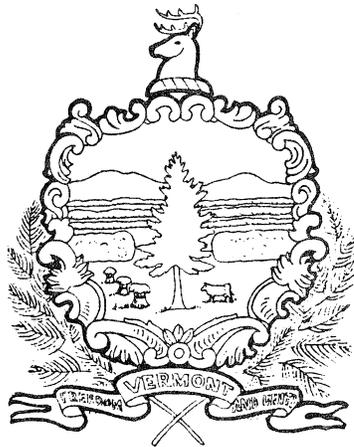


**State of Vermont**

**Rules Governing Access  
to Public Buildings and Facilities  
by Persons with Physical Disabilities**

**Architectural Barrier Compliance Board  
Department of Labor and Industry**



*Rules Effective August 18, 1988*

**Madeleine M. Kunin,  
Governor**

**Jeanne VanVlandren,  
Commissioner**



## Preamble

Since our earliest days as a State, the citizens of Vermont have been dedicated to the principles of self-improvement and determination. This unique Vermont spirit always seems particularly strong when we face a problem that jeopardizes the rights of citizens. Our efforts to make our State barrier free reflect this special part of the Vermont character. It is clear that we all benefit when our public buildings are constructed to be accessible. Reflecting the will of Vermonters, the Legislature and the Executive Branch have demonstrated a strong commitment to ensure that physically disabled Vermonters have access to public buildings. The Board intends that these Rules are interpreted to make Vermont barrier free so as to provide equal access to all.



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## State of Vermont

# Rules Governing Access to Public Buildings and Facilities by Persons with Physical Disabilities

## I. Statement of Purpose – Adoption and Application

### I.A Purpose

These rules are promulgated in accordance with the requirements of 3 V.S.A. Chapter 25 and 21 V.S.A. Chapter 4, and are intended to make buildings and facilities accessible to and usable by people with such physical disabilities as the inability to walk, difficulty walking, reliance on walking aids, blindness and visual impairment, deafness and hearing impairment, incoordination, reaching and manipulation disabilities, lack of stamina, difficulty interpreting and reacting to sensory information, and extremes of physical size. Accessibility and usability allow a physically handicapped person to get to, enter, and use a building or facility.

### I.B Adoption

Except as modified in these rules, all new construction, or alterations or change of use of a non-public building to become a public building shall meet the standards set forth in the *American National Standard for Building and Facilities – Providing Accessibility and Usability for Physically Handicapped People, as approved February 5, 1986* (hereinafter *ANSI A117.1-1986*).

Note: These Rules should be read in conjunction with *ANSI A117.1-1986*.

### I.C Application

**I.C.i** These rules and *ANSI A117.1-1986* provide specifications for elements that can be used in making functional spaces accessible. For example, it specifies technical requirements for making doors, routes, seating, and other elements accessible.

**I.C.ii** These rules shall be enforced to achieve uniformity in the technical design criteria in building codes and other regulations and shall be applied to:

- (1) The design and construction of new buildings and facilities, including both spaces and elements; and accessible routes within the boundary of the site;
- (2) Remodeling, alteration, and rehabilitation of existing construction; and,
- (3) Permanent and temporary conditions.

**I.C.iii** The rules establish the extent to which each occupancy or building type is covered and the requirements of the application of specific technical *ANSI A117.1-1986* standards and include the number and type of functional spaces and elements to be made accessible within each building type.

## II. Statutory Exemptions

The following are exempt from these rules and the standards and procedures incorporated herein as established in 21 V.S.A. Sec. 271(4) and 21 V.S.A. Sec. 274.

1. Apartments or rooming houses consisting of three living units or less.
2. Alterations to the residential portion of a public building in which the owner resides.
3. Alterations of a public building and changes in the use of a non-public building to become a public building or unit which do not exceed in cost 40 percent of the fair market value of the building or unit.
4. Dwelling units which consist of three stories or less and two or three story retail establishments with a total of 15,000 square feet or less shall be exempt from any requirements pertaining to the installation of elevators.
5. Reroofing, interior decoration, changes to mechanical and electrical systems or, except with respect to outside entrances, normal maintenance which constitutes the upkeep or preservation of the property.

## III. Board Exemptions and Variances

In accordance with 21 V.S.A. Sec. 273, a variance or exemption from the requirements of these rules and the standards in whole or in part incorporated herein shall be granted if the Board determines that:

1. The public building, unit, or historic building would not normally be used by handicapped persons;
2. Compliance with specific standards would be prohibitively costly in relation to the normal cost of the total project;
3. Compliance with specific standards would cause an undue adverse effect to the distinctive design characteristics of an historic building;
4. Protracted or permanent abandonment of a non-public building or public building would result from the failure of the Board to grant an exemption under this section; or,
5. Cost overruns for the alteration of a public building or change in use of a non-public building to become a public building resulted in a cost in excess of the 40 percent of the fair market value of the building or unit and that the overrun was not reasonably foreseeable at the time the parties entered into the contract for the project.

## IV. Requirements for General Application of *ANSI A117.1-1986*

All new construction, alterations, and change in use of a non-public building to become a public building shall be in accordance with *ANSI A117.1-1986* unless a general or specific exemption is authorized or a variance is granted.

### IV.A General Exemptions

The following functional spaces and elements are generally exempted and shall not be covered by the provisions of *ANSI A117.1-1986* as they would not normally be used by handicapped persons and compliance with the specific standards may be prohibitively costly or would cause an undue adverse effect to the fire safety code requirements:

- (1) Elevator pits, elevator penthouses, mechanical or boiler rooms, piping or equipment catwalks, electrical, telephone and service closets;
- (2) Rooms, floors, or mezzanines used primarily for bulk and/or dead storage and which employees are not required to enter on a regular basis (for instance, areas used for the storage of seasonal goods, closed files, extra store fixtures, etc.); and,
- (3) Portions of buildings of high hazard use, as described in *BOCA Basic Building Code - 1987*, Sec 306, which are used for the manufacturing, processing, generation, or storage (for example, bulk quantities) of corrosive, highly toxic, highly combustible, flammable, or explosive materials.

### IV.B Requirements for Specific Application of Technical Standards to Functional Spaces

The following occupancy types shall comply with the requirements of *ANSI A117.1-1986* as specifically established below:

**IV.B.(1)i Business Occupancies – Coverage** Business occupancies include the use of a building or a portion thereof for the transaction of business or for the rendering of professional services. Business occupancies shall include, but are not limited to, the following:

**IV.B.(1)i Business Occupancies – Coverage, (continued)**

Automobile showrooms;  
Banks;  
Barber, Beauty Shops;  
Civic administration;  
Electronic data processing;  
Laboratories;  
Professional service – attorney, dentist, physician, engineer, etc.

**IV.B.(1)ii Application of Standards** Business occupancies shall provide accessible public use, employee use, and common use spaces as identified in *ANSI Table 2 “Basic Components for Accessible Sites, Facilities, and Buildings.”*

**IV.B.(1)iii Exemption** Alterations or renovations to existing public buildings, or change in use of a non-public building to become a public building, the floors above or below grade used for business occupancy, which do not exceed 1,000 square feet, shall be exempt from wheelchair accessibility requirements, providing the grade floor level is accessible and public elevator service has not been provided.

**IV.B.(2) Institutional occupancies, general** Institutional occupancies include use of a building or structure, or any portion thereof, in which people receive physical or medical treatment or care, or in which the liberty of the occupants is restricted. Institutional occupancies shall include, but are not limited to, the following subgroups:

**IV.B.(2)(a)i Institutional occupancies for the care of children – coverage** Child care facilities, nurseries, and day care facilities.

**IV.B.(2)(a)ii Application of Standards** Child care facilities shall provide accessible public use, employee use, and common use spaces as identified in *Table 2 “Basic Components for Accessible Sites, Facilities, and Buildings.”*

**IV.B.(2)(a)iii Exemption** In accordance with the statutory definition of Public Buildings, registered family day care homes shall be exempt from all accessibility requirements.

## IV.B Requirements for Specific Application to Functional Spaces - continued

**IV.B.(2)(b)i Institutional occupancies for medical or other treatment or care of persons, some of whom have physical or mental illness, disease, or infirmity – coverage** Skilled nursing facilities, intermediate care facilities, residential care homes, therapeutic community residences, and hospitals.

**IV.B.(2)(b)ii Application of Standards** Institutions shall provide accessible public use, employee use, and common use spaces as identified in *ANSI Table 2 “Basic Components for Accessible Sites, Facilities, and Build-*

*ings.”* Residential care areas in institutions shall provide accessible spaces as identified in *ANSI Table 4 “Basic Components for Accessible and Adaptable Dwelling Units”* and shall design, construct, and equip the specified number of dwelling or sleeping accommodations indicated in Chart 1 (see below).

**IV.B.(2)(b)iii Incorporation of Federal Standards** Institutions under the jurisdiction of federal or other state agencies (*e.g.* HCFA) shall comply with these rules or the federal/other state agencies standards, whichever provide a greater degree of accessibility.

**Chart I**

<b>Medical, Health Care Facilities</b>	
<i>Type of Occupancy</i>	<i>Number of Elements Required</i>
<b>Skilled Nursing Facilities (Level I)</b>	At least 50% of patient toileting facilities and bedrooms shall be accessible in accordance with these rules.
<b>Intermediate Care Facilities (Level II)</b>	At least 30% of patient toileting facilities and bedrooms shall be accessible in accordance with these rules.
<b>Residential Care Homes (Levels III and IV)</b>	At least 10% of resident toileting facilities and bedrooms shall be accessible in accordance with these rules.
<b>Therapeutic Community Residences</b>	At least 10% of resident toileting facilities and bedrooms shall be accessible in accordance with these rules.
<b>Hospitals</b>	At least 50% of patient toileting facilities and bedrooms shall be accessible in accordance with these rules.

## IV.B Requirements for Specific Application to Functional Spaces - continued

**IV.B.(2)(c)i Institutional occupancies where the occupants are under some degree of restraint or restriction for security reasons – coverage** Jails, prisons, reformatories, and other detention or correctional facilities.

**IV.B.(2)(c)ii Application of Standards** In general, buildings under the jurisdiction of the Vermont Department of Corrections in 28 V.S.A. Chapter 1, 3, and 9, shall provide for suitable, reasonably accessible public use, employee use, inmate use and common spaces which do not conflict with requirements for closed custodial confinement of inmates and the protection of the public.

Areas of business use within correctional facilities shall provide accessible spaces as identified in *ANSI Table 2 "Basic Components for Accessible Sites, Facilities, and Buildings."*

**IV.B.(3)i Mercantile – coverage** Mercantile occupancy includes all buildings and structures or parts thereof, for the display and sale of merchandise, and involving stocks of goods, wares, or merchandise incidental to such purposes and accessible to the public. For the purpose of these standards, mercantile occupancies shall include, but are not limited to, the following: Department stores, Drug stores, Markets, Shopping centers, Sales rooms, etc.

**IV.B.(3)ii Application of Standards** Mercantile occupancies shall provide accessible public use, employee use, and common use spaces as identified in *ANSI Table 2 "Basic Components for Accessible Sites, Facilities, and Buildings."*

**IV.B.(3)iii Exemption** Retail establishments which consist of two or three stories with a total of 15,000 square feet or less shall be exempt from any requirements pertaining to the installation of elevators or other mechanical means of vertical access.

## V. Modifications to Specific Sections of ANSI A117.1-1986

The following sections of *ANSI A117.1-1986* are deleted or modified as follows:

1.2. Application (delete in its entirety).

2.3. Remodeling (delete in its entirety).

4.6.2. **Parking Spaces** (modify by adding the following). The sign shall also have the words "handicapped parking only." Any parking facility on the premises of a building open to and used by the public shall contain at least one parking space for every 50 spaces, and in any event, shall contain at least one parking space as free designated parking for physically disabled persons.

4.8.2 **Slope and rise** (delete in its entirety and replace as follows). The least possible slope shall be used for any ramp. New ramps, ramps to be constructed on existing sites or in existing buildings, and curb ramps shall have a maximum slope of 1:12 and a maximum rise of 30 inches, except as modified by *ANSI Table 3*.

4.12.1. **Windows, General** (delete in its entirety and replace as follows). Windows intended to be operated by occupants in accessible dwelling units shall comply with Section 4.12.2.

4.17.3. **Size and arrangement** (modify by adding the following). The dimension from the front of the toilet bowl to the toilet stall door shall not be less than 42 inches wide for stalls that are less than 48 inches wide in accordance with Figure 30(b) Toilet Stalls, Alternate Stalls.

4.22.1. **Toilet Rooms, Bathrooms, Bathing Facilities, and Shower Rooms, General** (modify by adding the following). An appropriate number, but at least one accessible fixture shall be provided on each accessible story where the facilities are provided.

4.26.1. **General** (modify by adding the following). Visual awareness alarms shall comply with 4.26.5.

4.26.5. **Visual Awareness Alarms** (new section added). In addition to emergency warning systems, visual awareness alarms shall be provided for persons with hearing impairments where the indicator alarm is normally audible in nature such as door bells and telephones. For such alarms, a standard 110 volt electrical receptacle

## V. Modifications – continued

shall be provided to connect the visual awareness alarm. Instructions for the use of the alarm shall be provided.

**4.29.1 Telephones, General** (modify by adding the following). An appropriate number, but at least one telephone, shall be provided at each multiple (two or more) public telephone installation, and a standard 110 volt electrical receptacle shall be provided to connect a TTD in accordance with 4.29.5.

**4.32.1. Dwelling Units** (delete in its entirety and replace as follows). Accessible dwelling units and sleeping

accommodations shall comply with 4.32. Public use, employee use, and common use spaces shall be accessible as identified in *Table 2 of ANSI A117.1-1986*.

**4.32.3. Dwelling Units Basic Components** (delete in its entirety and replace as follows). Accessible dwelling units shall provide accessible elements and spaces as identified in *Table 4 of ANSI A117.1-1986* and shall design, construct, and equip the specified number of dwelling units or sleeping accommodations as are contained in the following Chart 2.

**Chart II**

<b>Residential Occupancies</b>			
<i>Occupancy Type</i>	<i>Total # of Units</i>	<i># of Units</i>	<i>Accessible or Adaptable</i>
<b>1. HOUSING NEW CONSTRUCTION:</b> residential building, facility or portion thereof, or a new addition that contains four or more dwelling units, including kitchens, bathing, and sleeping areas in which occupants are primarily not transient. For example, apartments, multiple dwelling units, and group homes.	4-14	1	1 Adapt.
	15-29	1	1 Access.
	30-49	2	1 Adapt. and 1 Access.
	50-69	3	2 Adapt and 1 Access.
	70-89	4	2 Adapt. and 2 Access.
	90-109*	5	3 Adapt and 2 Access.
<b>2. HOUSING EXISTING BUILDING or</b> change in use of an existing building and additions for housing occupancy: residential building, facility, or portion thereof, that contains 4 or more dwelling units, including kitchen, bathing, and sleeping areas in which occupants are primarily not transient. For example, apartments, multiple dwelling units, and group homes.	4-29	1	1 Adapt.
	30-49	1	1 Access.
	50-69	2	1 Adapt. and 1 Access.
	70-89	3	2 Adapt. and 1 Access.
	90-109*	4	2 Adapt. and 2 Access.
<b>3. LODGING NEW CONSTRUCTION:</b> A building, facility, or portion thereof, or a new addition that contains 4 or more dwelling units providing sleeping and bathing areas, in which occupants are primarily transient in nature, making use of the facilities for less than 30 days. For example, hotel, motel, bed and breakfast, guestrooms.	4-29	1	Access.
	30-49	2	Access.
	50-69	3	Access.
	70-89	4	Access.
	90-109	5	Access.
	110-139	6	Access.
	140-169	7	Access.
	170-199†	8	Access.
<b>4. LODGING EXISTING BUILDING or</b> change in use of existing building and additions for lodging occupancy. A building, facility, or portion thereof, that contains 4 or more units providing sleeping and bathing areas, in which occupants are primarily transient in nature, making use of the facilities for less than 30 days. For example, hotel, motel, bed and breakfast, guestrooms.	4-14	0	Access.
	15-29	1	Access.
	30-49	2	Access.
	50-69	3	Access.
	70-89	4	Access.
	90-109	5	Access.
	110-139	6	Access.
	140-169	7	Access.
170-199†	8	Access.	

\* For housing above 110 units, add 1 accessible unit for the next 30 units, then 1 adaptable unit for the next 30 units in sequence.

† For lodging above 200 rooms, add 1 room for each additional 50 rooms.

## VI. Definitions

**A. Abatement to a Specified Date (Abatement)** – Relief from one or more requirements of these rules for a period of time specified by the Board or by the Department.

**B. Alteration** – “Alter” or “alteration” refers to the act or process of changing a public building or unit. These terms include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts or permanent fixtures, and extraordinary repairs. “Alter” or “alteration” does not include reroofing, interior decorations, changes to mechanical and electrical systems, the removal of hazardous substances, or except with respect to outside entrances, normal maintenance which constitutes the upkeep or preservation of the property.

**C. Appeal** – Seeking relief from a final decision of the Board or of a final decision of the Department.

**D. Applicant** – A person seeking a variance, exemption, or abatement from the Architectural Barrier Compliance Board.

**E. Board** – The Vermont Architectural Barrier Compliance Board.

**F. Commissioner** – The Commissioner of the Vermont Department of Labor and Industry or a designee.

**G. Construction** – Any new construction of a public building or on a public building, including an addition to a public building.

**H. Department** – The Vermont Department of Labor and Industry.

**I. Elevator** – A hoisting and lowering mechanism equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure.

**Elevator, freight** – An elevator primarily used for carrying freight and on which only the operator and the persons necessary for unloading and loading the freight are permitted to ride.

**Material lift** – A hoisting and lowering mechanism normally classified as an elevator which has been modified to adapt it for the automatic movement of material by means of an integrally mounted automatic transfer device.

**Elevator, private residence** – A power passenger elevator which is limited in size, capacity, rise, and speed, and installed in a private residence or in a multiple dwelling as a means of access to a private residence.

**Elevator, sidewalk** – An elevator of the freight type for carrying material exclusive of automobiles and operating between a landing in a sidewalk or other area exterior to a building and floors below the sidewalk or grade level.

**Elevator used for construction** – An elevator being used temporarily, only for construction purposes.

**Platform Lift** – A device that will lift or lower at least one passenger in a wheelchair in a vertical or inclined manner from one level to another. A lift device does not require a machine room or cab with controls.

**J. Exemption** – Relief from meeting the standards set forth in these rules as determined by the Statute or by the Board.

**K. Fair Market Value** – “Fair Market Value” means the appraisal value of the public building or unit as determined for purposes of property taxation. A person who proposes such alteration or change may provide the Department of Labor and Industry with an independent appraisal of fair market value conducted by a certified appraiser. Such appraisal shall be used for the purposes of determining fair market value. If the appraisal value of the public building or the unit has not been determined by the listers, “fair market value” means the estimated fair market value as that term is described in 32 V.S.A. Sec. 3481(1). For state, county, or municipally owned buildings, including all public or private educational facilities, the replacement insurance value of the building may be considered as evidence of fair market value.

**L. Historic Building** – “Historic Building” means a structure which has been officially included in the National Register of Historic Places or the State Register of Historic Places, or which is established by testimony of the Vermont Advisory Council on Historic Preservation as being historically significant.

**M. Person** – An individual, corporation, or committee, or an agent thereof, who is responsible for causing the construction of a public building to be initiated or who has the project under their control.

## VI. Definitions - continued

**N. Physically Disabled Person** – An individual who has a limitation or loss of use of a physical or sensory body part or function which results in a limitation to gain access to and use a public building or facility.

**O. Public Buildings** – “Public Buildings” means state, county, and municipal buildings, airport terminals, bus and railroad stations, school buildings, school and society halls, hotels as defined in 32 V.S.A. Sec. 9202, restaurants, apartments, churches and other houses of worship, factories, mills, office buildings and other buildings in which persons are employed, stores and other space wherein goods are offered for sale at wholesale or retail, nurseries, convalescent homes, homes for the aged, and day care facilities; provided that the term “public building” does not include a family residence registered as a day care home under 33 V.S.A. Chapter 34, subchapter 3. “Public buildings” also means tents and outdoor structures, places of amusement, barns, sheds, and workshops, if normally open to the public, for the purpose of offering goods for sale at wholesale or retail, public assembly or viewing, entertainment, or education.

**P. Registered Family Day Care Home** – A day care facility which provides care on a regular basis in the caregiver’s own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this rule, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver.

**Q. Unit** – “Unit” means a self-contained portion of a public building under the control of the owner or lessee of the public building, such as a retail store in a shopping complex or a restaurant in an office building.

**R. Variance** – Relief from a specific technical and/or application standard set forth in these rules as determined by the Board.

## VII. Procedures – Department of Labor and Industry

### VII.A. Application for a Construction Permit

1. Before a building or premise or an addition to a building or premise is constructed or erected, and before a building or premise is altered or relocated, or building equipment is installed therein, an application for a construction permit shall be submitted to the Department of Labor and Industry:

120 State Street  
Montpelier, VT 05602  
Phone: (802) 828-2106

Pittsford Regional Office  
RD #2 • Box 2158  
Pittsford, VT 05763  
Phone: (802) 483-6045

Plans and specifications relating to the work and equipment under consideration shall accompany the application unless specifically waived by the Commissioner or a duly authorized representative, based on the size, use, occupancy, or complexity of the work. No plans or specifications need to be submitted for minor repairs. An application for a construction permit is available from any office of the Department of Labor and Industry.

2. Plans required under these rules shall be drawn to scale and shall be sufficiently clear, comprehensive, detailed and legible when submitted to the Commissioner or a duly authorized representative so that, together with any accompanying specifications and data, a person who is competent in such matters can readily determine whether or not the proposed building, addition, or alteration, and all proposed building equipment will conform to these rules.

3. An application for a construction permit shall be determined to be complete prior to assignment for review.

4. The Commissioner or a duly authorized representative shall review the application for a construction permit and the plans and specifications where applicable and shall issue or deny application within a reasonable time after filing. The Commissioner or a duly authorized representative may require additional information before issuing or denying the application for a construction permit and may issue a conditional construction permit under specified terms and conditions. Conditions of the permit or reasons

## VII. DL&I Procedures – continued

for denial of the permit shall be transmitted to the applicant in writing.

5. The Commissioner or a duly authorized representative may provide consultation, conceptual and preliminary reviews of plans for proposed construction based on the size, use, occupancy, or complexity of the proposed construction.

6. A true copy of the construction permit shall be posted on the site of operations open to public inspection during the entire time the work is in progress and until completion of the same.

7. Any information necessarily required by the Commissioner or a duly authorized representative which shall be of a confidential, proprietary, or trade secret nature shall be treated as confidential when so identified.

8. The Commissioner or a duly authorized representative may permit occupancy of a construction project prior to compliance with these rules for a period not to exceed ninety days upon a determination that circumstances beyond the control of the person submitting construction plans prohibited timely compliance.

9. Any decision of the Department shall be in writing, and shall set forth its reasons for the decision and a person's right to contest a decision.

**VII.B Request for Reconsideration** A person aggrieved by a refusal to grant a construction permit may request that the Commissioner reconsider such refusal or order. A request for reconsideration shall be made in writing and shall be filed with the Commissioner within thirty (30) days after receipt of written notice of such refusal or order. The Commissioner shall review the refusal or order within thirty (30) days of the date the request for reconsideration is received. The Commissioner shall issue an order amending, modifying, or affirming the prior refusal or order as circumstances require.

**VII.C Appeal** A final decision of the Commissioner may be appealed to the Superior Court in accordance with the provisions of Vermont Rules of Civil Procedure 75.

## VIII. Procedures – Architectural Barrier Compliance Board

**VIII.A General** All applications for an exemption, variance, or abatement shall be in writing and submitted to the Architectural Compliance Board before construction starts and addressed to:

Architectural Barrier Compliance Board  
c/o Department of Labor and Industry  
120 State Street  
Montpelier, VT 05602  
Phone: (802) 828-2106

All applications for an exemption, variance, or abatement shall be submitted to the Board thirty (30) days prior to a regularly scheduled meeting of the Board with sufficient data and information presented in a manner prescribed by the Department so that the Board can make an informed judgement. Applications shall state:

- 1) the action requested of the Board;
- 2) detailed reasons why an exemption, variance, or abatement is warranted; and,
- 3) whether the applicant or a representative of the applicant intends to appear before the Board.

The Architectural Barrier Compliance Board shall inform the person in writing of its findings in accordance with the request within thirty (30) days of consideration of the request and the receipt by the Board of all information that it may request from the person in connection with the project. Further requests for information by the Board shall cause the start of the thirty day period to be delayed until receipt by the Board of requested additional information.

**VIII.B Exemption or Variance Requests** Any application for an exemption or a variance must seek to meet the statutory requirements of 21 V.S.A. Sec. 213. The Architectural Compliance Board shall grant an exemption or variance from the standards set forth in these rules if it finds that a building or portion of a building meets one or more of the following:

- the public building, unit, or historic building would not normally be used by handicapped persons;
- compliance with specific standards would be prohibitively costly in relation to the normal costs of the total project;

## VIII. ABC Board Procedures - continued

- compliance with specific standards would cause an undue adverse effect to the distinctive design characteristics of an historic building;
- protracted or permanent abandonment of a non-public building or public building would result from the failure of the Board to grant an exemption under this section; or,
- cost overruns for the alteration of a public building or change in use of a non-public building to become a public building resulted in a cost in excess of the 40 percent of the fair market value of the building or unit and that the overrun was not reasonably foreseeable at the time the parties entered into the contract for the project.

### VIII.C Application for Abatement to a Specific Date

1. Any person may apply for an abatement to a specific date if immediate compliance with the provisions of Title 21 V.S.A. Sec. 273 is not feasible. In order to grant an abatement to a specific date, the Architectural Barrier Compliance Board must determine:

- (a) That compliance with specific standards would be prohibitively costly in relation to the normal cost of the total project, and/or, that circumstances beyond the control of the applicant have prohibited compliance; or,
- (b) That full compliance with all applicable standards can be met if done on a segmented basis. Such abatement shall have a fixed date for compliance. Failure to meet the standards of Title 21 V.S.A. Sec. 273 on the specified date will render the person seeking the abatement in violation.

2. Any application for a variance may be treated in the discretion of the Architectural Barrier Compliance Board as an application for an abatement to a specific date.

3. Abatements not to exceed ninety (90) days may be granted by the Department under the conditions noted above in Section VIII. C. 1.

### VIII.D. Participation by Other Interested Persons

An individual who can demonstrate a substantial interest in the matter under consideration may request permission to participate in the proceeding before the Board. Any such request shall be made to the clerk of the Board at least two working days before the matter is heard. If permission to participate is granted, the individual may appear and present evidence and testimony for consideration by the Board. The Board may limit repetitive or irrelevant testimony.

### VIII.E. Appeals: Request for Reconsideration

1. When there has been a denial of an application for either a variance or an abatement to a specific date, the person(s) affected by such decision may request reconsideration of that decision to the Architectural Barrier Compliance Board. Such requests must be filed with the Architectural Barrier Compliance Board within thirty (30) days of receipt of the denial. The Notice of Request for Reconsideration must be a concise written statement setting out the nature of the grievance. Upon receipt thereof, the Architectural Barrier Compliance Board will hold an evidentiary hearing to allow the aggrieved person(s) to establish why he should have been granted a variance or an abatement to a specific date.

2. All appeals from the Architectural Barrier Compliance Board are to the Supreme Court, pursuant to the provisions of Title 3 V.S.A. Sec. 815.

## IX. Severability

If any provision of these rules or its application to any person or circumstances is held to be invalid, the remainder of these rules and their application shall not be affected.

