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## ADVISORY COMMITTEE COMMENT FORM FOR PROPOSED CODE CHANGES (This form must be submitted electronically)

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### Proposed Code Change - Language

#### **1300.0160 FEES.**

Subp. 5. **Plan review fees for similar plans.** When submittal documents for similar plans are approved under subpart 6, plan review fees shall not exceed 25 percent of the normal building permit fee established and charged by the jurisdiction for the same structure.

Subp. 6. **Plan review of similar plans.** A. Any number of similar buildings may be built from a master plan if:

- (1) plan review fees have been paid for the master plan;
- (2) a code change has not occurred that impacts the design of a master plan;
- (3) the similar building has the same physical dimensions and structural design as the master plan;

**Exception:** ~~The following modifications to the master plan are not considered to be significant modifications, according to Minnesota Statutes, section 16B.61, subdivision 1, and are permitted for dwelling units and their accessory structures built to the International Residential Code, and residential occupancies built to the International Building Code that are three stories or less in height and their accessory structures:~~

- ~~(a) foundation types to include walkout, lookout, and full basement;~~
- ~~(b) foundation materials to include poured concrete, masonry units, and wood;~~
- ~~(c) garage dimensions;~~
- ~~(d) roof design changed by a revised truss plan approved by the building official;~~
- ~~(e) bays or cantilevered floor areas;~~
- ~~(f) decks and porches; and~~
- ~~(g) other modifications approved by the building official;~~

(4) occupancy groups other than those identified in the exceptions listed in part 1300.0160, subpart 6, item A, subitem (3), must be the same type of construction and occupancy classification and must have the same exit system;

**Exception:** Minor changes to the exit access; and

(5) the similar plan is based on a master plan for which the municipality has issued a permit within the last 12 months.

B. Plan review fees for similar building plans must be based on the costs commensurate with the direct and indirect cost of the service, but must not exceed 25 percent of the normal building permit fee established and charged by the municipality for the same structure.

C. The plan review fee charged for similar building plans applies to all buildings regulated by the code regardless of occupancy classification including industrialized/modular buildings constructed under a program specified in Minnesota Statutes, section 16B.75.

D. The applicant must submit a new plan set and other information as required by the building official for each building reviewed as a similar building.

### **Proposed Code Change – Need and Reason**

When the Minnesota Legislature approved language addressing fees for plan review of similar buildings, they left much to the rule making process to achieve their direction. There was no specific language in the statute other than a reference “to similar buildings without significant modifications”.

The language in current rule 1300.0160 goes far beyond the legislative intent and creates a significant burden on building departments. Often the current rule butts heads with the further direction of the legislature that the fees charged must be commensurate with the direct and indirect cost of the service (1300.0160, subp. 2).

The current rule limits the plan review fee to 25% of the normal building permit fee when applied to “similar plans”. This arbitrary limit was not specified by the legislature but developed during the rule making process. It seems to be based on certain assumptions that are not supported by all of the exceptions that are provided in subp. 6 of the rule.

The rule is not limited to a particular development and the time frame for which the rule may be in play can be several years given the propensity in Minnesota to frequently skip certain editions of the model codes.

I suggest that the exceptions to Subp. 6, A, (3) be deleted and let stand the language that states “The similar building has the same physical dimensions and structural design as the master plan”.

My reasons are based on the following:

Exception (a) considers buildings with differing “*Foundation types to include walkout, lookout, and full basement(s)*” to be similar. There can be significant differences in the design of these various types of foundations as evidenced by the differing tables that exist within the Minnesota Residential Code, Chapter 4. The design of the various foundation types has been considered significantly different enough that the DOLI has seen fit to **create** different tables to address the varying foundation types. This can involve anchor bolt placement, reinforcing, and structural floor attachments. And since buildings built under these exceptions may be located in areas with significantly varying soil types, virtually every aspect of the foundation design could change. This hardly meets the common definition of “similar”.

Exception (b) considers buildings with differing “*foundation materials to include poured concrete, masonry units, and wood*” to be similar. As in exception (a), there are significant changes in the details when the foundation materials change. This is especially true for wood

foundations where a different footing type (wood footer) is most commonly used. Because the scope of wood foundations in the IRC is limited, if a wood foundation is changed from a walkout to a full basement as permitted in (a) above, one must go outside of the code for design information. Is this a “similar” foundation?

Exception (c) considers changes in “*Garage dimensions*” to be similar. Taking this to an extreme, one could submit a plan for a 12 X 20 garage in one part of town at the beginning of a code cycle and argue that the similar plan language applies to any garage you would build till the next code is adopted even if the size changes to 30 X 100! This borders on the ridiculous as foundation types, wall heights, roof design, and virtually every component of the building could change and the building department is limited to what it may charge for a plan review because any garage could be considered “similar”.

Exception (d) considers buildings with differing “*Roof design changed by a revised truss plan approved by the building official*” to be similar. This could allow varying roof pitch and changes in design that involve significant concentrated loads that must be tracked through the framework of an entire building and yet it is still “similar”?

Exception (e) considers buildings with “*Bays and cantilevered floor areas*” to be similar. The code provides prescriptive direction for cantilevered floors approaching four feet! The impacts this can have on load paths throughout the structure can be significant and require engineering to solve some of the issues. This flies in the face of Subd. 6, A, (3) which states the building must have the “same structural design as the master plan”.

Exception (f) considers (apparently) anything related to changes in “*Decks and porches*” to be similar. So if the original plan includes no deck or porch, does this permit the addition of either and it be considered similar? Even slight changes in the design of a deck or porch will likely change the foundation, floor, wall, and roof design. They will not be structurally similar in any way.

And last, exception (g) considers buildings with “*Other modifications approved by the building official*” to be similar. To that I would ask, what is left?

Because of the inability of the state to adopt new versions of the code in a timely matter, up to six years may pass (and possibly longer) between the time a first building is built and a last building is built under the same plan. And there may not be any buildings built between those time periods. This creates a nightmare of record keeping for the building departments due to the current state records retention schedules that permit plans to be discarded one year after issuance of a certificate of occupancy. It shouldn't be the burden of the building department to contact anyone who claims similarity of their plans for plan review purposes and to do this on a frequent basis to determine if additional permit applications may be forthcoming. But this can happen and it will be argued that it is the building department's responsibility to maintain a file of those plans for an undetermined period of time.

Based on what I have experienced in recent years, the volume of plans that accumulate given the exceptions argued above create burden. Residential plans come in with so many different alternates and are of such a size as to rival complex commercial projects. Not only does this create problems for conducting accurate plan reviews and storage of those plans but field inspectors are face with an unmanageable amount of paper to sort through in order to conduct proper field inspections.

It is time to eliminate the confusion created by these runaway rules and revert to the direction given by the legislature. "Similar" means just that.

### **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.

#### **SIMILAR**

- 1: having characteristics in common: strictly comparable
- 2: alike in substance or essentials: corresponding <no two animal habitats are exactly similar —

#### **Proposed Code Change – Cost/Benefit Analysis**

The current language relative to fees for plan review of similar design results in costs being incurred by building departments that cannot be recovered from that particular permit applicant. The result is that those costs are spread amongst other permit applicants. This proposal could result in increased permit fees for those permit applicants submitting plans for review that do not meet the original legislative intent.

## Other Factors to Consider Related to Proposed Code Change

1. Is this proposed code change meant to:

change language contained in a published code book? If so, list section(s).

change language contained in an existing amendment in Minnesota Rule? If so, list Rule part(s).

**1300.0160 FEES.** Subp. 5 and 6.

delete language contained in a published code book? If so, list section(s).

delete language contained in an existing amendment in Minnesota Rule? If so, list Rule part(s).

neither; this language will be new language, not found in the code book or in Minnesota Rule.

2. Is this proposed code change required by a Minnesota Statute or new legislation? If so, please provide the citation to the Statute or legislation.

No

3. Will this proposed code change impact other sections of a published code book or of an amendment in Minnesota Rule? If so, please list the affected sections or rule parts.

No

4. Will this proposed code change impact other parts of the Minnesota State Building Code? If so, please list the affected parts of the Minnesota State Building Code.

No

5. Who are the parties affected or segments of industry affected by this proposed code change?

Code officials, building designers, contractors, building owners

6. Can you think of other means or methods to achieve the purpose of the proposed code change? If so, please explain what they are and why your proposed change is the preferred method or means to achieve the desired result.

No

7. Are you aware of any federal requirement or regulation related to this proposed code change? If so, please list the regulation or requirement.

No