless it is in compliance with the rules adopted by the commissioner under subdivision 1. Before any rules are proposed for adoption under this paragraph, the commissioner shall consult with the Council on Disability. Rules adopted under this paragraph must be enforced in the same way as other accessibility rules of the State Building Code.

Subd. 10. **Energy efficiency.** The code must provide for building new low-income housing in accordance with energy efficiency standards adopted under subdivision 1. For purposes of this subdivision, low-income housing means residential housing built for low-income persons and

families under a program of a housing and redevelopment authority, the Minnesota Housing Finance Agency, or another entity receiving money from the state to construct such housing.

Subd. 11. **Access for the hearing-impaired.** All rooms in the State Office Building and in the Capitol that are used by the house of representatives or the senate for legislative hearings, and the public galleries overlooking the house of representatives and senate chambers, must be fitted with assistive listening devices for the hearing-impaired. Each hearing room and the public galleries must have a sufficient number of receivers available so that hearing-impaired members of the public may participate in the committee hearings and public sessions of the house of representatives and senate.

Subd. 12. **Separate metering for electric service.** The standards concerning heat loss, illumination, and climate control adopted pursuant to subdivision 1, shall require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or disabled, supportive housing, or buildings that contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision. For purposes of this section, "supportive housing" means housing made available to individuals and families with multiple barriers to obtaining and maintaining housing, including those who are formerly homeless or at risk of homelessness and those who have a mental illness, substance abuse disorder, debilitating disease, or a combination of these conditions.

Subd. 13. **Lead certification.** When issuing permits in compliance with the State Building Code to a residential building contractor, residential remodeler, manufactured home installer, or residential roofer licensed under section 326B.805, municipalities must verify lead certification qualifications of the licensee required under subdivision 14 for renovations performed on residential property constructed prior to 1978. Municipalities may charge a surcharge for verification of this certification under section 326B.815, subdivision 2.

[See Note.]

Subd. 14. **Pre-1978 structures.** A residential building contractor, residential remodeler, manufactured home installer, or residential roofer licensed under section 326B.805 performing renovation as defined by Code of Federal Regulations, title 40, section 745.83, on a residential structure constructed prior to 1978 must be certified in accordance with Code of Federal Regulations, title 40, section 745.89, unless the property has been determined to meet an exemption under Code of Federal Regulations, title 40, section 745.82. Before performing the renovations as defined by Code of Federal Regulations, title 40, section 745.83, on a residential structure constructed prior to 1978, a licensee working on the structure must be able to provide to the commissioner information so that proof of certification can be obtained as required in this subdivision. The department shall provide on its Web site a link to the United States Environmental Protection Agency Web site for verification of certification of a licensee.

[See Note.]

History: 1977 c 381 s 18; 1978 c 786 s 2,3; Ex1979 c 2 s 29-31; 1980 c 579 s 9; 1981 c 85 s 5; 1981 c 255 s 2,5; 1981 c 356 s 154-158,248; 1981 c 365 s 9; 1982 c 424 s 23-25,130; 1983 c

301 s 125,126; 1984 c 544 s 66; 1984 c 595 s 1-5; 1984 c 640 s 32; 1984 c 655 art 2 s 13 subd 1; 1984 c 658 s 1; 1985 c 194 s 30; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 3 art 4 s 2; 1987 c 258 s 12; 1987 c 291 s 192,196; 1987 c 312 art 1 s 10 subd 1; 1987 c 354 s 8; 1987 c 387 s 3; 1988 c 608 s 1; 1988 c 685 s 2; 1989 c 82 s 1; 1989 c 209 art 2 s 1; 1989 c 246 s 2; 1989 c 335 art 1 s 65; 1990 c 414 s 1; 1991 c 104 s 1; 1991 c 134 s 1; 1991 c 149 s 2; 1991 c 235 art 3 s 1; 1991 c 240 s 1; 1991 c 337 s 4; 1992 c 597 s 1; 1993 c 327 s 1; 1994 c 480 s 6; 1994 c 567 s 1; 1994 c 634 art 2 s 3,4; 1995 c 100 s 1; 1995 c 166 s 1,2,17; 1995 c 213 art 1 s 1; 1995 c 233 art 2 s 56; 1995 c 254 art 2 s 4-6; 1Sp1995 c 3 art 16 s 13; 1996 c 395 s 18; 1997 c 183 art 3 s 27; 1999 c 135 s 1,2; 1999 c 185 s 1; 2000 c 297 s 1,3; 2001 c 7 s 10; 2001 c 207 s 1,2; 1Sp2001 c 10 art 2 s 29; 1Sp2003 c 8 art 1 s 5; 2005 c 56 s 1; 2005 c 97 art 4 s 6; 2005 c 136 art 9 s 14; 2006 c 241 s 2,3; 2007 c 40 s 1; 2007 c 135 art 2 s 2; 2007 c 140 art 4 s 6, 61; art 10 s 11; art 13 s 4; 2007 c 147 art 16 s 1; 2008 c 322 s 1; 2008 c 337 s 64; 2010 c 321 s 1,2; 2010 c 347 art 3 s 11; 2010 c 361 art 5 s 10

NOTE: Subdivisions 13 and 14, as added by Laws 2010, chapter 321, sections 1 and 2, are effective February 1, 2011. Laws 2010, chapter 321, sections 1 and 2, the effective dates.