

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on
Housing
(AC-Ho)**

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

Published Documents

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

*Information Collected For Or
Against Proposal*

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

**

➤ Hearing Records ... HR (bills and resolutions)

➤ **

➤ Miscellaneous ... Misc

➤ **03hr_AC-Ho_Misc_pt03a**



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS

CHRISTINE TODD WHITMAN
Governor

JANE M. KENNY
Commissioner

FAX TRANSMITTAL FORM

PLEASE DELIVER TO: Scott Becker
COMPANY/DEPARTMENT: Wisconsin State Legislature
NUMBER OF PAGES: 6 (INCLUDING THIS PAGE)
SENT BY: Amy Fenwick Frank

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Additional Comments: As a follow-up to your inquiry this afternoon,
I am sending a few selected pages from our
Innovations Award application. These will
give you a basic idea of the nature of the
rehab subcode. I will mail the code itself
and some guidance documents. Please feel
free to call if you have any questions.

*New Jersey -
William Bonnelly
(609) 292-7899*

1. Describe your innovation, include the specific problem it addresses, and how it changed the previous practice.

Both in New Jersey and nationally, building codes, which are oriented toward new construction, add to the time and expense of rehabilitating existing structures. For new buildings, complying with the construction code is a straightforward process, but it is difficult to apply the code rationally and predictably to existing buildings. Developers and building owners cannot predict with certainty what will be required to bring a deteriorated building back into use. Projects in existing buildings, because they pose the greatest uncertainty in terms of time and resources, are often not attempted at all and the buildings remain unused.

The rules in effect prior to the Rehabilitation Subcode triggered code requirements for work in existing buildings in the following manner: If the cost of the alteration work exceeded 50% of the replacement value of the structure, the structure was to comply with the requirements of the code for new structures. If the cost of the alteration work was between 25% and 50% of the value of the building, the portion altered was required to meet the provisions of the code for new structures. Finally, for alteration projects that were less than 25% of the replacement value of the structure, the code official was to decide the extent to which the altered portion of the building needed to comply with the code.

This caused three serious problems. The first was that, in many cases, the requirements for new structures could not be met in existing buildings. For example, it is difficult, if not impossible, to determine whether turn of the century lumber and bricks meet the current material standards in the code. The second problem was predictability. To a certain extent, this problem stemmed from the first problem. Code officials recognized that making an existing building meet all of the requirements of the code applicable to new buildings was impossible. However, there was no consistency among code officials about which requirements were necessary to improve safety and which ones were a bridge too far. For the lower cost percentages of work, unpredictability was built into the rule itself. This made building owners hesitant to undertake building improvements because they could not foresee the cost of the project. The third, and final problem, with the previous rules was that the rules penalized building owners who wanted to improve their buildings. The rules often expanded the applicant's scope of work and required the owner to renovate portions or features of the building that were neither unsafe nor in disrepair. These additional costs often made rehabilitation projects cost prohibitive. The result was that buildings were left in disrepair and were not improved.

The rehabilitation subcode takes a new approach. Its requirements are not based on the construction code for new structures. Rather, its requirements are specific and tailored to work in existing buildings. Its requirements are not based on the cost of the project but rather are based on the nature of the work. Further, its requirements are largely limited to the area of the building that is altered.

Instead of basing requirements on the cost of the work to be performed, the Rehabilitation Subcode bases requirements on the nature of the work. To work this fundamental change, the Rehabilitation Subcode establishes six increasingly extensive categories of work. "Repair" means fixing a building component that is worn or broken. "Renovation" means replacing a building component with a material that is the same as or similar to the existing material. An "alteration" project includes reconfiguring existing space. "Reconstruction" is a project consisting of the other categories of work where the work includes an entire tenancy and precludes occupancy during the

intensity of the use. An "addition" increases the building's size; the Rehabilitation Subcode applies to the existing portion of the building. The code establishes specific requirements for each category of work. The code ensures that work of each category is done safely, but does not impose the arbitrary or disproportionate requirements that so often result from trying to impose new building standards upon existing buildings.

2. What is the single most important achievement of your program or policy initiative to date?

The most important achievement of the program to date is the increased rehabilitation of existing buildings in New Jersey's cities. Rehabilitation has always constituted a large portion of the construction money spent in older cities. In 1996, local construction offices in New Jersey issued building permits authorizing work that had an estimated cost of \$7 billion. Additions and alterations accounted for about 47% of this amount. Rehabilitation work is most pronounced in New Jersey's cities where building conversions and rehabilitation projects have an integral role in the creation of decent, affordable housing. In some New Jersey cities, more than 90% of the money spent on construction is for rehabilitation work. In Newark, for example, about \$3 of every \$4 included in the estimated cost of construction authorized by permit in 1996 was for work in existing houses. In Trenton, housing rehabilitation work out paced new housing construction by more than 14 to one. These statistics led us to explore ways of making the rehabilitation of existing structures more efficient.

New Jersey has an old housing stock, which means that rehabilitation and building conversion play a critical role in state, local, for-profit, and nonprofit efforts to expand the supply of affordable housing. Half of the state's 3.1 million houses were built before 1959. In Hudson and Essex counties, those with the state's two largest cities, the median year houses were built is 1941 and 1949 respectively. Because of the age of the housing stock, developing a code that encourages improvements to existing buildings without penalizing owners who choose to rehabilitate their properties was vital to improving housing in our cities. Early evidence shows that the code is making a difference.

For the ten largest cities in New Jersey, the amount of rehabilitation work in dollars increased by 42% from the end of calendar year 1997 to the end of calendar year 1998 (the first year that the Rehabilitation Subcode was adopted). This contrasts with the more modest increase of 3.6% that occurred between the same period from 1996 through 1997. While many variables influenced this increase, we believe that the Rehabilitation Subcode is the primary factor. We have received feedback from building departments, developers and design professionals telling us that the Rehabilitation Subcode is making a difference.

There have been a number of initiatives over the years to spawn urban renewal. The Rehabilitation Subcode accomplishes urban renewal both directly and indirectly. The direct effect of the Rehabilitation Subcode is to make rehabilitation projects more affordable and predictable while continuing to ensure safe buildings. The rehabilitation subcode has trimmed more than 25% off the construction budget of some urban projects. This makes jobs feasible that were once thought to be impossible. The indirect benefit of the Rehabilitation Subcode is that, by reducing construction costs, it stretches the limited funding dedicated to revitalizing our cities. Government affordable housing programs and nonprofit housing programs are able to generate more dwelling units for the same amount of money. For example one project in Jersey City realized a cost savings of nearly \$4000 per unit. This money saved can be dedicated to rehabilitating additional affordable dwelling units.

By removing major impediments to redevelopment the Rehabilitation Subcode supports the State's policy to reduce the continuation of suburban sprawl. Reinvesting in our cities conserves natural resources, utilizes an untapped source of affordable housing, and preserves open space. That is why we regard the Rehabilitation Subcode's effect on New Jersey cities as its greatest achievement.

3. What are the three most important measures you use to evaluate your program's success? In qualitative and quantitative terms for each measure, please provide the outcomes of the last full year of program operation and, if possible, at least one year prior?

The three most important measures that we have used to evaluate the success of the Rehabilitation Subcode, are statistics that are collected by the municipal building departments and forwarded to the State for processing, the feedback that is received as part of the Rehabilitation Subcode change process and the continuing outreach to users of the code.

The State's Uniform Construction Code requires towns that issue more than 200 permits per year to electronically report permit activity to the Department. The municipal reports distinguish between work in existing buildings and new construction work and list the dollar amount for each type of work. This enables us to track trends in the construction industry in New Jersey. The data show a sharp increase in the amount of rehabilitation work undertaken in the State's ten largest cities over the past year (1998). While there are many factors that affect the construction industry, such as the economy, the amount of public funding available etc., a significant portion of the increase reflected in the data is attributable to the rehabilitation subcode.

Receiving feedback is another important way that we evaluate the success of the program. As part of its strategy for implementing the code, the Department of Community Affairs has made a concerted effort to meet with all groups who use the Rehabilitation Subcode. This outreach not only gives these groups valuable information on what the Rehabilitation Subcode requires and how the Rehabilitation Subcode is used, it also affords the Department with a chance to hear how the Rehabilitation Subcode is working. Among the groups that we have met with are nonprofit builders, architects, engineers, realtors, other government agencies who fund low- and moderate-income housing programs, and of course code officials. The feedback from each of these groups has been extremely positive. In fact, during the six-month phase-in period, during which time permit applicants could choose either the Rehabilitation Subcode or the previous rules, almost all applicants chose to use the Rehabilitation Subcode.

The Rehabilitation Subcode code change process provides another way for the Department to receive valuable feedback on how well the Rehabilitation Subcode is working. The Rehabilitation Subcode was not intended to be a stagnant document. As with all new regulations, there will be circumstances that were not foreseen when the regulations were drafted. In order to address new technology and advances in building safety, there is an annual process for any interested party to submit to the Department of Community Affairs change(s) to the rehabilitation subcode. These are presented to an interdisciplinary board for discussion and recommendation. During the first code change hearing in March 1999, there were no changes recommended to the fundamental principals of the Rehabilitation Subcode, thus reinforcing our position that the Rehabilitation Subcode is working and working well.

The statistical results within the State's ten largest cities for the first year of the program are outlined in question #2. Statewide, the estimated cost of construction for rehabilitation work authorized by permits in 1998 increased by \$228,595,092 over 1997. This is about a 6% increase.

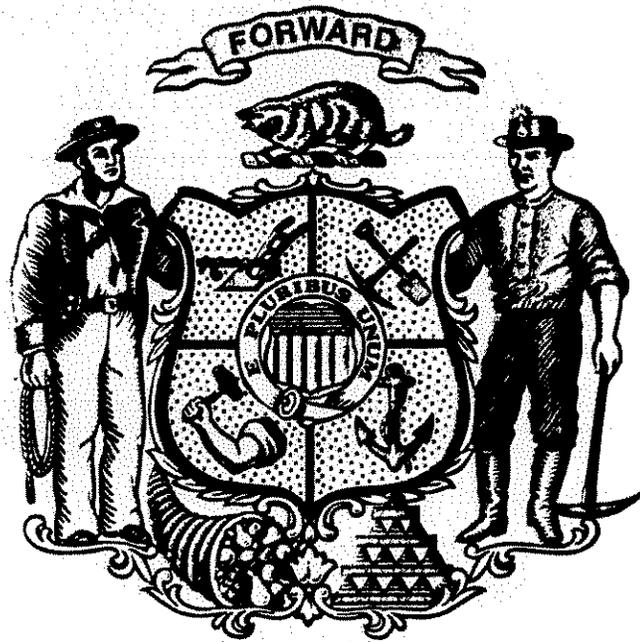
12. To what extent do you believe that your program or policy initiative is potentially replicable within other jurisdictions and why? To your knowledge, have any other jurisdictions or organizations established programs or implemented policies based on your own?

This program is very replicable. While it is a state government initiative, it can be duplicated at any level of government which adopts and enforces building construction regulations.

New Jersey adopts its codes at the state level and enforces them with licensed local officials who are subject to state supervision and receive training and technical support from the state. Virginia follows a similar pattern. Other states, such as Maryland, adopt and enforce codes at the county level. Still others, such as Illinois, adopt and enforce them at the local government level. Whatever level of government has building construction code jurisdiction, the New Jersey Rehabilitation Subcode can be adopted. The City of Wilmington, Delaware is in the process of doing just that. There are a number of other jurisdictions that have asked for copies of the subcode

New Jersey, like most states, counties and localities, bases its new building regulations on national model codes. The Rehabilitation Subcode was closely coordinated with national model new construction codes and correlates with them completely. Little or no adaptation of the New Jersey code would be needed in another jurisdiction.

The only obstacle that others might encounter is understanding the Rehabilitation Subcode's new format and philosophy. This can be readily overcome through information and education. The Rehabilitation Subcode has found broad support among building safety professionals in New Jersey because its carefully targeted approach actually yields more real safety per dollar spent than do the efforts of most jurisdictions (including New Jersey up until a year ago) to apply new building codes to existing buildings. Community and economic development professionals support it because it eliminates a major impediment to community renewal. Finally, building owners, architects, and engineers like it because it makes re-investment in existing buildings sounder and more predictable and the assessment of the potential of existing buildings much more possible than was the case in the past.



GOVERNING

THE MAGAZINE OF STATES AND LOCALITIES

DECEMBER 1999/\$4.50



IT'S ONLY A BUG

Local Government Confronts
The Y2K Monster



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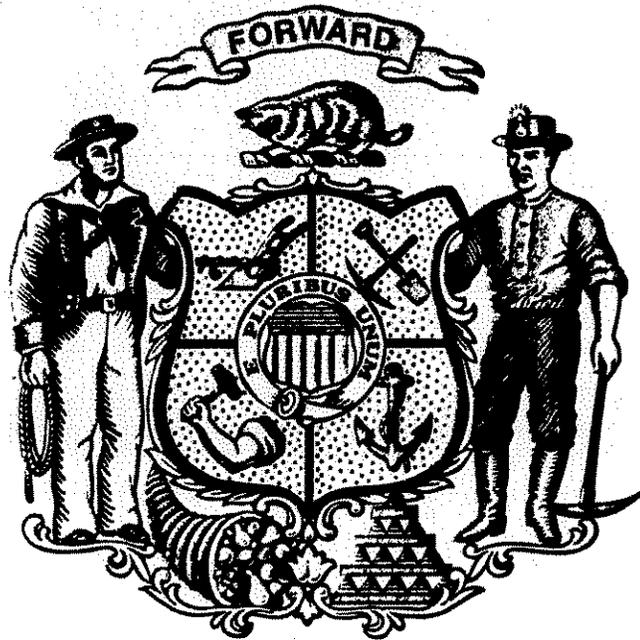
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Entry Form

Community The State of New Jersey Population _____
Project Name The Rehabilitation Code
Submitted by: Name William M. Connolly Title Director
Organization Division of Codes and Standards, Department of Community Affairs
Address PO Box 802
City Trenton State/Province NJ Postal Code 08625
Phone (609) 292-7899 Fax (609) 633-6729
Email afrank@dca.state.nj.us Key code: AA

This project is submitted in the following category:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Economic Development | <input type="checkbox"/> Promotions and Communications |
| <input type="checkbox"/> Public Space | <input type="checkbox"/> Business Recruitment and Retention |
| <input type="checkbox"/> Planning | <input type="checkbox"/> Downtown Management |
| <input type="checkbox"/> Social Issues | <input type="checkbox"/> Individual Achievement |
| <input type="checkbox"/> Festivals and Special Events | <input type="checkbox"/> Check here if unsure of category. |

What month and year was the project started? _____

What month and year was the project completed? _____

Note: Projects must be 90-95% completed to be eligible for consideration. In case of a multiphase project, completion of a major phase of the project will make it eligible.

Entry Check List

Before you send in your entry, please check the following:

RECEIVED JUN 14 2000

1. Required Materials:

- Original entry form
- Twelve (12) copies of the entry form
- Slides: six (6) to ten (10) slides (horizontal orientation preferred) *to be sent ASAP*

2. Supplemental Materials:

- One complete original of supplemental written or graphic documents
- Twelve (12) photocopied sets of no more than five double-sided pages of written or graphic documents
- One copy of digital images
- 1/2-inch VHS Video

3. Payment:

- IDA Members
- | | | |
|------------------|-------------------------------------|-----------------|
| US/International | <input type="checkbox"/> | \$195 per entry |
| Canadian | <input type="checkbox"/> | \$136 per entry |
| Non-Members | <input checked="" type="checkbox"/> | \$300 per entry |

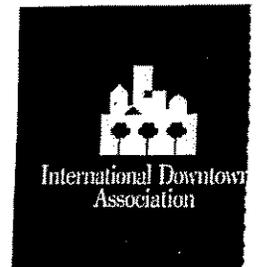
I would like to join IDA now and pay the member entry fee.

Entries must be received no later than 5:00 p.m. EDST on June 14, 2000.

Submit to:

IDA Awards Committee
910 17th Street, NW, Suite 210
Washington, DC 20006-2603

(202) 293-4505



The Rehabilitation Code

Before the publication of the New Jersey Rehabilitation Code, there was no construction code written specifically for existing buildings. The Rehabilitation Code is a "national first." The problems it resolved regarding construction work in existing buildings have led to the renovation and rehabilitation of existing buildings in large cities and small towns throughout New Jersey. The Rehabilitation Code is easily replicated and can have the same impact in municipalities throughout this country.

Summary of the Problem

Both in New Jersey and nationally, building codes, which are oriented toward new construction, have added to the time and expense of rehabilitating existing structures. For new buildings, complying with a construction code is a straightforward process, but it has been difficult to apply the code rationally and predictably to existing buildings. Because of this problem, developers and building owners were not able to predict with certainty what would be required to bring a deteriorated building back into use. With this uncertainty in terms of time and resources, projects in existing buildings were often not attempted and the buildings remained unused.

The rules in effect prior to the Rehabilitation Code triggered code requirements based on the cost of planned alteration work. If the cost of the planned alteration work exceeded 50% of the replacement value of the structure, the structure was to comply with the code requirements for new buildings. If the cost was between 25% and 50%, the portion altered was required to meet the code requirements for new buildings. Finally, if the cost was less than 25%, the code enforcement official determined the extent to which the altered portion of the building had to comply with the code for new construction.

This caused three serious problems. The first was that, in many cases, the requirements for new structures could simply not be met in existing buildings. The second problem, predictability, stemmed from the first problem. Because it was not possible to fully meet the standards of new construction, the applicant could not predict which code requirements would be enforced. Third, without consistent enforcement, there was no way to accurately predict project cost. Therefore, building owners were reluctant to undertake a building rehabilitation project. In addition, meeting code requirements frequently expanded the building owner's scope of work, even in parts of the building that were neither unsafe nor in disrepair. These added code requirements frequently made a potential project cost-prohibitive. The result was that buildings were left vacant or were underutilized and were allowed to deteriorate. Vacant or underutilized buildings, particularly commercial buildings, became vacant and underutilized downtown areas.

The Innovation of the Rehabilitation Code

The Rehabilitation Code changed the traditional approach to building rehabilitation. Its requirements are not based on the construction code for new buildings. Rather, its provisions are specific and are tailored to work in existing buildings. The requirements are not based on the cost of construction; they are based on the nature of the work. Furthermore, nearly all of the requirements are limited to the area of the building being altered.

How the Rehabilitation Code Works

Instead of basing its requirements on the cost of the work, the Rehabilitation Code bases its requirements of the nature of the work undertaken. To effect this fundamental

change, the Rehabilitation Code establishes six increasingly extensive categories of work. "Repair" means fixing a building component that is worn or broken. "Renovation" means replacing a building component with a material that is the same as, or similar to, the original component. An "alteration" project includes reconfiguring space. "Reconstruction" is a project consisting of other categories of work where the work includes an entire tenancy and precludes occupancy during the project. A "change of use" has two aspects: a change in the building's use group or a change in the intensity of the use. An "addition" increases the building's size; the Rehabilitation Code applies to the existing portion of the building. The code ensures that the work of each category is done safely. It omits the arbitrary or disproportionate requirements that increased the cost of rehabilitation work in existing buildings in the past.

The Rehabilitation Code and Economic Development

The most important achievement of the program to date is the increased rehabilitation of existing buildings in New Jersey's cities. Rehabilitation has always constituted a large portion of the construction money spent in older cities. In 1996, before the Rehabilitation Code was in effect, the local construction offices in New Jersey issued building permits authorizing work with an estimated cost of \$7 billion. Additions and alterations accounted for 47% of this amount.

Like many other areas of this country, New Jersey has an old housing stock. This means that rehabilitation work and building conversions play a critical role in state, local, for-profit, and nonprofit efforts to expand the supply of affordable housing. Half of New Jersey's 3.1 million homes were built before 1969. Because of the age of the housing stock, developing a code that would encourage improvements to existing buildings--and that would not penalize owners who choose to improve their buildings--was vital to improving housing in our cities. Early evidence shows that the code is making a difference. (See the section on the outcomes of the Rehabilitation Code.)

Over the past few decades, there have been a number of initiatives to encourage urban renewal. The Rehabilitation Code accomplishes urban renewal both directly and indirectly. The direct effort of the Rehabilitation Code is to make rehabilitation projects more affordable and predictable while continuing to ensure safe buildings. At the same time, the Rehabilitation Code has trimmed more than 25% off the cost of some urban projects. This makes feasible rehabilitation work that was once thought to be impossible. The indirect benefit of the Rehabilitation Code is that by reducing construction costs it stretches the limited funding that is dedicated to revitalizing our cities. As cities are revitalized and existing buildings are returned to use, new construction and suburban sprawl are contained. In addition, government and nonprofit programs, such as affordable housing programs, are able to generate more dwelling units for the same amount of money. One project in Jersey City, for example, of 24 units of senior housing and a daycare center realized total savings of \$391,000. Savings like this can be dedicated to providing more affordable dwelling units or it can be used to rehabilitate commercial space in the neighborhood.

By removing major impediments to redevelopment, the Rehabilitation Code supports the reduction of suburban sprawl. Reinvesting in our cities conserves natural resources utilizes an untapped source for affordable housing, and preserves open space. That is why the impact of the Rehabilitation Code on New Jersey cities is its greatest achievement.

Measuring the Outcome of the Rehabilitation Code

The success of the Rehabilitation Code in New Jersey is seen in statistics about rehabilitation work undertaken throughout the state. There has been a sharp increase in rehabilitation work in the 16 biggest municipalities during 1998 and 1999. From 1997 to 1998, rehabilitation work throughout the State grew at a modest 7.7%. In 1998, the first year the Rehabilitation Code was in effect, rehabilitation work increased 40% in the 16 cities. In certain cities, the increase was even more dramatic. Between 1997 and 1998, rehabilitation work in Newark grew by 59%. It grew by 83% in Jersey City and by 40% in Trenton. Preliminary figures for 1999 show that the rehabilitation work in the 16 cities has increased over 60% since 1997. In addition, applications for historic preservation listing have increased five-fold.

Representation in the Development of the Rehabilitation Code

A broad-based, balanced 30-member advisory committee was established in 1995 to develop the Rehabilitation Code. The members represented a cross-section of code users, including design professionals; building, fire plumbing, and electrical inspectors; builders; nonprofit developers; historic preservationists; and advocates for people with disabilities. This Committee was given four fundamental principals on which to base code review and recommendations. These four basic principles, which underlie the Rehabilitation Code, are:

- (1) The building should be as safe after the project has been completed as it was when the project began;
- (2) The level of code compliance should be based on the nature, not the cost, of the work;
- (3) With the exception of a total building reconstruction, code requirements should neither extend nor increase the owner's scope of work; and
- (4) Where the scope of work intended by the owner is extended by the Rehabilitation Code, the additional requirements should be based on work necessary to achieve a *safe* building, not on those required for a *new* building.

The Committee met to review and discuss successive drafts of the code. Suggestions made by this broad-based group were invaluable.

The Rehabilitation Code Is Replicable

New Jersey has a statewide Uniform Construction Code enforced by State-licensed, municipally employed code officials. This system of code administration made it straightforward in New Jersey to effect the enforcement of this major shift in code requirements. However, any code enforcement jurisdiction can use the Rehabilitation Code. Over the past year, the Department of Community Affairs has received requests for copies of the Rehabilitation Code from nearly 300 code enforcement jurisdictions across the United States and in Canada. The City of Wilmington, Delaware adopted the Rehabilitation Code in 1999. The State of Maryland has passed legislation, and the states of Massachusetts and Rhode Island have legislation pending, to adopt the Rehabilitation Code. The United States Department of Housing and Urban Development used an early draft of the Rehabilitation Code as the body of its 1997 Nationally Applicable Recommended Rehabilitation Provisions. The Rehabilitation Code is a technical document, with common sense requirements in an easy-to-understand, "cookbook" format. Because it does not itself contain administrative provisions, the Rehabilitation Code is eminently replicable.

Rehab Team
 Bill C. Cino
 W. AFF
 E.W. Templeton
 Mitch Malec
 George Miller
 John Terry
 Mike Baier

New Jersey Revs Up Its Rehabs

A new housing code is saving renovation costs—and buildings.

By Ben Forest

New Jersey's new rehabilitation building code is a breakthrough. In less than a year, rehabilitation of old structures jumped 60 percent, and the code's success has drawn national attention. "There is no doubt, our expectations have been surpassed," says Jane Kenny, commissioner of the Department of Community Affairs and author of the new regulations.

The code is one of the keys to Gov. Christine Todd Whitman's effort to revitalize cities, says Kenny. "We have been working on this since I first came to the department in 1996, because this meshed with some of the governor's top priorities: economic development, affordable housing, creating more jobs, urban revitalization, and regulatory reform."

Until the new rules went into effect, the costs, construction constraints, and unpredictable application of building standards were huge obstacles to upgrading old buildings. Some property owners managed to struggle through the process, but nearly everyone agreed there should be a better way. In 1996 the state set out to create a new rehabilitation subcode to the state's Uniform Construction Code. The new regulations went into effect in January 1998.

For builders and land owners, it was a given that building rehabilitation was fraught with delays and financial risk. Local communities often had their own interpretation of how to enforce building codes, but one thing was certain: By state law, if the cost of the work exceeded 50 percent of the structure's value, the entire building had to be brought up to new building standards.

Planning and building officials argued that this was not only costly, but rarely

resulted in the best use of the structure. Even at levels below 50 percent, builders and construction officials haggled over what was required and made sense.

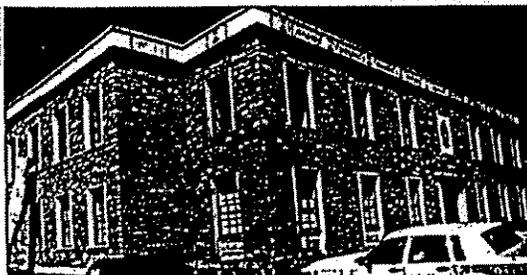
The old system also contributed to the state's chronic shortage of affordable housing, whereas the new subcode has reduced rehabilitation costs by as much as 50 percent, with the average around 10 percent, the community affairs department says.

That's an important factor in a state where half of its 3.1 million homes were built before 1959 and where most of the housing in its two largest cities, Newark and Jersey City, was built before 1949. The

Affordable Housing Network, a statewide nonprofit advocacy coalition, describes the new code as a "model" and "critical step" in helping build better neighborhoods.

"This is an excellent new standard," says Jersey City construction official Michael Reegan. "The old system penalized people for doing rehabilitation—made it cost-prohibitive. It's extremely important in Jersey City. We have a lot of old buildings in need of work." Jersey City (pop. 232,000) is the state's largest urban area.

The changes have received attention outside the state. In 1997, the U.S. Department of Housing and Urban Develop-



Far left: Formerly used for state offices, this 53,000-square-foot building in Trenton was renovated into a charter school in 1998. Left: Jane Kenny, commissioner of the New Jersey Department of Community Affairs.

...ing can be reused. The old code really been a barrier to good neighborhood planning. . . . Now it is more likely that an unused structure will turn into an asset, not remain vacant or be demolished."

One standard, better safety

Experts say one of the major benefits of the new subcode is that it is applied uniformly. Local construction officials had too much discretion under the old code, they say, whereas the new rules bring long overdue standardization, simplification, and more reliable safety enhancements to the job of rehab.

For example, the new code requires the installation of a fire suppression system and advanced fire alarms, says William A. Connolly, director of the division of codes and standards for the state. Sometimes the massive structural changes required under the old rules did nothing to increase safety, Connolly says. "Each inspector would have to make his own decisions. Some would not do enough, some would do too much." Connolly adds that older buildings are often still "safe and sound."

Connolly, whose division drafted the w subcode, has been with the Department of Community Affairs for 26 years. "We've known there was a problem with our construction code for use in rehabilitation for some time," he says. "It became increasingly obvious that we needed to undertake this.

"It has worked amazingly well," Connolly adds. "A lot of effort went into

drafting it. The 170 pages are organized like a cookbook. Much of the information is repeated so readers do not have to constantly switch between sections. One of the committee's goals, as well as ours, was to make this new code as user friendly as possible."

Architect Ann Weber, of the Princeton firm of Ford, Farewell, Millsand and Gastch, says about half her firm's work is in historic restoration and preservation. The new subcode, she says, "has been a great boon for restoration." First, she says, "owners are being saved money," none of the changes in the code compromises safety, and "we are able to save much more historic material. It allows us to do a much better job. It is much more realistic."

Adding up the results

The Department of Community Affairs put together some preliminary 1998 figures for *Planning* based on reports from local building departments throughout the state. They show that estimated costs of rehabilitation construction jumped to \$287 million from \$179 million in 1997 and \$176 million the year before. "The only explanation we can give for that is the new subcode," says Commissioner Kenny.

One example: A four-story senior citizen complex and day care center at 203 Academy Street in Jersey City saved \$391,000 in building costs thanks to the new code. Under the old code, the rehab would have cost \$1,536,000; under the new code, it cost \$1,145,000. Before the

rehab, the building—formerly an apartment and retail complex—had been vacant for eight years.

"The code has been well accepted," Connolly says. "It is being put to use and has had an impact on rehabilitation throughout the state. It has immensely shortened and simplified the plan review time. We knew that people who owned older buildings and were doing rehabilitation would like it; but somewhat to our surprise public safety officials have liked it, too. Fire officials and inspectors—now they know exactly what is required for safety."

One reason for the success of the new standards was the effort put into their development. A 30-member committee under the coordination of the Center for Urban Policy Research at Rutgers University helped draft them. Made up of fire and code officials, architects, historic preservationists, advocates for people with disabilities, and government representatives, the committee met every three months between late 1995 and 1997. The department also created a special working group to oversee the writing and coordinate the effort.

"One of the reasons it took so long to write this new code," Connolly says, "is that we really had to rethink 100 years worth of building codes, all of which had been written with new buildings in mind."

Ben Forest is the managing editor of *Atlanticville*, a weekly newspaper in Long Branch, New Jersey.

The Stone Lodge in Chester, New Jersey (below), was renovated as a demonstration project under the state's new rehab code. Its cosponsors are the state of New Jersey, HUD, the National Association of

NEW JERSEY REHAB COST SAVINGS

Building Element	Cost without Rehab Subcode	Cost with Rehab Subcode	Savings Attributable to Rehab Subcode
Doors: replacement and widths	\$7,000	\$4,000	\$3,000
Stairs: dimensions and enclosure	\$5,300	\$5,300	\$0
Room size	\$20,000	\$0	\$20,000
Structural Design	\$200,000	\$50,000	\$150,000
Window size	\$31,119	\$31,119	\$0
Vestibule: stairs/dimensions	\$15,000	\$0	\$15,000

New Jersey Department of Community Affairs

Home Builders Research Center and its Remodelers Council, and Professional Remodeler magazine. See www.remodelingresource.com. As the chart shows, average rehab costs are now lower statewide.



Reuse It or Lose It

Revised Building Codes Ease Renovations

By Don Mooradian

Why all the interest in reusing buildings lately? All over this country, you can find businesses moving into warehouses and factories renovated into trendy offices, small business incubators or software development farms, and the like.

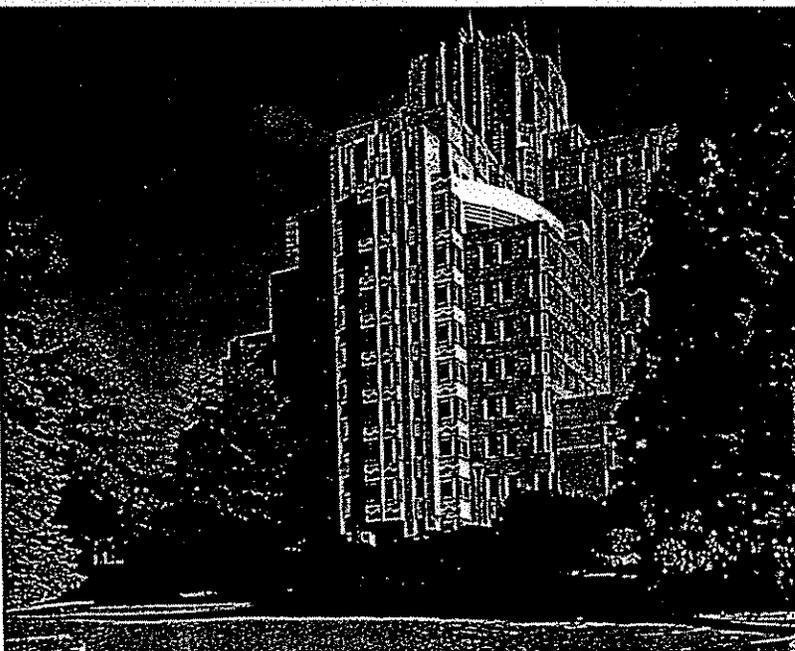
Maybe it's Millennium Fever and people just want to save old buildings from the wrecking ball. It might be the charm, the ambiance, or maybe the image that draws companies to these renovated buildings or buildings that can be renovated: exposed red brick, sandblasted clean and smooth; bright new heating and air conditioning ducts running along the ceiling; and huge old wood beams.

Or maybe because it's quicker and cheaper to change the purpose of an existing building like, say, an abandoned discount department store, into a call center providing steady jobs and a tax base instead of letting it remain the site of a once-a-month flea market for local paint-by-number artisans.

Certainly, there are literally acres upon acres of industrial-strength buildings on former military bases that are going for dirt-cheap prices or easy leasing terms that may be too good to ignore.

Moreover, new materials and revised building codes are making it easier to renovate some older structures, structures once subjected to newer codes impossible—or, at least, economically unfeasible—for the buildings to meet. And sometimes, renovations or rehabilitation of historical buildings will qualify for government grants.

"The reality is our country has an abundance of existing buildings that can be adapted to new uses," says Steve Schoch, a principal with Kitchen and Associates, a Collingswood, N.J., archi-



A former veterans' hospital in downtown Seattle had been 70 percent vacant. After renovation, the art deco building serves as the headquarters for Amazon.com.

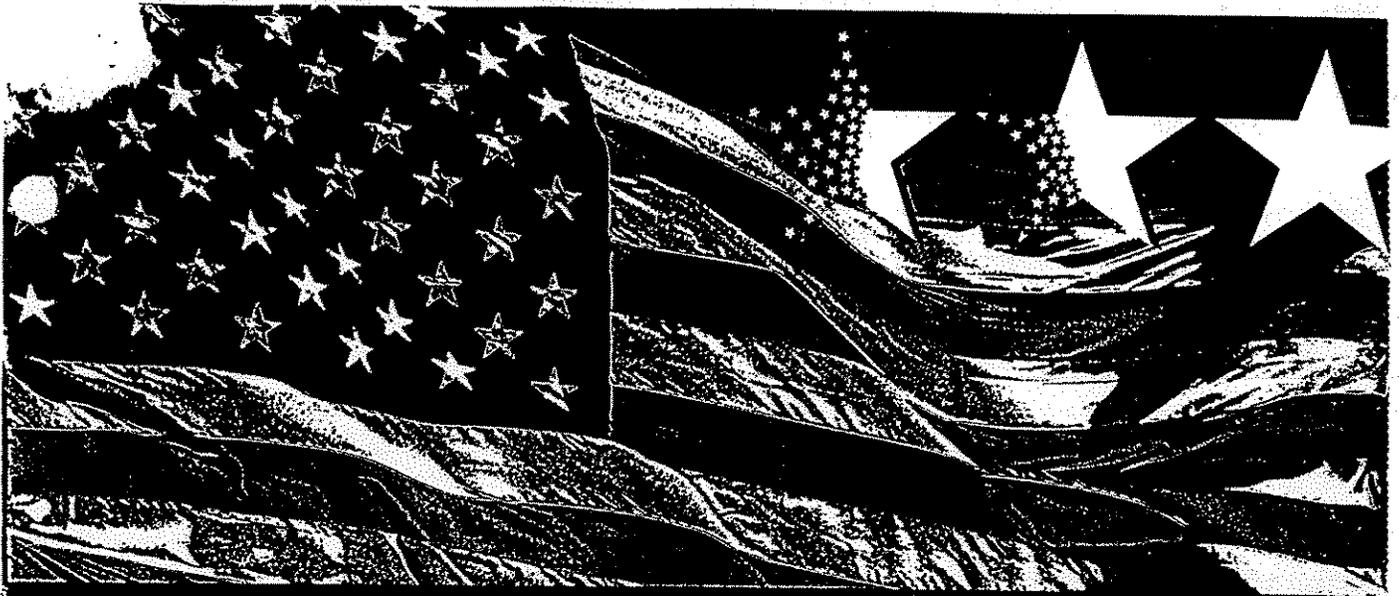
tectural firm with experience in renovating older structures for new purposes.

The economics of reuse projects depend on a lot of factors. One of the key considerations, especially in an older building, is to determine if it is still in usable condition, Schoch says. "As far as economic viability goes, if the structure is sound and the infrastructure is there, those are some of the fundamental factors that might make reuse not nearly as hard as buying the corner of a farm to build something new and where utilities have to be brought out to you."

Seattle-based Amazon.com, the giant book retailer on the Internet, has moved into a former U.S. Marine hospital built in 1932. Located on the

edge of Seattle's Beacon Hill, the 16-story building is one of the city's most prominent landmarks, with a distinctive art deco design. But about 70 percent of the building had been vacant for 10 years.

"We considered many options and ultimately selected the building because it has an urban feel that is appropriate for our company headquarters and we wanted to remain in downtown Seattle," says Emily Glassman, a spokeswoman for Amazon.com. "Also, the building is a historical landmark and presented a fantastic opportunity to refurbish the veterans' hospital." That was especially true on the first floor where the lobby was restored to reflect its original art deco style.



Innovations In American Government

1999

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Emily

New Codes for Old Buildings

By Miriam Axel-Lute

Since 1986, the Innovations in American Government awards, co-sponsored by Harvard University and the Ford Foundation, have recognized 230 programs that are examples of creative problem solving in the public sector. In 1999 three of the winners involved housing and community development: HUD's Continuum of Care, NJ's Rehab Subcode, and NYC's Neighborhood Entrepreneurs Project. In the following profile, Shelterforce makes a closer look at NJ's Rehab Subcode.

Rehabilitating old buildings in New Jersey," says Connolly. For example, rather than setting a minimum width for doorways, the Rehab subcode sets a safety ratio between the building's value, you had to meet the standards for new buildings in certain buildings, such as housing, already meet these standards. If a rehab project, say a restaurant, whole building. Much of the variation was in the way local officials.

Meeting new codes on old buildings is not a small task and in some cases is impossible. New construction codes specify such things as the basic type of construction and minimum dimensions of corridors, doors, and staircases. And "if you have a 40-inch corridor, you can't just make it 42 inches," points out Bill Connolly, director of the Division of Codes and Standards in NJ's Department of Community Affairs (DCA).

As a result, some rehab work did destroy historic architecture to meet the new codes. Some took longer or cost more than it should have. Most often, however, it just didn't happen. New Jersey, with some of the oldest housing stock in the nation, is in desperate need of rehab work, especially in its cities.

DCA responded with the new Rehab Subcode, which went into effect in 1998. Based on the type of work needed, rather than the appraisal, the code gives consistent guidelines for every aspect of rehab work. It took two years and a 30-member committee to create.

Fundamentally a safety code, its methods are distinct from new building codes. "An existing building is very different from a new building. So we think about it totally different-

ment Award sponsored by the Ford Foundation and the Harvard Kennedy School of Government, and the New Jersey Historic Sites Council gave its Historic Preservation Award to DCA Commissioner Jane Kenny in 1998 for her work on NJ's Affordable Housing Network, a coalition of nonprofit developers supported and encouraged the change. While the NJ Apartment Association called it an example of good government, it also won an honorable mention from a free-market think tank, the Pioneer Institute, which claimed the new set of government regulations as a victory for the shrinking government movement.

New Jersey's bold foray into common sense seems to have worked. According to *Business News New Jersey*, the subcode's first year effect saw a rise of 60 percent in rehab spending in NJ's five biggest cities, compared with a 1.6 percent rise the year before. It attributes this to both the frequent and often large (10-25 percent) savings, and the confidence to predict costs that the code inspires in developers. It also makes renovations more accessible to lower-income homeowners.

With the Rehab Subcode, NJ's DCA has proven it's not big or small government that's important. It's good government. ■

Contact:
Bill Connolly, director, Division of Codes and Standards, New Jersey Department of Community Affairs, 101 S. Broad St., P.O. Box 802 Trenton, NJ 08625
Phone: (609) 292-7899; Fax: (609) 633-6729

Background: Photograph of the old Zane School in Collingswood, NJ which has been rehabbed in to the offices of Kitchen & Associates Architectural Services, PA under the New Jersey rehab subcode. Photo by Noel Coldiron.

Luxury apartments planned for Camden's Nipper Building

NIPPER from B1
gramophone.

The vacant building is one of the last of about 20 RCA buildings. It is owned by the Camden Redevelopment Agency, which asked Cooper's Ferry to find a developer for it.

Dranoff estimated that it will take up to \$50 million to convert the building into luxury apartments, and the sale agreement is contingent on his arranging private financing. The sale price has yet to be negotiated.

"It probably will take 18 months of predevelopment work — all the design, engineering and architectural work — and to arrange financing," Dranoff said.

He said it would be a "dramatic and compelling" project that should be ready for occupancy in late 2001 or early 2002 as other waterfront projects — such as a minor-league baseball stadium near the Benjamin Franklin Bridge, a tram linking the Camden and Philadelphia waterfronts, and the refurbishing of the battleship New Jersey — are coming on line.

The timing, Dranoff said, could not have been better.

"There is no place in America where you have 20 or 30 acres of undeveloped waterfront property across from a major city on a major waterway that is enjoying as tremendous an amount of public and private development," he said.

The apartments would be in two buildings — the six-story structure with the tower and a 10-story building — that are separated by a courtyard. The two have a combined 650,000 square feet of space, and all except the ground floors would be converted into residences. The ground floors would have offices and some retailing.

The project is significant in that it would be privately funded, unlike many of the waterfront projects, and thus would add to the city's crumbling tax base.

Corcoran previously announced that the Nutraceutical Institute, a research venture of Rutgers and St. Joseph Universities, planned to

least some space. But financing for that deal has not been completed.

Dranoff said he was willing to lease space to the institute if it arranged financing, after he signed a definitive sale agreement. He said he was confident that he could raise his financing from private sources.

His plans call for one- and two-bedroom, loft-type units with 12-foot-high ceilings, big windows, "Euro-style" kitchens, a landscaped courtyard, a fitness center, a library, a conference room, a 24-hour lobby desk attendant, and private parking.

He was drawn to the site because of its "strategic location," Dranoff

said, noting that the terminal for the proposed tram and a planned light-rail stop were virtually at Nipper's front door. And the view of the Philadelphia skyline is unobstructed.

"Our principal market will be 22- to 33-year-old professionals, and entrepreneurs" in South Jersey and Philadelphia, he said, and the rents would be at "market rates."

Tenants using the tram could be on Penn's Landing, in Old City or in Center City within minutes, he said.

His goal, Dranoff said, is to make it the "hip place to be."

A luxury apartment in Camden, the poorest city in New Jersey, "sounds like an oxymoron, but you have to think outside the box, as in Old City rebirth, riverfront rebirth," Dranoff said, referring to Philadelphia revitalization projects.

Corcoran said luxury apartments were the missing link in the development of the waterfront.

"We have known for a long time that the waterfront can be marketed" for entertainment and recreation, he said. "The big question mark was whether it could be marketed for residential development.

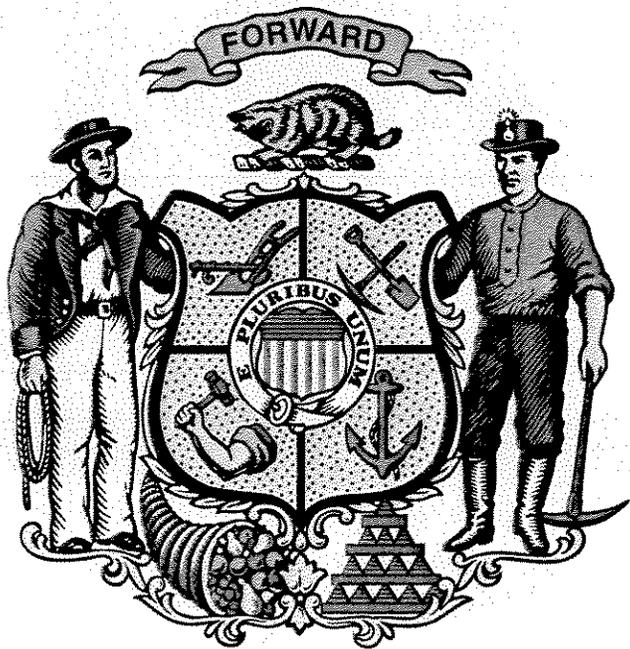
"Having a developer of Mr. Dranoff's reputation and his ability to come over here and jump into this project is a sign to us, indeed, that there is a market here for residences."

Dranoff is a former president

and chief executive of Historic Landmarks for Living, a Philadelphia real estate development firm that specialized in the conversion of large-scale historic buildings into upscale apartments and condominiums in Philadelphia and other major cities in the Northeast and Midwest.

Ewart Rouse's e-mail address is
erouse@phillynews.com

The developer, who is seeking financing, said the units could be ready in late 2001 or early 2002.



DOWNTOWN Idea Exchange

New Jersey state subcode could become national model for building rehabilitation

As in many states, communities throughout New Jersey have been undergoing extensive amounts of construction in recent years. But a large percentage of this work involves additions and alterations, and the existing regulations governing modifications to existing buildings had become obsolete.

That prompted state officials to come up with their own solution to the problem by developing the nation's first comprehensive set of code requirements designed specifically for existing buildings.

NJ's existing building code was not suited to rehab

Prior to the 1998 adoption of New Jersey's Rehabilitation Subcode, the state was requiring compliance with the New Jersey Uniform Construction Code (UCC), which followed the national Building Officials and Code Administrators (BOCA) approach. However, instead of serving as a helpful guide for building rehabilitation, adherence to that code — which principally governed new construction — added unnecessary time and expense for developers of existing buildings.

The problem was that the UCC was not written with existing buildings in mind, says William Connolly,

director of the Division of Codes and Standards for the State of New Jersey Department of Community Affairs. According to Connolly, who spoke at a recent International Downtown Association conference session called "Leveling the Playing Field: Creating Rehabilitation Building Codes," "It was difficult to apply the code rationally and predictably to these types of buildings, since neither developers nor building owners could predict with certainty what would be required to bring a deteriorated building back into use."

The code discouraged developers from rehabilitating buildings, and many of those in need of work simply sat vacant. In fact, the only part of the UCC code that applied specifically to rehab work was the "25%/50%" rule.

Deficiencies in the 25%/50% rule

As Connolly explains, the 25%/50% rule referred to costs, namely the cost of the alterations in relation to the value of the building. For instance, where the cost of the work was under 25 percent of the value of the structure, the code provided that the subcode official determine the degree to

(Continued on page 2)

Case Study

Downtown works to convince City Council to construct a new government building

With a revamped report to substantiate their position, downtowners in San Diego, CA (pop. 1,110,623), are eager to get the ball rolling on construction of a new City Administration Building. The present 12-story Administration Building, which was built 30 years ago, houses dozens of local government offices. "It used to house even more of these types of offices," adds Justin Paulhamus, public affairs manager for the Downtown San Diego Partnership. "Many of these agencies have left downtown in search of more space."

(Continued on page 6)

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Downtown[®] Idea Exchange

a publication of the
Downtown Research & Development Center
215 Park Avenue South — Suite 1301
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State building code — continued from page 1

which the alteration work should meet the code requirements for new construction. "This gave the subcode official a great deal of discretion and the building owner very little predictability," says Connolly.

Where the cost of the work was between 25 and 50 percent of the structure's value, the code required that the altered or repaired portions meet the requirements for new structures. However, the configuration of existing buildings generally made this difficult to achieve, so projects often involved one or more variation requests and, again, very little predictability.

And when the cost of the work exceeded 50 percent of the structure's value, the code mandated that the requirements for new structures be applied to the entire building, including portions not planned for alteration or repair. This meant that not only the rehabilitated area, but the entire building, would have to be upgraded to the standards for new construction. Again, variation requests were common in this kind of project because of the limitations of the existing buildings.

Recalling its history, Connolly explains that the 25%/50% rule first appeared in building codes as a provision to address nonconforming structures within fire districts. "The rule had originally been intended to *prevent* rather than *promote* the rehabilitation of certain classes of buildings [such as buildings of wood

frame construction which were susceptible to fires]," he says. "Although the rule made some sense 75 years ago when large numbers of existing buildings met no building code standards at all, those buildings are long gone," he adds.

Rehabilitation code vs. new building codes

As Connolly explains, the Rehabilitation Subcode has an entirely different structure from a new building code. For instance,

while new building codes establish requirements for the size of a building, its height, safety systems, etc., the Rehabilitation Subcode has no height limits or

dimensional requirements; however, it does have requirements for safety systems, as these can be readily installed in existing buildings.

The requirements for existing buildings under the Rehabilitation Subcode are based on the type of work being undertaken, with sections covering such areas as building repair, renovation, alteration, reconstruction and change of use.

According to Connolly, the subcode establishes a "common sense" approach to overcoming rehabilitation problems by adhering to the principles of:

- Maintaining building safety — states that work performed should leave the building no less safe than it was when the work began.
- Predictability — establishes

the set of code requirements in a clear cookbook approach which enables users to more easily follow it.

• **Proportionality** — Does not impose requirements that would significantly extend the owner's scope of work. "The requirements are in proportion to the work planned," Connolly explains. "When someone comes in to take out a building permit to improve a building, that is not the time to ask him to upgrade the structure further," he adds.

New Jersey's Rehabilitation Subcode is suitable for use nationwide. Connolly points out that it "can be adopted virtually anywhere"; the Rehabilitation Subcode works very well with the BOCA code and with other national building codes.

Some facts about New Jersey's Rehabilitation Subcode

The Rehabilitation Subcode was developed by the New Jersey Department of Community Affairs, with guidance from a 30-member committee under the coordination of the Center for Urban Policy Research at Rutgers University. The committee met over two years and approved the draft document at its final meeting held in early 1997. Following two public hearings, the Subcode was officially adopted one year later.

A stand-alone subchapter of the state's Uniform Construction Code, the Rehabilitation Subcode contains all the technical requirements that apply to a rehabilitation project. Furthermore, because it is a new approach to establishing requirements for work in existing buildings, the first section includes a user-friendly introduction that summarizes the code and sets the stage for the requirements that follow.

Connolly advises communities in other states that want to adopt the Rehabilitation Subcode to create a coalition that is both capable of mobilizing the necessary political support, and of determining

whether any adaptations of the code are needed to tie it in with the needs of the community.

Contact: William Connolly, State of New Jersey Department of Community Affairs, (609) 292-7899. ♦

How to make "CityBranding" work for your community

In the last issue of Downtown Idea Exchange, we covered the fundamentals of "CityBranding," a process designed to help communities develop an identity that will keep them ahead of their competition. Below, we feature the next phase of the branding process, a three-step approach that communities can use to help them put this concept to work.

"Once a community has developed its brand, the next step is to work hard at making that brand a reality," explains Maureen Atkinson, a senior partner of the Toronto, Ont.-based consulting firm Urban Marketing Collaborative. Good communication is the first step needed for putting this approach into action, she says.

Step 1: Communication with stakeholders is essential to CityBranding success

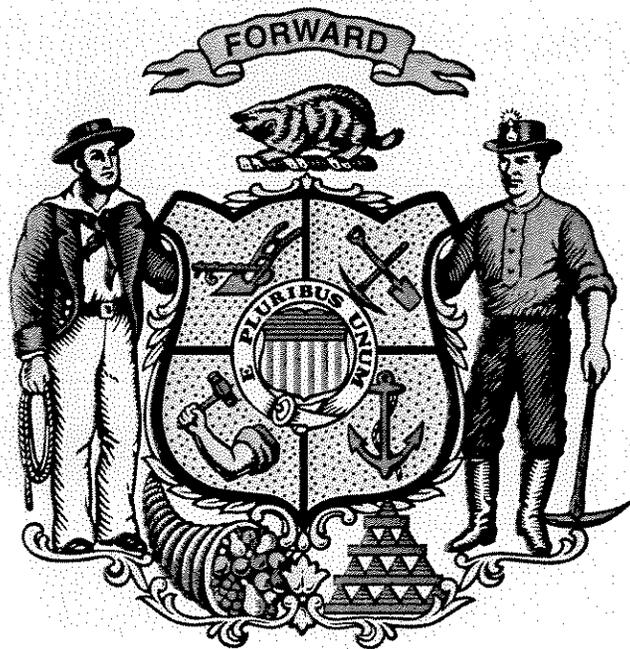
A community must have ownership of its brand in order for the CityBranding process to be successful, Atkinson explains: "If the community doesn't own the brand, it will have almost no positive value, and the CityBranding process may even have a negative impact."

Ownership is best attained through good communication. Atkinson advises communities looking to gain support for the CityBranding process to let community members know about the work being done. "At this point in the CityBranding process, constituents are probably aware that a

process of creating a brand is being undertaken. However, they may not know what branding is or why it has been proposed," she explains.

"Let them know that CityBranding is designed to accomplish certain goals and that your organization is initiating and managing the process. Once they can define the process and find it credible, they will be willing to undertake some action or behavior to convince others of its effectiveness," she says.

She also suggests that the leaders of each group of constituents involved in the CityBranding process be kept equally informed and involved: "If the brand becomes 'owned' by one



US



Your opinion matters to us. Do you think Arrowhead Park should be closed for the winter? Why or why not? Please call 996-1234, extension 600 or e-mail us at editor@add-inc.com and tell us what you think and why. Spell your full name and include your community and phone number. Replies without names will not be used. Responses must be in by 8 a.m. Monday.

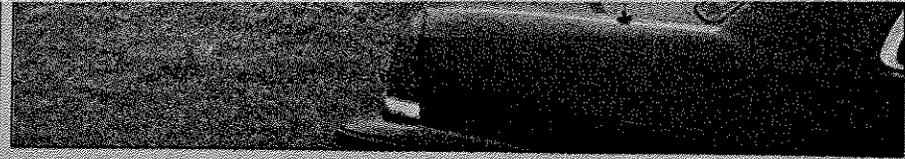


photo by Amy Hacker

A 19-year-old Appleton woman was listed in critical condition at Appleton Medical Center for injuries sustained in a collision on Wisconsin Avenue Tuesday morning. Her car, pictured, and a semi-truck collided near Casaloma Drive. Grand Chute firefighter Robert Schipper, pictured, investigates the scene. Loren Brott, 75, the driver of the truck owned by Brott Trucking Inc., of Eau Claire, was not seriously injured. Grand Chute police continue to investigate the accident.

nes industrial park

"We have enough interest," Jim Fletcher of Bechard Group commercial real estate investment company, said of filling the 18 sites. There is already one lot spoken for by Surface Mount Technologies Corporation on Nordale Drive in Grand Chute. The company makes computer boards. "Within three years I'd hope the development will be done," Fletcher said. Bechard Group is working with Midwest Properties and Consolidated Construction on the project. Marsden said he envisions the Grand Chute Southwest Business Park to be similar to the Nordale Business Park. "It's unique because of the aesthetics and the location, Marsden said. "It fits here." Marsden said it's not often something like this can go in without seriously impacting neighbors. "All the things people complain about when you have a development, you just don't have it here," Marsden said. The industrial park is expected to be platted at the Oct. 16 town Planning Commission meeting.

Business owners say new sprinkler code too restrictive

By James Lawrence Staff Reporters

Several business leaders went before the Public Safety Committee to ask aldermen not to approve stricter fire code standards regarding sprinklers. "It hasn't been explained to me why there is a need for this," Terry Bomier, of Bomier Properties, said. "I haven't seen a history of problems with fire." Fire Chief Neil Cameron said the city has an opportunity to make buildings in Appleton safer for not only the owners but for the firefighters risking their lives to put out fires. "We look at what happens nationally," Cameron said. "We've seen the increasing with fire hazards in lightweight constructed buildings. As a city, the decision is up to the lawmakers to decide in fire safety if we are to be proactive or reactive."

The changes would make fire sprinkler systems required in most new building developments in the city of Appleton, which many developers and area economic directors say would hurt marketing new businesses to the city. Bill Welch, president of the Chamber of Commerce and Industry, and Thom Ciske, vice president of economic development at the chamber, both appealed to the committee to oppose the changes recommended by Cameron and his staff. Ciske said the chamber received between 10 and 12 calls on the subject. "I think the fire chief is well-intentioned," Welch said. "We're all concerned about the safety of firefighters and people in those buildings. In a perfect world every building would have sprinklers. But there are economic realities that need

see Sprinkler, page 6

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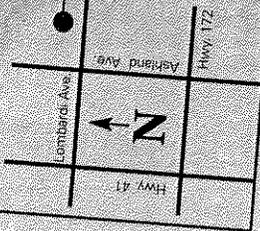
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plans. The Public Works Department hopes to add a buildings-and-grounds maintenance worker for the new town hall and parks as well as a public works director. The cost for

Sharon Huss agreed. Marsden asked the departments to give the new operations some time before making requests for additional personnel. "Then find out what we really need," Marsden said.

Student travel discussion moved up

Further discussion on whether to allow international student travel this year will be discussed during the Appleton Area School District Programs and Services Committee meeting at 8:30 a.m. Friday, Oct. 12 at the District Administrative Center, 10 E. College Ave. "Parent and faculty members would like a decision," Superintendent Tom Scullen told school board members Monday. If the scheduled trips are cancelled, an earlier decision will allow more time for considering alternative options, he said. The full school board will act on the committee's recommendation at its next regular meeting, Oct. 22.

Sprinkler

from page 1

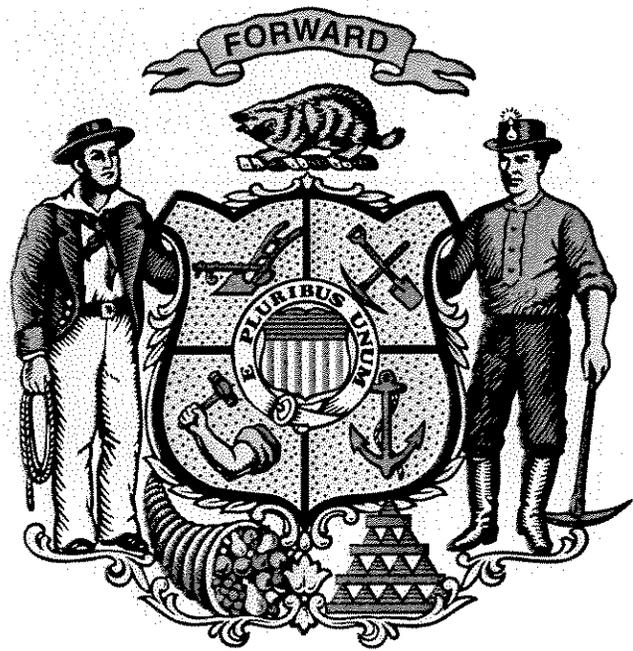
to be balanced into the equation. Making this code as stringent as this policy would be, would not be in the best interest of Appleton economics," Peter Hensler, Appleton director of economic development, agreed and said his preference would be to keep the code as it is. "We need to make it a little more palatable for people to do business in this town," Alan M. Schmidt, owner of Hardex on Oneida and Calumet streets and Outagamie County supervisor, said.

Steve Evans of Evans Title said that the word is out that Appleton has tough policies. "We hear fairly regularly that Appleton is the most difficult city to work with in Northeast Wisconsin," Evans said. "It's important from a business perspective to make smart financial decisions. This change would cost a lot of money for these developers to install what you're proposing is 70 percent more restrictive than the state code."

"It hasn't been explained to me why there is a need for this. I haven't seen a history of problems with fire."

— Terry Bomier
 Bomier Properties

Alderman Ed Baranowski asked staff to look at international standards and return with their findings to the first meeting in June 2002.



FAX

To: Scott Becher

From: Jo Egelhoff

Fax: 608-264-2960. 282-3657

Fax: 920-739-7785

Pages: 6

Date: 2/19/2003

Re: Rehab Code

Hi Scott:

I think this is to what Steve is referring. This is tax season, so it's easier to reach me at Schenck during the day. My direct line (through April 15) is 920-997-5335.

Please call if you need anything further. It would be helpful to hear from Steve today sometime if he has any comments on the resolution I e-mailed, as I'm planning on submitting it tomorrow night at Council, for consideration next week. Just a quick e-mail would be great.

Thanks Scott!

Jo



Memo

To: Ald. Jo Egelhoff

From: Jim Dallman *JM*

Date: 2/04/03

Re: Rehab Codes

The comments in this memo are offered in response to your resolution regarding the feasibility of a rehabilitation code to address some of the disincentives to development of existing buildings. Your comments are greatly appreciated. Note: this memo has been reviewed by Director Vandehey and Chief Cameron and is sent to you at their direction.

Summary:

Is a Rehabilitation Code a good idea?

Yes—in concept. The general criticism that rehabilitation is neglected area in established building codes is a valid criticism.

Should the City of Appleton try to develop it's own rehab code?

No. That's not necessary or advisable. HUD has already developed a model rehab code (NAPPR) and the International Code Committee (ICC) is working on a model of its own.

Should the City of Appleton adopt one of the model codes?

No. The adoption of a rehab code only makes sense as a state-wide effort. In current statute, Cities are not free to implement codes that are less restrictive than the state. Further, an isolated implementation of a substantially different code could easily do more harm than good.

Does the State intend to adopt a rehab code?

There is no public effort in that direction at this time. The state is aware of the ICC effort to develop a rehab code, but has made no public comment on it. However, a recent conversation with S&B Section Chief Tom Kasper suggests that the state is in the process of addressing rehabilitation issues within the context of the current code. He indicated there would be an increase in policy output on this subject in the next few months.

What would it take to move the state in that direction?

Political leadership. The state legislature would have to give direction to the Department of Commerce to initiate a code development process.

Is this a sure-fire solution to everything that ails the current code?

Hardly, but it could be a step in the right direction. A well done rehab code could have a positive net effect on development *and* building safety. Poorly done, it could easily have a negative effect.

What's the main reservation?

The known rehab codes, such as NARRP, the New Jersey Rehab Subcode, etc., are not *new* codes. They are *overlay* codes; i.e., they are another layer on top of the existing code structure. Overlays tend to complicate, not simplify. A critical design issue for any overlay is the way it docks with the underlying code. For that reason, and all other things being equal, an ICC model is somewhat more attractive than a HUD model.

Observations & Comments:

1. Statewide rehabilitation (rehab) codes have recently become fashionable in some parts of the country—mostly east of the Mississippi. States recently adopting such codes are New Jersey, Maryland, Michigan, Florida, Delaware and North Carolina. New York and others have formed Rehab Councils to study the possible adoption of such codes

2. Attached to this memo is an informative brochure, Smart Codes in Your Community—A Guide to Building Rehabilitation Codes (referred to in the remainder of this memo as *the guide*). The guide is published by the U.S. Department of Housing and Urban Development and is an excellent brief introduction to the subject. Including it as an attachment will provide interested parties with the best possible introduction, without turning this memo into a cut & paste project.
3. The New Jersey Rehabilitation Subcode is considered a milestone document by the rehab code development community. It is the foundation concept for HUD's Nationally Applicable Recommended Rehabilitation Provisions (NARRP), which is currently being marketed as a national model code on this subject.
4. HUD is deeply involved in the subject of building rehabilitation. One of the better detailed efforts is the Nationally Applicable Recommended Rehabilitation Provisions (NARRP), which is a national model code for building rehabilitation. For study purposes, it's superior to any of the individual state code implementations. NARRP is available at the Hud User website:
http://www.huduser.org/publications/destech/narrp/toc_narrp.html
5. HUD promotes the marketing of rehab codes under the name "Smart Codes," and ties them to "Smart Growth" planning policies. The "Smart Xxxx" concept refers better use of existing resources.
6. The principal justification and motivation for rehab codes is (1) undesirable urban sprawl, especially in the east; (2) lack of affordable (low income) housing, and (3) the large supply—especially in the east—of dilapidated buildings and deteriorating central cities, which might be rehabbed according to reduced standards, thus killing several birds with one stone. At the moment rehab codes would seem most attractive to larger metro areas and densely populated states, especially in areas of the country with longer settlement histories.
7. Nationwide, there is a wide variety of strategies for code development and enforcement. Not all states adopt statewide building codes. Some leave building code and code enforcement totally up to local government. Others offer a State Code as an option, but allow local governments to adopt other codes. In few states does state government play as active a role in building codes as does Wisconsin. This state develops statewide mandated building codes and is very active in all aspects of implementation. The State trains local building inspectors, reviews plans in a wide range of trades, and makes inspections where local inspection is not available. Wisconsin State Building Codes are mandated to all areas of the state as either minimum requirements or uniform requirements. State codes preempt local codes in Wisconsin.

8. Recently, the state adopted the International Building Code, a widely used model code that consolidates the code efforts of several previously separate model code developers. The adoption of the IBC places Wisconsin in the mainstream of code development trends. At the moment, Wisconsin is not in process of developing a rehab code (Tom Kasper). But again, the ICC (International Code Council) is a progressive code developer and will no doubt try to fill market demand for a rehab code.
9. The *International Code Council (ICC)* is a quasi-public organization whose product is model codes on a variety of subjects. ICC is a recently formed umbrella organization that wants to consolidate the code development efforts of several organizations previously producing competing codes. The member organizations of ICC are the *Building and Code Officials Organization (BOCA)*, the *International Council of Building Officials (ICBO)* and the *Southern Building Code Conference (SBCC)*. The *National Fire Protection Association (NFPA)* was an original member of ICC, but subsequently withdrew to resume its role as a competitor.
10. The best known product of the ICC is the International Building Code (IBC). However, ICC's product is a suite of codes, including the International Building Code, the International Fire Prevention Code, the International Heating and Ventilating Code, the International Gas Code, the International Plumbing Code, and others. The advantage adopting suites of codes is that, presumably, they are conceptually and mechanically compatible.
11. At this time, ICC is developing a rehab code—the International Existing Building Code. This is a work in progress, but is expected to target the same market as HUD's NARRP. The Guide provides the following comment:

In late 1999, the International Codes Council (ICC) created a drafting committee for a new code to be called the *International Existing Building Code (IEBC)*. Among other resource documents, the drafting committee is considering both the New Jersey *Rehabilitation Subcode* and the NARRP. For this purpose, the NARRP was revised to be compatible with terminology and requirements of the IBC. **HUD has supported this effort.**

12. Rehab codes are not "new" codes. They are "overlay codes;" ie, they are layered by reference over the existing code. Layering of codes and standards is a common feature of all codes and a source of frustration to inexperienced users. Consider the following examples from the "Maryland Building Rehabilitation Code."

Example 1: Means of Egress Requirements.

Except when the rehabilitation work area and the means of egress serving the rehabilitation work area comply with **NFPA 101** as incorporated and amended in the **Fire Prevention Code**, the means of egress shall comply with the requirements of Regulations .02 — .10 of this chapter.

Example 2: Plumbing Fixture Requirements.

When the rehabilitation work area is more than 50 percent of the gross floor area of the story on which the work area exists as defined in §1002 of the **Building Code**, and the occupant load will be increased by at least 20 percent as a result of the modification, plumbing fixtures shall be provided on the basis of the increased occupant load in the rehabilitation work area in quantities and locations specified in §7.21 of the **Plumbing Code** on the basis of the increased occupant load.

13. It is common idiom in the development and regulatory industries to refer to "the code" in such a manner that an inexperienced listener might picture "the code" as a single entity. In fact, "the code" is a collective term for a number of individual documents. "The code" consists of zoning ordinances, building codes, accessibility codes, the fair housing code, energy codes, life-safety codes, fire prevention codes, health codes, plumbing, electrical and HVAC codes, boiler codes, elevator codes, etc. Rehab codes, to be successful, need to address a number of these codes.

Conclusion and Recommendation

The movement toward rehab codes started in the mid-to-late 90's. It seems to be gaining momentum in some areas of the country. Two model code agencies (HUD & ICC) have produced or are in the process of producing a model rehab code. The State of Wisconsin is not yet publicly involved in this movement.

A rehab code is potentially a good idea—if it is developed right. Any effort at a rehab code needs to be a statewide effort. Anyone interested in advocating for such a code would best start by finding an interest at the state legislative level and try to encourage it.

Sources:

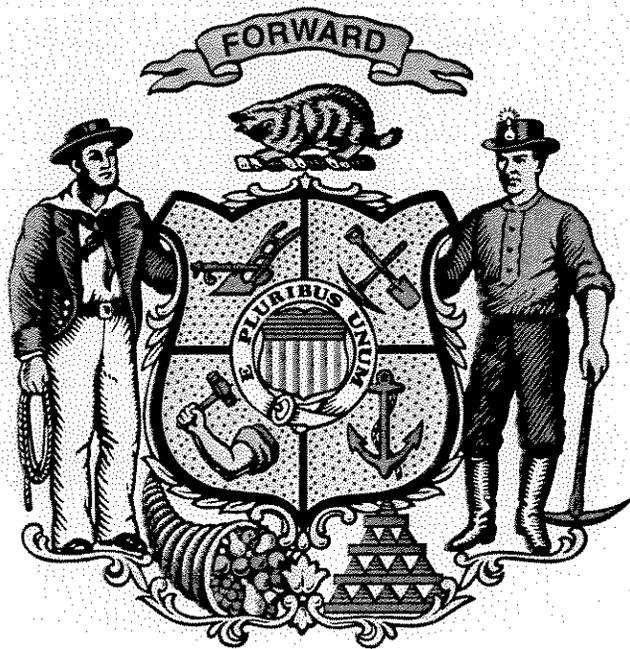
New Jersey Rehabilitation Subcode. New Jersey Department of Community Affairs

Maryland Building Rehabilitation Code. Maryland Department of Housing And Community Development

Smart Codes in Your Community—A Guide to Building Rehabilitation Codes. U.S. Department of housing and Urban Development.

Nationally Applicable Recommended Rehabilitation Provisions. U.S. Department of housing and Urban Development.

International Building Code, Wisconsin Enrolled Edition. International Code Committee



Becher, Scott

From: Jo Egelhoff [joegelhoff@new.rr.com]
Sent: Wednesday, February 19, 2003 4:39 AM
To: Steve Wieckert (rep. wieckert@legis.state.wi.us)
Subject: FW: Rehab Code Resolution

Hi Scott,

I'm forwarding this only to be sure you have it, as I referred to it in the fax I'm sending this morning.

Thanks very much for any thoughts you or Steve may have.

Jo

-----Original Message-----

From: Jo Egelhoff [mailto:joegelhoff@new.rr.com]
Sent: Saturday, February 15, 2003 12:57 PM
To: Steve Wieckert (rep. wieckert@legis.state.wi.us)
Subject: Rehab Code Resolution

Hi Steve,

Thanks very much for reviewing the Rehab Code information. Here's the resolution I'd propose submitting Wednesday at Council, for consideration the following week. I imagine Tim will refer it to the Finance Committee, which has jurisdiction over legislation, but he may have it go also to Municipal Services, which has jurisdiction over the Division of Inspections. I'll doublecheck with him. Please let me know your further thoughts.

Thanks very much!

Jo

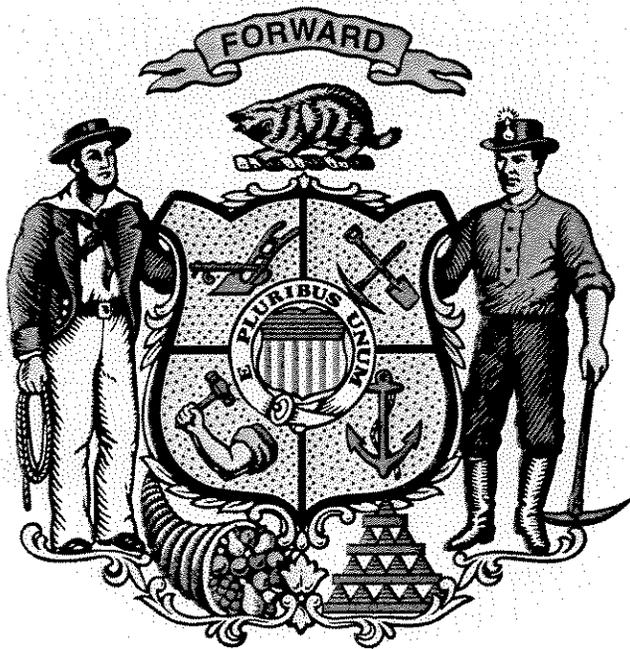
"Whereas a Rehabilitation Building Code can be very valuable to address the lack of affordable housing, undesirable urban sprawl, and the presence of dilapidated buildings and deteriorating central cities, and

Whereas any effort at a special building code to apply to Rehabilitation of buildings must be a statewide effort,

Be it resolved that the Wisconsin State Legislature be asked to make it a priority in the current legislative session, to research the establishment of Rehabilitation Codes for the state of Wisconsin.

Be it further resolved that this request be forwarded to all Fox Valley representatives, namely Senators Ellis and Lasee, as well as Representatives Kaufert, McCormick, Ott, and Weber, and Senator Roessler, a member of the Senate Committee on Economic Development, Job Creation, and Housing, and

Be it finally resolved that this request be forwarded most specifically to Representative Steve Wieckert, the chairman of the Assembly Housing Committee."



Becher, Scott

From: Jerry Deschane [jdeschane@wisbuild.org]

Sent: Thursday, February 20, 2003 2:00 PM

To: Jane Witt

Cc: Becher, Scott

Subject: Remodeling changes

Jane,

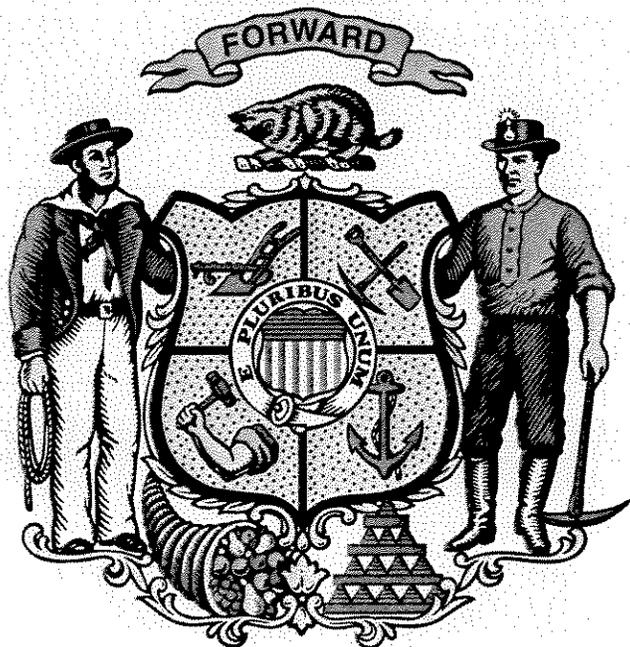
Could you please pose this question to your code committee and members of the Remodelors Council:

What can the state do to make it easier to remodel existing homes?

Background: I have been approached by the Chair of the Assembly Housing Committee, Steve Wieckert, regarding remodeling. Steve has a constituent, a remodeling contractor, who's having difficulty bringing a 1940s home up to code. Initially, Rep. Wieckert wondered if we should apply the HUD code to older housing. HUD has a minimal "safety & health" code that it uses as a standard for determining whether existing homes are suitable for habitation.

Rep. Wieckert is a passionate advocate for reuse of existing or underutilized properties. This is a good opportunity to give him some ideas that will help the remodeling industry, and help older cities.

Please respond to Jane & Jerry with your ideas.



STATE OF WISCONSIN

To SB

Date 21 FEB 03 Time 11:38

WHILE YOU WERE OUT

M ^{Tim} SOMETHING SWEET

of ↓

Phone 920 882 9457

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message _____



TS
Party Receiving Call

STATE OF WISCONSIN

To SAB
Date Feb. 19, 2003 Time 9 Am

WHILE YOU WERE OUT

M THERESA HENNING
of TIM LAABS
920 SOMERSET STREET
Phone (920) 882-9457

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/>
Called to See You		Rush	
Returned Your Call		Will Call Again	

Message Could you FAX info.
INSTEAD of EMAIL
FAX 920 749 0203



TPS
Party Receiving Call

STATE OF WISCONSIN

To SB
Date 26 FEB 03 Time 1103

WHILE YOU WERE OUT

M JIM SMITH
of SAFETY BUILDING
Phone 608 266 0251

Telephoned		Please Call	<input checked="" type="checkbox"/>
Called to See You		Rush	<input type="checkbox"/>
Returned Your Call	<input checked="" type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message _____



TS
Party Receiving Call

basement

- 1. head clearance - 7 ft ^{6, 11 in.} 6, 8 in because of false wall.
- 2. door clearance - ^{state code} 6, 4 in; ^{state code} 6 ft, 3 ins - got a variance
- 3. battery powered flood lights - state code, not enforced by the City of Appleton
- 4. smoke detector placement changes with ceiling heights - state code
- 5. Residential / ~~Commercial~~ Commercial classification

built in 1892... 2 stories with a basement

- under state code to 5 different codes:
- ① basement storage room - residential
 - ② kitchen
 - ③ garage attached to the building
 - ④ main living area
 - ⑤ Residential apartments
6. Fire stops - state code - the distances between the space.

Contractor - Doug Schmidt of Contracting Specialist
411 West College Ave., Appleton

building address

Jim Dollman - Chief inspection
(920) 832-6411

STATE OF WISCONSIN

To _____

Date _____ Time _____

WHILE YOU WERE OUT

M THERESA HENNING

of "SOMETHING SWEET"

Phone CELL: (920) 850-1312

E-MAIL: TESSANING @ AOL.COM

Telephoned	<input type="checkbox"/>	Please Call	<input type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message REHAB CODE



Party Receiving Call

Becher, Scott

From: Jim Boullion [jimbn@agcwi.org]
Sent: Tuesday, February 18, 2003 10:32 AM
To: scott.becher@legis.state.wi.us; Steve Wieckert
Cc: Bob Barker
Subject: Building Code Problems

Scott,

Thanks for the call today. I am sorry to hear about the problem that your constituent is having. Remodeling old buildings can be a problem, especially when the remodeling kicks in the current building code requirements rather than having to restore it to the code that was in existence when the building was originally constructed.

One of the problems, but certainly not the only one, is the fact that Wisconsin's Commercial Building Code is a minimum code. Our residential and multi-family building codes are uniform. This means that a local community has the option of creating a more restrictive building code than the State code for commercial buildings. However, they can not make a more restrictive building code for multi-family or residential homes. AGC of Wisconsin is interested in changing the law to make our commercial code uniform across the state just like the other two codes. This would simplify and reduce the cost of construction for your constituents.

The problem with making this change is that the Wisconsin Fire Chiefs Association opposes it. They like having the option of making the local codes more restrictive, especially regarding things like fire sprinklers, fire walls and exits. Please let me know if you are interested in pursuing this issue.

Because I don't know the details of your problem I can only give you some generic advice on how to handle the situation. If the problem is with the local building code or local fire department you will have to work with them to see if they will give you a variance from the local code requirement. You will have to show that you are still meeting the life/safety intent of the code. Whether you can get a variance from the local requirements is up to those local officials.

If the problem is with the State Building Code your constituent can contact the Safety and Buildings Division and seek a variance from the code requirements. They would again have to show that they are still meeting the life/safety intent of the code. To do this I would recommend that you or your constituent contact Jim Smith at the Safety and Buildings Division. His phone number is 608-266-0251, and fax is 608-264-8795, or you could email him at jsmith@commerce.state.wi.us. He can advise you on what the real problems are and what your options are.

If they can't get a code variance, they could bring the problem up to the Commercial Code Council. This advisory group is made up of code experts, contractors, architects, building inspectors and fire departments regularly reviews the code and recommends changes.

As you know, this group just finished changing Wisconsin over to the new International Code Council (ICC) building code, which became effective on July 1, 2002. They are holding their first meeting to review the new code changes and see what problems it may have created or what fine tuning the code may need. Here is the meeting notice for their next meeting:

Commercial Building Code Council Meeting Date:

March 12, 2003 - Wednesday - 9:30 a.m. to 3 p.m. - J.H. Findorff & Son, Inc., Headquarters, Main

OP.

02/18/2003

Conference Room, 300 South Bedford St, Madison - Sam Rockweiler, 608-266-0797,
srockweiler@commerce.state.wi.us

I hope this information is helpful. Feel free to contact me if you would like to discuss it further.

Sincerely,

Jim Boullion
AGC of Wisconsin
jimbn@agcwi.org
(608) 221-3821

Becher, Scott

From: Jerry Deschane [jdeschane@wisbuild.org]

Sent: Tuesday, February 18, 2003 12:21 PM

To: Becher, Scott

Subject: Remodeling relief

Scott,

The provision of the UDC package before you that deals with remodeling offers relief from the most "problematic" provisions, the energy provisions. It states:

Comm. 22.02 (3) - allows most additions to dwellings to meet less stringent energy requirements.

text:

(a) Additions to dwellings may follow the energy code that was in effect at the time the current dwelling was originally constructed, provided the footprint of the addition has an area equal to 50% or less of the area of the footprint of the current dwelling.

(b) Portions of garages, porches and decks without living space directly above them are excluded from consideration under sub (a).

If you or your constituent would like to explore other avenues for providing relief to remodelors, I am sure that the Wisconsin Builders Association would be supportive. Let's talk.

“What’s happening here is happening at extreme costs.”

JOE WEIDERT, a downtown building owner

Strict codes thwart growth

Businesses cite building rules, local handling

By Maureen Wallenfang

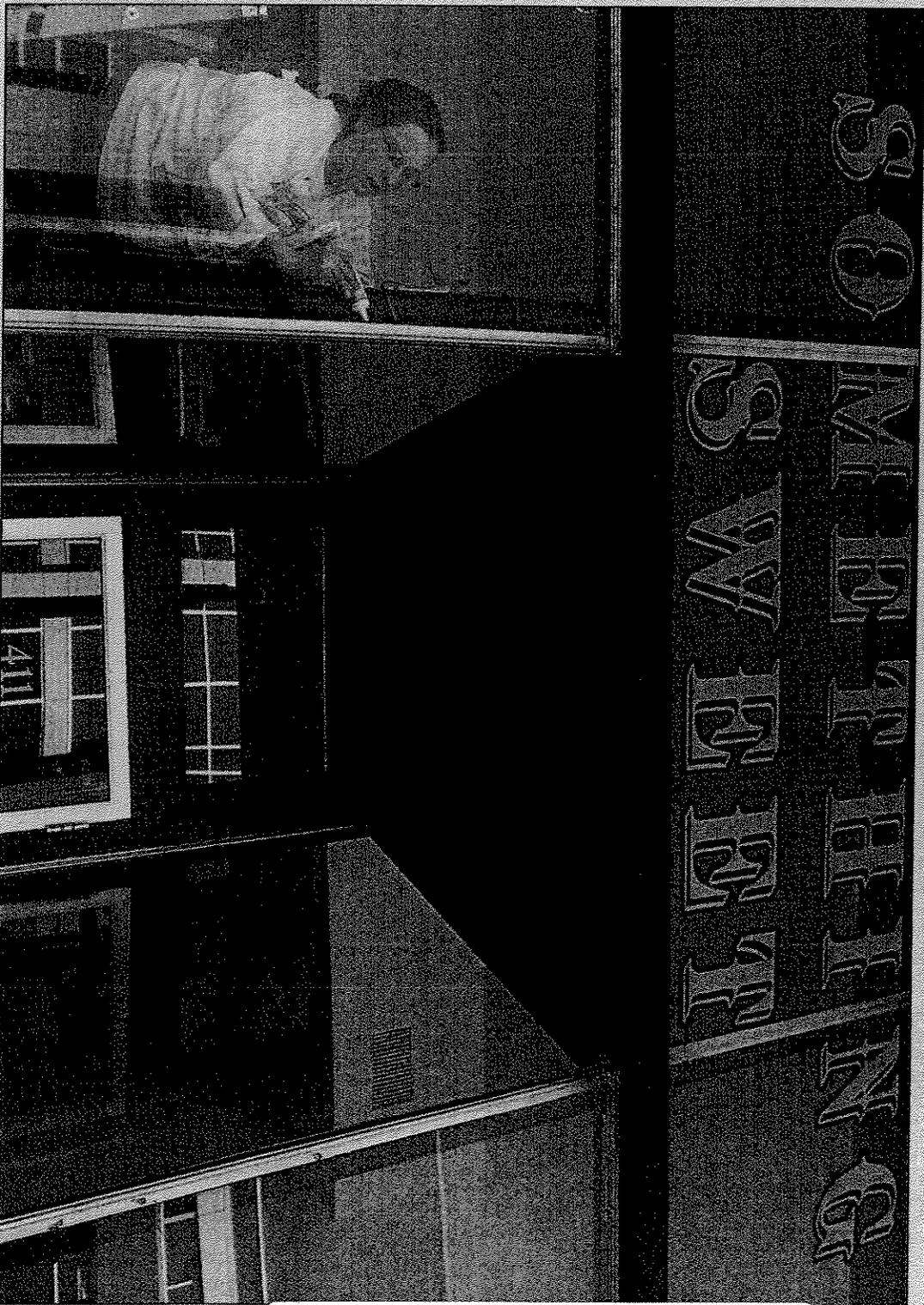
Post-Crescent staff writer

Something Sweet’s owners were not in good humor.

It was late February, and the two, Theresa Henning and fiance Tim Laabs, were months behind in opening their dessert shop in downtown Appleton. They missed being open in time for two big Broadway shows at the Fox Cities Performing Arts Center across the street. Bills were mounting.

The unexpected delays, they said, came about because their tiny shop was one of the first local buildings renovated entirely under the state’s new International Building Code, a two-volume set of regulations that govern construction.

The new code, which replaced an outdated version first created in the early 1900s, didn’t make concessions for older building renovation, essentially holding them to the



Theresa Henning Applies Caulk along a front window of her store, Something Sweet, across from the Fox Cities Performing Arts Center in Appleton. Henning and her partner, Tim Laabs, were delayed for months, moving their opening from November to March.

Post-Crescent photo by Kirk Wagner

The unexpected delays, they said, came about because their tiny shop was one of the first local buildings renovated entirely under the state's new International Building Code, a two-volume set of regulations that govern construction.

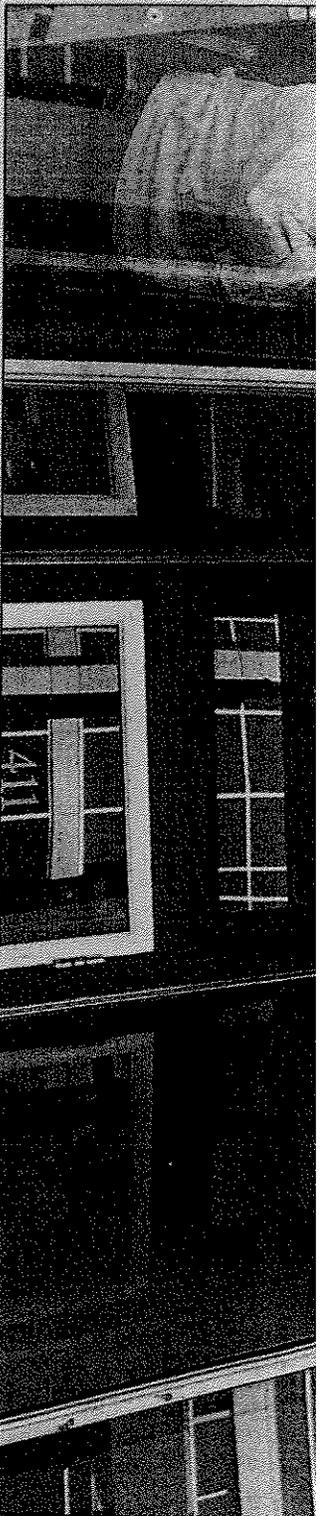
The new code, which replaced an outdated version first created in the early 1900s, didn't make concessions for older building renovation, essentially holding them to the same standards as new construction.

Add to that the often-conflicting interpretation of the code by city inspectors, and the tiny dessert shop became a costly money pit, edging the pair perilously close to bankruptcy.

At its heart, it's a story of good intentions — a new code and enthusiastic enforcement of it — that turned sour in the bigger picture. Henning warned, small businesses can't afford to repeat her ordeal.

And if small businesses cannot flourish under the code and local enforcement of it, Appleton's ongoing struggle to reinvent its downtown could grind to a halt. Only those with very deep pockets, she warned, will be able to renovate vacant storefronts.

Basically, this new



THERESA HENNING APPLIES CAULK along a front window of her store, Something Sweet, across from the Fox Cities Performing Arts Center in Appleton. Henning and her partner, Tim Laabs, were delayed for months, moving their opening from November to March.

Post-Obsevant photos by MIA Wagner

code condemns old buildings," said Henning, who testified March 12 in Madison in front of Wisconsin's Department of Commerce's Commercial Building Code Council, an advisory panel investigating code compliance problems around the state.

"You're making these buildings unusable for anything but another bar. From a small-business perspective, it's a very bleak outlook."

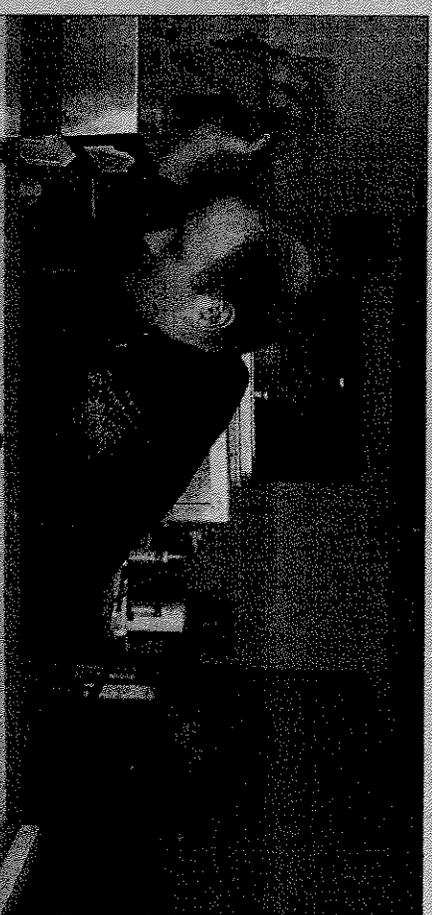
"What's happening here is happening at extreme costs," said Joe Weidert, a downtown building owner. "My concern is that small businesses will end up failing, and we'll have empty storefronts again."

Mayor Tim Hanna said the city's hands are tied when it comes to the rules.

"I understand the frustration. The other side of this is that there are codes. We can't waive those," he said.

Henning pinned uncoordinated enforcement of the codes by the city as a major source of conflict.

A lot of the problem was the attitude and lack



TIM LAABS works on the dipper at Something Sweet. The small shop was one of the first renovated under the state's new building code.

of cooperation between (city) departments," she said. "One inspector tells you the wants it done this way, another says that way. You start all over again.

They come in and argue with subcontractors. Two (inspectors) stood and argued with each other right in front of me."

Hanna said the city "fell down" on the Something Sweet project, which he said amounted to a learning experience.

"Yes, we can always do better," Hanna said. "I will admit that getting information from the city upfront is something we have not been good at. I can't

change things in the past. But I can change things going forward. We need to be coordinated internally, with inspections and the fire department."

From a city perspective, part of the problem lies in owners trying to fit square pegs into round holes — new and different busi-

TO LEARN MORE
Copies of the new state code, which went into effect July 1, may be purchased from the state Department of Commerce Safety and Buildings Division in a two-volume set for \$200. Call 608-266-3151, or go to the ordering page on the department's Web site: www.commerce.state.wi.us/SB/CommercialBuildingsCodeAdoptionEnrolled.html

nesses into old buildings.

"What's gotten lost in the shuffle is that this building wasn't designed to do that," said Appleton Fire Chief Neil Cameron. "They weren't built to be used as public assembly buildings where there's cooking or alcohol will be served. Most were designed for retail use. Much of what's happening is that you're changing it from its original designed use."

Grueling process

Something Sweet's story may yet have a happy ending. The dessert

See CODE:H-5

Economy will be waiting for Bush when Iran is in hand

duct-
Re-

CODE: New regulations cause costly learning experience

From H-1

shop opened March 1, four months late, and the pair hopes it will find an audience.

But the process of getting there, Henning said, was grueling.

Under the new code, the small, 110-year-old building was divided into five use categories, with each subject to its own complex set of regulations and delays in determining if, in fact, the categories were correctly identified.

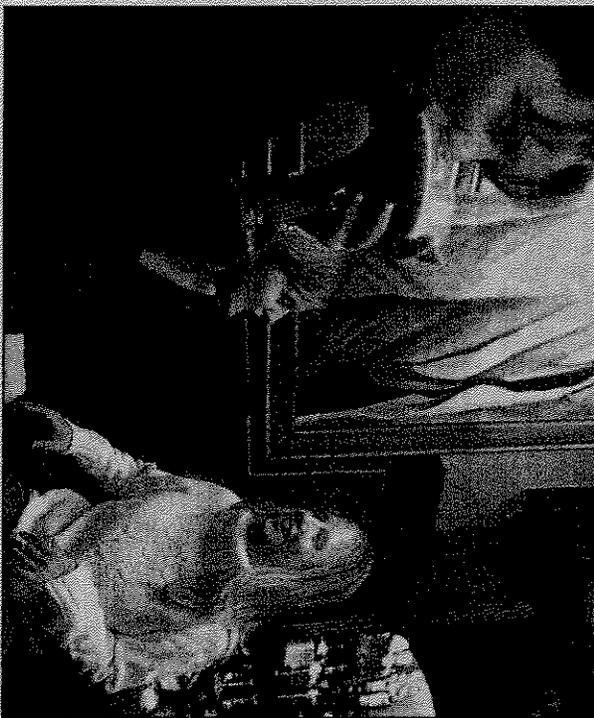
Where the building didn't meet codes — the basement couldn't be heightened or lowered to meet a new 7-foot ceiling requirement, for example — the owners had to take the time and money to apply for variances in Madison.

Because of the tug of war over the new code and local interpretation that gave "no leeway," Henning said, her \$200,000 start-up costs ballooned to \$306,000. That figure doesn't include purchase of the building, which Henning and Laabs rent with the agreement that they'd foot the bill for all improvements.

"Most of that extra \$106,000 wound up going to construction," she said. "The majority is due to additional things we had to put into the building that were not expected."

One example, she said, was being required by the fire department to install an \$11,000 kitchen hood that could handle grease from deep frying meat, even though the dessert shop doesn't fry and doesn't serve meat.

In another instance, it was required to rip up four panels of new sidewalk outside the shop to hook up a stormwater drain to



FRIENDS JAMIE LEPLA (left), Ann Schalow and Karen Krueger enjoy a night out at Deja Vu Martini Lounge in Appleton. The establishment had to cope with new building codes before opening.

of city inspectors, Busch said.

"I get along with (inspectors) now and don't hold any grudges, but it was a frustrating experience," he said. "It's overkill on all the codes. It's way too much. Safety is the No. 1 concern with everyone, but they go to extremes," he said. "It seemed like they didn't know the codes themselves."

Deja Vu's opening was delayed nine months because a city inspector decided a previously approved starwell wasn't up to code and had to be torn down and rebuilt.

More recently, he said, he was told to install a \$6,000 kitchen hood if he chose to warm up hors d'oeuvres in a microwave.

Firm Dallman, inspection supervisor for the Department of Public Works and Fire Marshall

code was intended to add flexibility for new construction.

"(This code) provides consistency and uniformity with other states," Bucholz said. "In terms of application, the technical requirements of the code changed, but administration and enforcement did not."

"This was never intended to cause devaluation of existing building stock in Wisconsin," added Rob Dupont, director of program development for the division of Safety and Buildings.

Permanent losses

What Something Sweet lost cannot be recovered, Henning said. She cites four months of no income, four months of saying, "No, I can't hire you," three months of PAC-going potential patrons looking across the street

like bitching at the cop for stopping you for speeding. A lot of these codes are excessive. But people are killing the messenger.

Joe Weidert hears the same and said he seeks to be a calm voice in the emotional debate.

"An angle I'd like to provide would be from a positive, problem-solving perspective," said the owner of the Weidert Group building, a structure he and wife, Mary, painstakingly renovated a year and a half ago.

"It's not really the inspectors. It's getting creative with what you do with an old neighborhood like downtown. Some of these codes just aren't workable. When something is cloudy, inspectors are not often able to give us advice. They can't say, 'I can make a judgment call because that's still safe.'"

Weidert recently prepared the lower level of the building to house La Pomme Rouge, an artists co-op and gallery opening later this month, and the just-opened Copper Rock Coffee Co. Both had been delayed by the state approving their plans under the new code.

Copper Rock's owners, Seth Hahnke and Bill Heiges, said the slow road to their opening this past Thursday — five months after their original opening estimate — was partly due to their own inexperience as first-time business owners and partly due to slow progress under the new code. "We're trying to get our questions answered before we end up doing something," said Hahnke. "That takes time and that's held us up. We ask, and then maybe they (inspectors) are not sure, and have to go look for the specific answers. They're try-

start-up costs ballooned to \$306,000. That figure doesn't include purchase of the building, which Henning and Laabs rent with the agreement that they'd foot the bill for all improvements.

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One example, she said, was being required by the fire department to install an \$11,000 kitchen hood that could handle grease from deep frying meat, even though the dessert shop doesn't fry and doesn't serve meat.

In another instance, it was required to rip up four panels of new sidewalk outside the shop to hook up a stormwater drain in the middle of winter. "If they told us when we started in September, it would have cost us about \$6,000. They didn't," said Henning. "It cost \$20,000."

The extra expenses, she said, also meant she would have to wait for the pretty vintage-look cafe tables and other ice cream parlor details she had dreamed about for her shop.

Owners of the Deja Vu Martini Lounge, up the street, know Henning and Laabs' frustration.

"It's a very costly learning experience if you've never done it before," said Jim Busch, co-owner with wife Sandy.

They carved their sophisticated lounge out of an old building at 519 W. College Ave. under the old code, then attempted to make some changes under the new code.

"My wife wanted to walk away from the whole thing. We had a lot of sleepless nights."

Confusion, delays

A part of the solution is to re-examine the process on the level

of city inspectors, Busch said. "I get along with (inspectors) now and don't hold any grudges, but it was a frustrating experience," he said. "It's overkill on all the codes. It's way too much. Safety is the No. 1 concern with everyone, but they go to extremes," he said. "It seemed like they didn't know the codes themselves."

Deja Vu's opening was delayed nine months because a city inspector decided a previously approved stairwell wasn't up to code and had to be torn down and rebuilt.

More recently, he said, he was told to install a \$6,000 kitchen hood if he chose to warm up hors d'oeuvres in a microwave.

Jim Dallman, inspection supervisor for the Department of Public Works, and Fire Marshall Vernon Green did not return calls from *The Post-Crescent*.

Fire Chief Cameron said he could not take up specific questions on particular buildings, but that there could be instances where confusion occurred because of the learning curve on the new code. "We've gone through a lot of training and spent a lot of time doing research giving people answers. If we're not sure where the state code stands, we'll ask for a clarification from the state."

In the case of Something Sweet, said Henning, two questions Green referred to the state — clarifying a basement storage area classification and requesting the kitchen be reclassified as a "factory" — stalled the project for four weeks each.

It's not supposed to work that way, said Ron Buchholz, department administrator in the division of Safety and Buildings within the state's Department of Commerce. "It should take a day, not four weeks."

Overall, Buchholz said, the

code was intended to add flexibility for new construction.

"(This code) provides consistency and uniformity with other states," Buchholz said. "In terms of application, the technical requirements of the code changed, but administration and enforcement did not."

"This was never intended to cause devaluation of existing building stock in Wisconsin," added Rob Dupont, director of program development for the division of Safety and Buildings.

Permanent losses

What Something Sweet lost cannot be recovered, Henning said. She cites four months of no income, four months of saying, "No, I can't hire you," three months of PAC going potential patrons looking across the street at their dark storefront, and a bit-terness that lingers because of the experience. What she hopes can come out of her experience is a chance to show the city that renovation comes at a great human cost.

Other downtown business owners choose their words carefully, tiptoeing around the subject because they feel they can't afford to vent.

"Other business people said if you rub the inspectors the wrong way, you'll never get open. That's an intimidating statement," said Deja Vu's owner Busch.

Some simply accept whatever it takes.

"What hoops do we have to jump through this time? I accept it," said Wilber VandenBurg, whose Wilber's Blackened Blues at 100 E. College Ave. was delayed by slow state approval of his building plans, but is now in the works. "I've been involved in building restaurants for 30 years."

Complaining about the inspectors won't help, he said. "It's

lower level of the building to house La Pomme Rouge, an artists co-op and gallery opening later this month, and the just-opened Copper Rock Coffee Co. Both had been delayed by the state approving their plans under the new code.

Copper Rock's owners, Seth Hahnke and Bill Heiges, said the slow road to their opening this past Thursday — five months after their original opening estimate — was partly due to their own inexperience as first-time business owners and partly due to slow progress under the new code. "We're trying to get our questions answered before we end up doing something," said Hahnke. "That takes time and that's held us up. We ask, and then maybe they (inspectors) are not sure, and have to go look for the specific answers. They're trying to get it right."

Luckily, they avoided something Sweet's slide into debt during delays.

Their landlord, Weidert, footed the bill for a lot of interior improvements and didn't start collecting the rent until they opened their doors.

Weidert, meanwhile, said the entire process could be made smoother. "Unfortunately, Appleton already has a reputation for being difficult, that it's easier to develop almost anywhere else. I don't know why Appleton has that reputation. But with the continuing examples of people being held up weeks or months, the reputation grows. People look elsewhere," he said.

Ultimately, Weidert said, the city needs to see where flexibility exists within the codes.

"It's black-and-white rules," he said. "The problem in an old town like this is that it's not black and white. It's a judgment call."

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Officials, business owners find solutions to codes

The Post-Crescent

Appleton's building code woes have a number of solutions, according to business owners and public officials:

■ Mayor Tim Hanna said everyone needs to take responsibility in the process, including architects, city inspectors and, especially, potential tenants who try to put old buildings to new uses. "If you want to put food service in a building that has not had that in the past, that becomes a problem."

Within city departments, he said, better coordination is already happening. "It's better than it was."

■ Peter Hensler, Appleton's economic development director: "We've had a number of discussions at staff level. We're committed to putting together a process that will more efficiently manage the inspections of these properties. We're making an effort to deal with that."

■ Building owner Joe Weidert: "There needs to be a proactive plan in place, from a building code perspective, to encourage the redevelopment of Appleton and welcome development. If the city is serious about redevelopment, they're going to have to address that."

As far as inspections go, Weidert suggests a review of the system. "What's missing is an interpretive body that can look at a situation and say, 'That's not what the law intended, for someone to pay \$15,000 to dig under their building and put in a storm water sewer.'"

■ Nick Sabiani, co-owner of the Seven Angels restaurant, 1401 E. John St., which was de-

layed four months between codes: "The city fathers should review how things are handled. They should attract businesses rather than deter them."

■ State Rep. Steve Wieckert, R-Appleton, in a March 5 letter to Cory Nettles, secretary of the Wisconsin Department of Commerce: "I would ask that the De-

partment give a high priority to considering and adopting a rehab code, which has, as its most critical element, that of public safety and also provides ways to make improvement

to the building financially realistic." Wieckert sites such rehab codes as the International Code Committee's newly developed existing buildings code, HUD's rehab model and rehab codes used by the state of New Jersey.

■ Jo Egelhoff, alderman who serves on the Appleton Redevelopment Authority: Egelhoff wrote a resolution, passed by the Common Council, that was sent to the state Legislature for consideration. It calls for a statewide rehabilitation building code. "Codes for the new building are greatly burdensome for existing buildings. It's impossible to retain the old pieces. HUD sees the absolute necessity of a rehab code and has provided a model code. The East Coast has taken the lead on this because they have more older buildings than we have."

■ Henry Kosarzyski, a municipal agent monitor for the state Department of Commerce: Recognizing a statewide problem with old buildings trying to comply with new codes, he will hold training programs for builders and design professionals in May and June.



Hanna

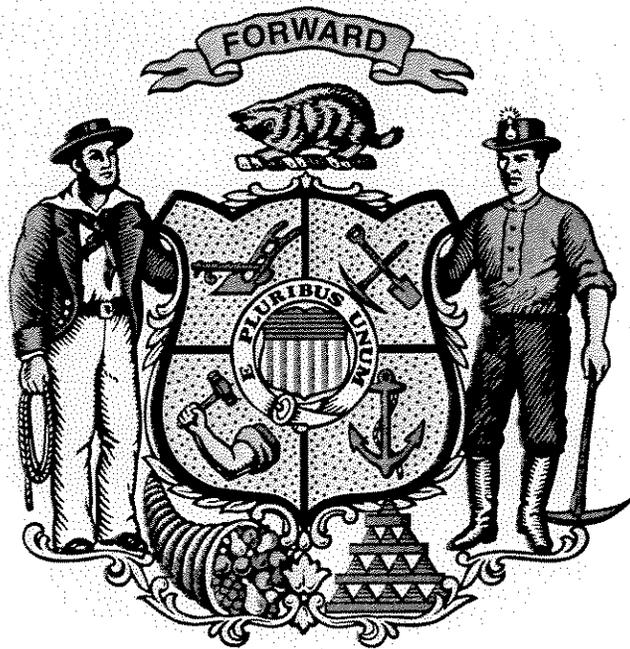


Wieckert

Who Gets Grandma's Yellow Pie Plate?



**FREE
SEMINAR**



Becher, Scott

From: Jim Boullion [jimbn@agcwi.org]
Sent: Friday, February 21, 2003 4:36 PM
To: scott.becher@legis.state.wi.us
Subject: Building Code Issues

Scott,

I would call Jim Smith at Safety & Buildings about your code questions. His number is (608) 266-0251 jsmith@commerce.state.wi.us.

If you want to go to the "top" you could also try calling **Ron Buchholz**, Deputy Administrator of Safety and Building (they have not appointed the new Administrator yet). His number is 608-266-1817, rbuchholz@commerce.state.wi.us.

These guys can answer your questions and maybe help you set up a meeting in at the building in question with one of their local code experts.

Let me know if any reasonable code change suggestions come out of the meeting and we can bring them to the Commercial Building Code Council on March 12th.

Best of luck on this issue!

Jim Boullion
AGC of Wisconsin
jimbn@agcwi.org
(608) 221-3821