



Minnesota Statutes 326B Construction Codes and Licensing

Wendy Rannenbergh | Construction Code Representative | Building Plan Review

Objectives & Outcomes

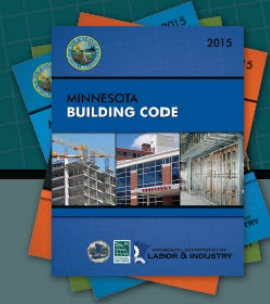
Course Objective

To present relevant excerpts from Minnesota Statutes Chapter 326B specific to the administration of Construction Codes and Licensing.

Course Outcome

Students will be familiar with Minnesota Statutes Chapter 326B as necessary to perform their job as a Building Official Limited or Accessibility Specialist. They will understand the essential and statutory requirements applying to work within the scope of their certification.

MINNESOTA Guide to the State Building Code



- Administration
- Special Provisions
- Commercial Building
- Elevators and Related Devices
- Residential Building
- Existing Buildings
- Electrical
- Flood-proofing
- Energy Conservation
- Accessibility
- Mechanical and Fuel Gas
- Plumbing
- High Pressure Piping Systems
- Manufactured Homes
- Prefabricated Structures
- Industrialized/Modular Buildings
- Storm Shelters



Much of the information we will cover today is found in the Minnesota Guide to the State Building Code.

Available on CCLD's website at:
<https://www.dli.mn.gov/sites/default/files/pdf/guide-2020.pdf>

(Go to Minnesota State Building Codes 2020, scroll all the way to the bottom.)



2022 Minnesota Statutes

Authenticate PDF

This chapter has been affected by law enacted during the 2023 Regular Session. [More info...](#)

CHAPTER 326B. CONSTRUCTION CODES AND LICENSING

Section Headnote

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STATE BUILDING CODE

[326B.101](#) POLICY AND PURPOSE.
[326B.103](#) DEFINITIONS.
[326B.106](#) GENERAL POWERS OF COMMISSIONER OF LABOR AND INDUSTRY.
[326B.107](#) PUBLIC BUILDINGS AND STATE-LICENSED FACILITIES.
[326B.108](#) PLACES OF PUBLIC ACCOMMODATION SUBJECT TO CODE.
[326B.109](#) RESTROOM FACILITIES.
[326B.112](#) BLEACHER SAFETY.
[326B.115](#) [Repealed, 2010 c 280 s 40]
[326R.118](#) ENERGY CODE

Resources

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Chapter 326B

[Table of Sections](#)
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Minnesota Statutes and Rules are available on the Minnesota Office of the Revisor of Statutes website.

Revisor.mn.gov

This is where you will find the current statutory language and Minnesota rules related to building code administration.

Policy and Purpose of the State Building Code 326B.101

- The State Building Code governs the construction, reconstruction, alteration, repair, and use of buildings and other structures to which the code is applicable.
- The Commissioner shall administer and amend a state code of building construction which will provide **basic** and **uniform** performance standards, establish **reasonable** safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices materials, and techniques **which will in part tend to lower construction costs**. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

PURPOSE

The purpose of the State Building Code is described in Minnesota Statutes 326B.101 where it reads:



The commissioner shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

In other words:

- **Basic** – *minimum*
- **Uniform** – *everyone designs and builds to comply with the same basic requirements*
- **Performance standards** – *requirements should focus on the outcome not specific methods*
- **Reasonable safeguards** – *not overly complex, costly or difficult*
- **Health** – *safe clean water, proper sewer, sanitation, air quality, light, ventilation*
- **Safety** – *protection from fire, smoke, falling, wind, snow, frost, extreme temperature, electrocution, hazardous materials, panic, breaking glass, structural collapse*
- **Welfare** – *accessibility, conserves energy, peace of mind, habitability*
- **Comfort** – *heating facilities, soundproofing between apartments, room size*
- **Security** – *school safety, nursing home dementia units, correctional facilities*
- **Provide for the use of modern methods, devices, materials and techniques which will in part tend to lower construction costs** – *encourage and recognize innovation and technologies that provide cost savings in labor, equipment, and building materials*
- **The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety** – *manage adoption of nationally recognized safety and health codes to keep construction costs as low as possible*

Adoption of the Code 326B.106

The Commissioner shall by rule 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.

Adoption of the Code 326B.106

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 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 upon the application of scientific principals, approved tests, and professional judgement.

REQUIREMENTS

The State Building Code is a set of documents that regulate the construction of buildings so they are safe, energy efficient and accessible. The specific regulations contained in the State Building Code appear in one of three forms: model codes and standards, Minnesota Rules and Minnesota Statutes.

Model Codes

Minnesota law requires the State Building Code to conform as much as possible to model building codes generally accepted and in use throughout the United States. A model code is a book of published construction regulations developed by members of an organization having subject-matter expertise. Model codes are intended for adoption into law by local governments, states and even countries. Because writing codes requires a great deal of work by many experienced and varied industry experts, this is usually beyond the capacity of a local government to produce on its own.

The preferred way to efficiently regulate building safety, accessibility for the disabled and energy efficiency is through the adoption and enforcement of model codes. However, because model codes are produced for widespread use throughout all parts of the country, a local government must usually amend or change some provisions in order to address its own particular geography, climate and legislative mandates.

Minnesota Rules

Minnesota law states that the commissioner [of the Minnesota Department of Labor and Industry] shall by rule and in consultation with the Construction Codes Advisory Council establish a code of building standards. A rule is a type of Minnesota law that is produced by a state agency through a legally prescribed process. Although authority for making a rule must be granted by the legislature, the legislature is not directly involved in the process. Adopting a model code into the State Building Code is done by rule. Another example of a rule is when the changes are made to specific requirements of the model code. Usually these are referred to as amendments or amending the model code.

Minnesota Statutes

Even though the State Building Code is established by rule using model codes, the legislature can still put specific requirements into law to regulate the construction of buildings. Most often, this occurs as a result of a tragedy or string of accidents where the State Building Code may not have provided adequate protections. Examples of some of the special provisions passed into law by the legislature include:

- bleacher safety,
- window-fall protection,
- required safety devices for automatic garage door openers,
- window-cleaning safety anchorages,
- radon control, and
- smoke detection devices.

HISTORY

1965 A State Building Code was established that applied only to state-owned buildings.

1971 The first State Building Code was enacted into law that would apply to all areas of Minnesota that enforced a building code. To this point, each municipality maintained its own unique building code or had none at all.

1972 The State Building Code became effective on July 1. If a municipality enforced a building code, it now had to be the State Building Code.

1977 Legislation established that the State Building Code would be enforced statewide beginning Jan. 1, 1977, but no later than Jan. 1, 1978. Subsequent legislation passed in 1978 extended the date for mandatory state-wide enforcement of the State Building Code to Jan. 1, 1979.

1979 Legislation provided that a non-metropolitan county may by negative referendum rescind enforcement of the State Building Code (except provisions for accessibility). This enabled county residents and those residing in cities that had not already adopted the code by January 1977 to participate in the vote.

- If the vote was negative, the code no longer applied to townships or cities located within the county.
- As a result of the referendums, only eight counties voted to retain the State Building Code. These were in addition to the seven mandatory metropolitan counties.

1981 Legislation allowed municipalities having a population of less than 2,500 to decide whether or not the State Building Code will apply in their jurisdiction. If these municipalities had already adopted the code, they can now rescind their ordinance adopting the State Building Code (unless they were located in one of the seven metropolitan counties mandated to enforce the State Building Code).

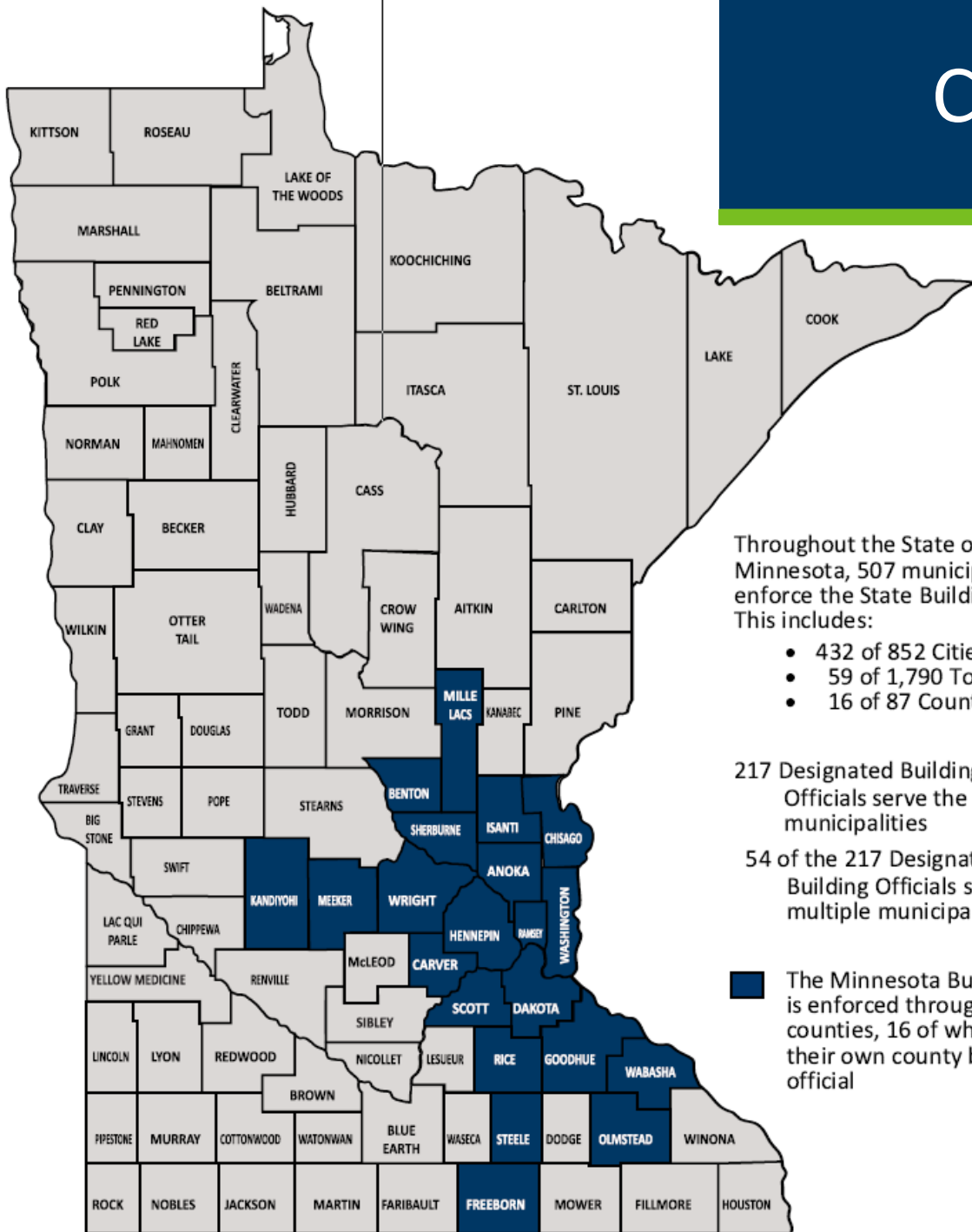
2008 Legislation established for the first time that the State Building Code is the standard that applies statewide for the construction and remodeling of buildings. This means that the State Building Code now applies to all work, regardless of whether or not the State Building Code is required to be enforced by a municipality. This applies to everyone who constructs or remodels buildings, both homeowners and contractors.

2008 Legislation established that as of Jan. 1, 2008, if a municipality had in effect an ordinance adopting the State Building Code, that municipality must continue to enforce the State Building Code and may not repeal its adopting ordinance. The exception is for those municipalities having a population of less than 2,500 (as permitted by the 1981 legislation).



Photo credit: Ben Franske - Own work, GFDL, <https://commons.wikimedia.org/w/index.php?curid=4390505>

Code Enforced Areas




Throughout the State of Minnesota, 507 municipalities enforce the State Building Code. This includes:

- 432 of 852 Cities
- 59 of 1,790 Townships
- 16 of 87 Counties

217 Designated Building Officials serve the 507 municipalities

54 of the 217 Designated Building Officials serve multiple municipalities.

 The Minnesota Building Code is enforced throughout 21 counties, 16 of which have their own county building official

The State Building Code

326B.121 Subd. 1

Application:

- (a) The State Building Code is the Standard that applies statewide for the construction, reconstruction, alteration, repair, and use of buildings and other structures of buildings and other structures governed by the code.
- (b) The State Building Code supersedes the building code of any municipality.

The State Building Code

326B.121 Subd. 1

The State Building Code does not apply to agricultural buildings except-

- 1) with respect to state inspections required or rulemaking authorized by sections 103F.141 Flood Plain Regulations; and 326B.36 Electrical Inspections;
- 2) translucent panels or other skylights without raised curbs shall be supported to have equivalent load-bearing capacity as the surrounding roof.

NOTE – Take a look at the definition for “agriculture building” in 326B.103 Supd. 3 before determining whether the code applies to an ‘ag building’ in a given situation. The definition is very specific.

Municipal Enforcement

326B.121 Subd. 2

- a) Municipalities which had ordinances that adopted the State Building Code as of January 1, 2008 are required to continue enforcing the State Building Code and may not repeal it.

Except: Municipalities with population less than 2,500 AND located outside of a metropolitan county.

- c) Municipalities may not require provisions that differ from the State Building Code either by ordinance or by development agreement.
- d) A city may adopt an ordinance to extend the administration and enforcement of the State Building Code to contiguous unincorporated territory not more than two miles distant from its corporate limits with the permission of the township board.

Municipal Enforcement

326B.121 Subd. 2

- (f) Municipalities may enforce the State Building Code by any means that are lawful and convenient including entering into contracts with other municipalities or individuals.

The building official and deputies do not have to be employees of the municipality.

Municipalities can share a building official.

Building Officials

326B.133

Each municipality shall designate no more than one Building Official responsible for code administration defined by each certification category.

Certification Categories:

- Building Official,
- Building Official Limited
- Accessibility Specialist.

Designated Building Official

326B.133

- Each municipality shall designate a building official to administer the code.
- A municipality may designate no more than one building official responsible for code administration defined by each certification category.
- Two or more municipalities may combine in the designation of a building official for the purpose of administering the provisions of the code within their communities.

Certified Building Official

326B.133

- A person with full building official certification may serve as the designated building official for any municipality.
- They are responsible for all aspects of code administration for which they are certified including all building permits and the inspection of all manufactured home installations.

Building Official-Limited

326B.133

A person with this Certification may perform code administration for:

- one- and two-family dwellings, their accessory structures,
- “exempt classes of buildings” (Minnesota Rules 1800.5000),
- “facilities for persons with physical disabilities” that are governed by the State Building Code.

May serve as the designated building official for any municipality, subject to the above limitations.

Code administration for non-exempt buildings must be performed by a Certified Building Official. A Building Official-Limited may conduct inspections for non-exempt work under the direction of a designated Building Official or the State Building Official.

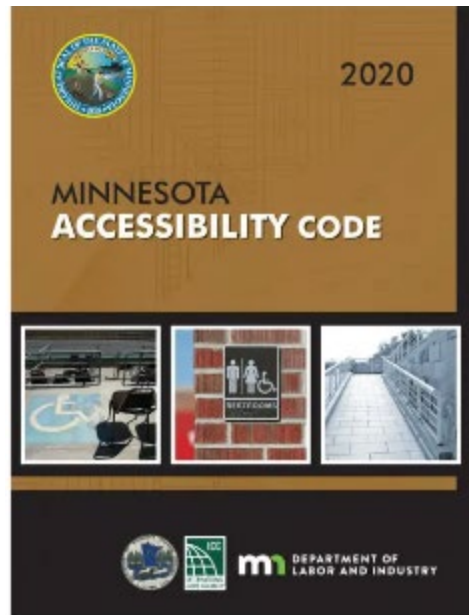
Building Official-Limited 326B.133

Exempt Classes of Buildings (MR 1800.5900)

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 one 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 two story with a basement; and Not greater than 2,250 GSF
Factory (as defined by the MSBC under occupancy group F2)	Not greater than one story with no basement; and Not greater than 3,000 GSF
Mercantile (as defined by the MSBC under occupancy group M)	Not greater than two story with a basement; and Not greater than 1,500 GSF
Residential (as defined by the MSBC under occupancy group R)	Apartment houses/condominiums (three units or less), dwellings, lodging houses, attached single-family dwellings/townhomes, and congregate residences (each accommodating ten persons or less)
Storage (as defined by the MSBC under occupancy group S1: Aircraft hangars and helistops)	Not greater than one 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 one story with no basement; and Not greater than 5,000 GSF
Utility (as defined by the MSBC under occupancy group U except fences higher than 8', tanks and towers, and retaining walls with over 4' of vertical exposed face)	Not greater than one story with no basement; and Not greater than 1,000 GSF

Accessibility Specialist 326B.133

A person with certification as an Accessibility Specialist is limited to the administration of those provisions in the State Building Code that provide access for persons with disabilities.



Continuing Education 326B.133 Subd. 8.

Certified Building Official:

- 35 hours of Continuing Education required every 2 years.

Certified Building Official- Limited:

- 35 hours of Continuing Education required every 2 years.

Accessibility Specialist:

- 9 hours of Continuing Education required every 2 years related to building accessibility, plan review, field inspection, or building code administration.

Public Buildings and State Licensed Facilities 326B.103 & 107

The Department shall administer and enforce the State Building Code as a municipality with respect to *Public Buildings* and *State-Licensed Facilities* unless there is an agreement with a local municipality.

- *Public Buildings* - a building and grounds which are paid for by the state or a state agency regardless of cost, and a school district building project or charter school building project costing \$100,000 or more.
- *State Licensed Facility* - a building and grounds that are licensed by the state as a hospital, nursing home, supervised living facility, free-standing out-patient surgical center, correctional facility, boarding care home, or residential hospice. Assisted living facilities were added to this category in August 2023.

Places of Public Accommodation 326B.108

326B.108 PLACES OF PUBLIC ACCOMMODATION SUBJECT TO CODE.

For purposes of this section, "place of public accommodation" means a **publicly or privately owned facility that is designed for occupancy by 100 or more people and is a sports or entertainment arena, stadium, theater, community or convention hall, special event center, indoor amusement facility or water park, or indoor swimming pool.**

Construction, additions, and alterations to a place of public accommodation must be designed and constructed to comply with the State Building Code.

Effective July 1, 2017, in a municipality that has not adopted the code by ordinance under section [326B.121, subdivision 2](#), the commissioner shall enforce this section in accordance with section [326B.107, subdivision 1](#).

If fire protection systems regulated by chapter 299M are required in a place of public accommodation, then those plan reviews and inspections shall be conducted by the state fire marshal.

Automatic sprinkler systems for fire protection purposes are required in a place of public accommodation if, on or after August 1, 2008:

- (1) the facility was constructed, added to, or altered; and
- (2) the facility has an occupant load of 300 or more.

The Annual Report

326B.145

Format is prescribed by the Department

Report must include:

1. Quantity and value of units for which fees were paid.
2. Amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development related fees.
3. Expenses associated with the municipal activities for which fees were collected .

Annual Reports are due by June 30 to the Department.

The State Surcharge

326B.148

Purpose:

To defer the costs of administering Sections 326B.101 to 326B.194. The surcharge is imposed on all construction permits.

Collection and Reports:

Each municipality collects the surcharge.

- Population \leq 20,000 submit quarterly. Municipality may retain up to \$25 or 4% which ever is greater*
- Population $>$ 20,000 submit monthly. Municipality may retain up to \$25 or 2% whichever is greater*

*Retainage is permitted to apply toward administrative expenses

The State Surcharge

326B.145

Calculating the Surcharge:

Fixed Fee Based Permits have a surcharge of $0.0005 \times$ permit fee, minimum \$1.

Valuation Based Permits:

Valuation \leq \$1M, Surcharge = Valuation \times 0.0005

Valuation \leq \$2M, Surcharge = \$500 + [(Valuation-\$1M) \times 0.0004]

Valuation \leq \$3M, Surcharge = \$900 + [(Valuation-\$2M) \times 0.0003]

Valuation \leq \$4M, Surcharge = \$1,200 + [(Valuation-\$3M) \times 0.0002]

Valuation \leq \$5M, Surcharge = \$1,400 + [(Valuation-\$4M) \times 0.0001]

Valuation $>$ \$5M, Surcharge = \$1,500 + [(Valuation-\$1M) \times .00005]

Licensing

326B.091

Companies and individuals performing the following work must be licensed:

- Residential contracting, remodeling and roofing
- Electrical
- Plumbing
- Water Conditioning
- Technology Systems (Low Voltage)
- Building Official
- Manufactured Housing
- Others: Boiler Operation, High Pressure Piping, and Boats for hire

Licensing

326B.093

To obtain a license, companies must:

- Have a qualifying individual take and pass an exam;
- Pay a license fee
- Provide proof of liability insurance and bond (except building contractors and remodelers who pay into Contractor Recovery Fund)

Licensing

326B.093

To obtain a personal license, individuals must:

- Provide proof of acceptable work experience
- Pass written exam administered by DLI (\$50 fee)
- Pay license fee
- Most license types require continuing education
- Licenses are on two-year cycle
- Registered unlicensed individuals renew annually
- Online renewal is quick and easy!

Enforcement

326B.082

The Commissioner may:

- Issue Violation Notices;
- Issue Administrative Orders;
- Issue Stop Orders;
- May apply for a Court Ordered Inspection upon refusal to permit entry.
- Establish conditions for Licenses, Certificates, Registrations, and Permits;
- Deny, suspend, or revoke Licenses, Certificates, Registrations, and Permits; and
- Assess monetary penalties of up to \$10,000 per violation.

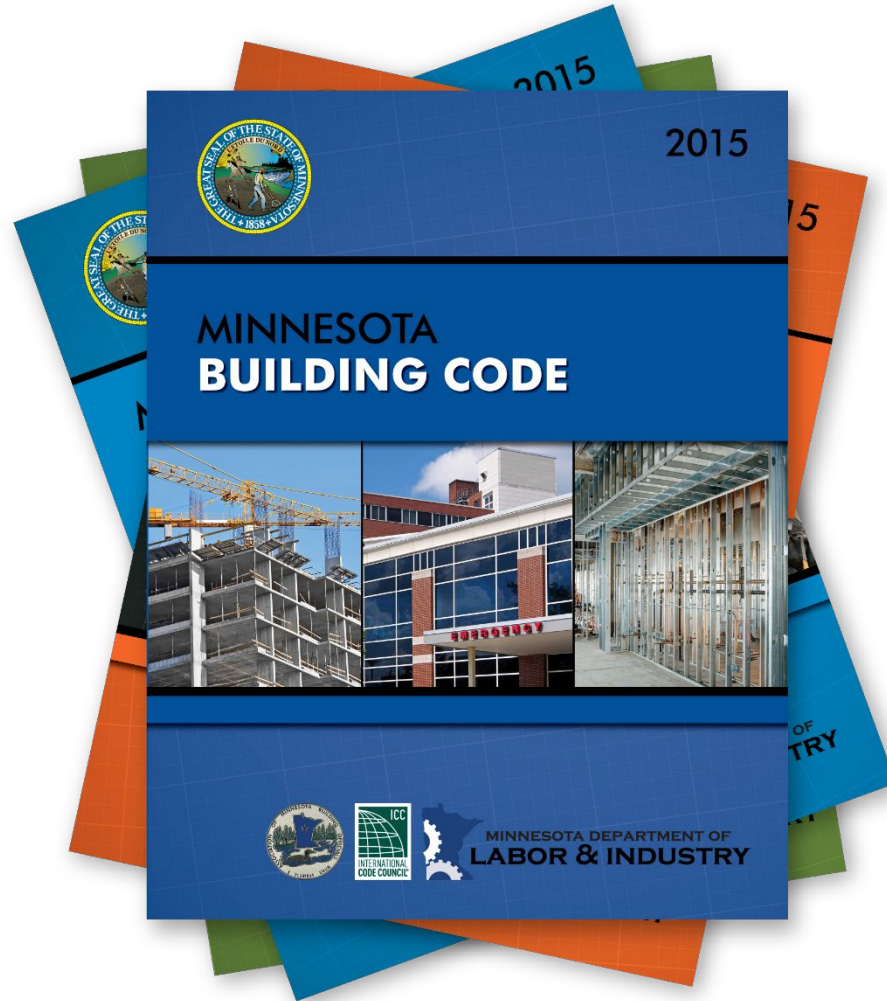
Special Requirements

326B 106 Subd. 4

Incomplete list of Special Requirements in 326B 106 Subd. 4

- Space for commuter vans
- Smoke detectors
- Doors in nursing homes
- Child-care centers in churches - exiting
- Double cylinder dead bolt locks
- Automatic garage doors
- Exterior wood decking material
- Use of ungraded lumber
- Recycling space
- Radon
- Window fall prevention
- Accessibility
- Lead certification
- Skylights - load-bearing

The State Building Code



Summary:

Minnesota Statutes provide the authority to administer and enforce the State Building code

Thank you!

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