

MAINE STATE LEGISLATURE

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September 21, 1955

To George F. Mahoney, Insurance Commissioner
Re: Adoption by Reference

The charter of the City of Old Town permits the city to enact a building code. The City enacted an ordinance which reads in part as follows:

"There is hereby adopted by the City of Old Town. . . that certain building code known as the National Building Code, Abbreviated Edition. . . being particularly the 1949 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, . . ."

Question: Was this ordinance legally adopted?

Answer: The question is, Can a city legally adopt by reference a building code? More specifically, can it so adopt a building code when copies thereof are on file in the office of the city clerk?

The Supreme Judicial Court of Maine has never ruled on the question of adoption by reference. There is no Maine statute declaring such adoption to be illegal. There is a general statute authorizing municipalities to adopt a building code. The approval of the Attorney General is not required.

Under the circumstances, the Department of the Attorney General is not disposed to issue any ruling on the validity of the ordinance. It is strictly a question for the courts. It seems fair to say that the ordinance will continue in effect until successfully challenged.

Paul L. Woodworth
Assistant Attorney General