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Maine Department of Economic and Community Development



Proposed Downtown Investment Policy

Report to the:
Joint Standing Committee on Business
and Economic Development

January 15, 2001

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INTRODUCTION

Chapter 776 of the Public Laws of 1999 requires that the department develop an investment policy that will provide further means to improve the condition of downtown properties and infrastructure to meet the multiple-use needs of downtowns. The policy must be based upon a proactive strategy that promotes investment in downtowns by targeting public funding, encouraging mixed-use (i.e. both commercial and residential) spaces, attracting state facility development, and modifying building codes (see Appendix A).

The department has chaired a downtown initiative workgroup (“the workgroup”) for the past two years. This interagency team, established by Governor King and his cabinet, includes representatives of the Bureau of General Services, the Maine Historic Preservation Commission, the Maine Development Foundation, the Department of Transportation, the Maine State Housing Authority, the Department of Environmental Protection, the Finance Authority of Maine, and the State Planning Office (see Appendix B). The workgroup has focused exclusively on downtown issues. It has examined agency programs and policies to determine the scope of resources available to state government, reviewed pertinent literature, and met with many private and public sector officials to better understand the barriers to downtown development.

The proposed downtown investment policy that follows is a continuation and fine-tuning of the efforts of the workgroup to encourage private and public investment in properties and infrastructure in downtown areas across Maine. Some ideas, like the Downtown Trust Fund, build upon gains made from legislation passed last session, while others, like the Building Rehabilitation Code, draw upon the positive experience recorded by other states. As a package, the proposed policy attempts to bolster the efforts being made by the administration, the legislature, and citizen groups to help Maine grow in a “smart” way.

BACKGROUND

The department has gone about the task of preparing a downtown investment policy with great humility. The challenge of redeveloping downtowns in this state and across the nation is a complex one. Despite a number of examples of municipalities that have successfully transformed their downtown economies, some observations are offered here to reflect the difficulties remaining for many communities in Maine.

Most downtowns were built around mills or other industrial facilities. Many of these structures are now dilapidated and contribute to blight, while

others are inappropriately used or underutilized (warehousing, as an example). In addition, many downtowns lack the necessary private sector investment capital due to: the historic nature of buildings and preservation costs that seem prohibitive; the need for environmental remediation; parking requirements necessitating costly demolition; title problems; and speculative purchases of buildings that are not improved.

Other issues exacerbate the problem. For example, most downtowns lack the critical mass of people that make downtowns successful. Community land use plans (or the lack thereof) have encouraged outlying development while discouraging infill downtown development, such as retail, office and housing uses. Because land use patterns have changed, downtowns typically do not have adequate parking to service reused buildings. Many downtowns lack necessary amenities to attract other investment. And existing federal, state and local programs are insufficient to comprehensively address downtown revitalization issues.

Governor King and his cabinet established the workgroup in January 1999, to “craft an interagency package of resources, regulatory changes and refinements, and policies to encourage the revitalization of downtown Maine.” Over the past twenty-four months the workgroup, chaired by the department, with representatives from agencies involved in downtown development issues, has inventoried relevant programs, met with interested parties, researched national models, drafted legislation and partnered with other groups involved in “smart growth” efforts, in order to assist in shaping state policies and programs to better address the challenges faced by downtowns in Maine.

Some of the legislation recommended by the workgroup, with the support of other “smart growth” partners, included:

- Establishment of a “downtown” definition;
- Creation of the Maine Downtown Center;
- Amendments to the Tax Increment Financing program;
- Establishment of a Leasehold Improvement Fund*; and
- Creation of a Downtown Trust Fund* for municipalities.

*Note: Language is in statute, but no funds were appropriated.

REPORT REQUIRED

Chapter 776 of the Public Laws of 1999 requires that the department submit a report, including its proposed policy and any implementing legislation, to the joint standing committee of the Legislature having

jurisdiction over business and economic development matters by January 15, 2001. The joint standing committee of the Legislature having jurisdiction over business and economic development matters may report out a bill to the First Regular Session of the 120th Legislature regarding the proposed policies.

DEPARTMENT TASK

Chapter 776 of the Public Laws of 1999 requires that the department develop an investment policy that will provide further means to improve the condition of downtown properties and infrastructure to meet the multiple-use needs of downtowns. The policy must be based upon a proactive strategy that promotes investment in downtowns by:

1. Targeting transportation, economic and business development funds to assist in renovations to meet the contemporary needs of retail and office businesses and to provide appropriate access to and circulation within downtowns;

2. Encouraging the development and redevelopment of mixed-use spaces, including residential units, in downtowns;

3. Providing outreach and active technical assistance to communities that have state offices or facilities that serve clients to attract state facility development and other downtown business opportunities; and

4. Reviewing and, as appropriate, making recommendations for changes to building, safety and accessibility codes that will continue to promote the purposes of these codes while streamlining and enhancing the ability to renovate downtown structures for productive and economical use. This must include a review of New Jersey's rehabilitation subcode for existing buildings undergoing renovations and its applicability to Maine.

FINDINGS, ACTIONS AND RECOMMENDATIONS

General Policy: The department's relationship with the workgroup and the Maine Downtown Center.

Finding: Based on initial research by workgroup members, and support from the legislature and other "smart growth" partners, the Maine Downtown Center was established in Maine law last session (see Appendix C). It is the newest program for the Maine Development Foundation, which has hired a manager and held an initial meeting of its Advisory Board. The Center will

serve as a resource center, a technical assistance provider, a source of expert opinions on downtown issues, and a promoter for downtown development.

Action: In an effort to coordinate and streamline roles, earlier “initiatives” planned by the workgroup for promoting and marketing downtowns, such as the development of a resource guide and establishment of a downtown website, will fall within the Center’s purview. The commissioner of the department will co-chair the Center’s Board and workgroup agencies will actively participate in the work of the Center. The department will continue to chair the two-year old interagency workgroup that will evolve into a “downtown investment group.” The downtown investment group will meet on a quarterly basis to continue to review and sharpen the tools state government has for encouraging public and private investments in Maine’s downtown areas. Any changes to relevant policies and programs will be shared with the Center in order to keep marketing and technical assistance efforts as current as possible.

Policy Area #1: Targeting transportation, economic and business development funds to assist in renovations to meet the contemporary needs of retail and office businesses and to provide appropriate access to and circulation within downtowns.

Finding 1-1: The workgroup worked successfully with the legislature to establish the Downtown Trust Fund in state law last session (30-A MRSA §5903). The language was crafted as a direct response to feedback received from both private and public sector officials. The need for resources to address the downtown revitalization problems listed earlier continues to grow. The key areas that the Trust Fund covers include: façade improvements, utility relocation improvements, elevator installation, historic preservation improvements, sprinkler system installation, parking improvements, roads, traffic control devices, parks and open space amenities, streetscape, sidewalks and curbs, and utility upgrade and extensions. A small percentage was also set aside to use as match for Downtown Manager positions created by participating communities.

Recommendation 1-1: Capitalize the Municipal Investment Trust Fund through a \$5 million bond, to authorize downtown improvement loans and grants to municipalities with designated downtowns for infrastructure improvements; hiring of downtown managers; and innovative strategies to address parking issues.

Finding 1-2: The Finance Authority of Maine (FAME) has an Adaptive Equipment Loan Program that can be used to help finance Americans with Disabilities Act (ADA) renovation work, or adaptive equipment purchases.

Developers and commercial entities are eligible to borrow from the program, but individuals make up most of the customers at present.

Action 1-2: FAME will package the Adaptive Loan program with other downtown tools from the workgroup agencies and ensure that it is included with all material from the Maine Downtown Center to spread the word to municipalities and other interested parties.

Finding 1-3: Based on the workgroup's review of agency programs and feedback from communities, the department determined that Tax Increment Financing could be amended to better serve as an incentive for municipalities to invest in their downtowns. The following changes were made last legislative session: "downtown" and "downtown development districts" were defined; acreage and value caps were eliminated for approved downtown districts; and funding of state government facilities was permitted in downtowns. Several communities have notified the department that they are considering downtown TIF districts.

Action 1-3: The department plans to develop rules this year to implement the statutory changes in order to encourage greater use of the program to benefit downtown areas. All new taxes generated from investments in the downtown district could be used for project costs within the district. It could mean considerable improvements in downtown buildings and infrastructure using dollars sheltered from state adjustments to subsidy formulas and county taxes.

Finding 1-4: The Maine Community Development Block Grant Program is funded through the Department of Housing and Urban Development (HUD). Funds are made available to units of general local government to address issues that meet one of three national objectives prescribed by HUD which are: benefit to low and moderate income persons, eliminating slum and blighting influences, addressing needs having a particular urgency.

Action 1-4: Despite limited funds and multiple program priorities, it has been and continues to be a policy of the department to maintain a Downtown Revitalization (DTR) program specifically designed to enhance redevelopment of downtown areas. Within the DTR program communities are encouraged to develop multi-faceted approaches to revitalize their downtown areas. DTR grants will continue to be awarded annually by the department, with bonus points going to those identified by the State Planning Office as a service or specialized center community.

Finding 1-5: Brownfields are abandoned, idled or underused industrial or commercial property where expansion or redevelopment is complicated by

real or perceived environmental contamination. Many Maine municipalities have these abandoned or underused properties in their downtown areas even though these properties may have advantages like public water, sewer, rail access, and good road systems.

Action 1-5: The Department of Environmental Protection (DEP), State Planning Office and Environmental Protection Agency (EPA) Region I staff worked in a cooperative effort to change the Brownfields Revolving Loan Fund Program to the Maine Municipal Brownfields Site Assessment Grant Program. This change allows Maine's ninety-five "Service Center Communities" to apply for contractor services to perform environmental site assessments at Brownfields sites. In an effort to enhance the effectiveness of this "pilot" program, the agencies chose an environmental contractor to conduct the site assessments for applicants to the program. There are currently four municipal applicants to the program, and money for additional applications. The agencies have promoted Brownfields redevelopment through two primary methods: the Maine Municipal Brownfields Site Assessment Grant Program and the Voluntary Response Action Program.

DEP also has a grant from EPA to perform directed site assessments of Brownfield sites, with a budget of about \$40,000 a year for these assessments.

Finding 1-6: The Maine Department of Transportation (DOT) has an integral role in the improvement of transportation connections within downtown areas, between one downtown area and another, and between downtown areas and rural land uses in Maine. Through its programs, the DOT supports efforts to re-establish downtown vitality, always striving to achieve a balanced allocation of resources between rural and in-town needs.

In recognition of the interrelationship between downtowns and the transportation system, the DOT continually seeks opportunities for cooperation with other state agencies, municipalities, business interests, and other stakeholders, to expand discussion of strategies, to pursue opportunities for funding, and to broaden technical assistance, for downtown areas.

Action 1-6: As they improve mobility between populated areas, the Rural Arterial, Major Collector, and Minor Collector Highway Improvement Programs increase attractiveness of settlement and commercial activity in urbanized areas, and thus contribute to downtown viability. Through its "*Community Gateways*" initiative, the DOT provides limited funding assistance for communities to use for development of inviting and informative approaches to villages and downtown areas. The DOT shares in the cost of

highway Resurfacing projects located within urban compact areas, and thus supports the re-establishment of downtowns through improved infrastructure. The DOT continues to consider elimination of a match requirement for capital improvement projects within urban compact areas, but to date has not identified funding sources that would support this concept.

Finding 1-7: The mission of DOT's Office of Passenger Transportation (OPT) is to develop "...an efficient, environmentally sensitive, and cost effective passenger transportation system which encourages the use of alternative modes of transportation to meet the present and future needs of our citizens, business development and tourism."

Action 1-7: Through funding and technical assistance, OPT promotes modal choices that are intrinsic to downtowns, specifically including sidewalks and bicycle/pedestrian amenities, and development of improved transit capacity. OPT also directs federal "*Enhancement*" funding for highway-related improvements. It is DOT's policy to give some priority consideration to downtowns when allocating Enhancement Funds (at present, approximately \$3 million annually). The activities of OPT's Bicycle and Pedestrian Coordinator are frequently directed to projects in downtown areas.

The DOT's proposed Sidewalk Policy" also encourages towns to plan improvements to sidewalk infrastructure, and articulates a state/municipal cost sharing policy for communities that undertake sidewalk improvements. With its "*Explore Maine*" initiative, OPT sets forth plans to create an integrated system of transportation options that will provide visitors and residents the opportunity to travel into and throughout Maine without their automobiles. *Explore Maine* thus represents a considerable investment in downtown vitality. It will improve the capacity of the system to transport passengers into and between downtowns, for residents, tourists, and commercial interests alike.

Policy Area #2: Encouraging the development and redevelopment of mixed-use spaces, including residential units, in downtowns.

Finding 2-1: Maine State Housing Authority (MSHA) has identified community revitalization as one of its emerging issues. Many downtowns throughout Maine are experiencing similar problems. They do not have the critical mass of people living and working in their downtowns to keep them vibrant and viable. They share the problems of underutilized, dilapidated, and obsolete buildings; complex and sometimes conflicting zoning, building, and life safety codes; and uncoordinated and unfocused approaches to resource distribution. MSHA will work to preserve and rehabilitate existing

affordable housing in downtown locations, encourage a diversity of affordable housing options in those areas, and work in coordination with other efforts to redevelop Maine's downtowns as vibrant sources of economic and social activity.

Action 2-1: To accomplish this goal MSHA is expanding its New Neighbors Program to several service center downtowns throughout the state. The New Neighbors Program provides homeownership financing for homebuyers who purchase and rehabilitate existing one to four unit properties located in designated downtown neighborhoods of selected service center communities. Special financing features allow homebuyers to finance up to 100% of the purchase price plus rehabilitation costs. MSHA will make available \$17.6 million in bond funds and \$600,000 in grants to finance 200 loans. This program is expected to be available summer 2001.

Finding 2-2: Based on the workgroup's review of agency programs, and subsequent discussions between MSHA and FAME, it was determined that a joint initiative could be undertaken by the two agencies to better serve the mixed-use needs of developers and building owners in downtown areas.

Action 2-2: MSHA and FAME are developing a Memorandum of Understanding that will allow their programs to be combined to finance mixed-use projects in downtowns. MSHA has two multifamily programs: the New Lease Program for smaller residential projects, and the Rental Loan Program for larger residential projects. Both programs allow commercial space development and can be used in conjunction with FAME's Economic Recovery Loan Program to provide funds for the acquisition and rehabilitation of downtown buildings with a combination of commercial and residential uses.

Finding 2-3: The State Planning Office (SPO) assists communities with direct technical assistance and funds to plan and implement growth management programs. A major objective of the SPO during the past 5 years has been to increase the awareness of the cost of sprawl and the effectiveness of smart growth at combating those costs. Downtown revitalization is viewed as one of the most significant opportunities to stem sprawl and halt its financial impact on local, regional, and state government.

Action 2-3: The Maine State Planning Office received \$1.7 million dollars in one time, non-lapsing funds from the general fund during the 119th Legislative session. Both planning and implementation activities, including smart growth activities, are being funded with these monies. Planning funds are used by communities to create comprehensive plans in compliance with Maine's Comprehensive Planning and Land Use Regulation Act, which

requires that growth be directed to growth areas, where it can be most efficiently and effectively serviced, and not have a detrimental impact on rural industry or the environment. Implementation funds are used to create the regulatory tools necessary to direct growth to growth areas, and to finance specific smart growth grants for projects that promote the following principles:

- Maintaining Maine's historic settlement pattern of compact villages and urban centers separated by rural countryside and sustaining a unique sense of place in every community by respecting local cultural and natural features;
- Targeting economic and residential growth to compact, mixed use centers in areas with existing or planned infrastructure and services at a scale appropriate for the community and region;
- Preserving and creating mixed use, pedestrian-friendly neighborhoods that incorporate open areas, landscaping and other amenities which enhance livability;
- Investing public funds and providing incentives and disincentives consistent with the vision expressed in 1, 2, and 3 above;
- Providing choice in the mode of transportation and ensuring that transportation options are integrated and consistent with land use objectives;
- Protecting environmental quality and important natural and historic features of the State and preserving large areas of unfragmented wildlife habitat and undeveloped land;
- Encouraging and strengthening agriculture, forestry, fishing and other natural resource-based enterprises and minimizing conflicts of development with these industries.
- Reinvesting in service centers and in downtowns and village areas, and supporting a diversity of viable business enterprises and housing opportunities in these areas; and
- Establishing and maintaining coalitions with stakeholders and engaging the public in the pursuit of “smart growth” solutions.

Policy Area #3: Providing outreach and active technical assistance to communities that have state offices or facilities that serve clients to attract state facility development and other downtown business opportunities.

Finding 3-1: There have been recent examples of state and federal government agencies moving out of the downtown areas in Maine communities. The state is interested in taking steps to reduce its own out-migration by providing incentives for developers, building owners and state agencies to remain in the downtowns and growth areas of service centers.

Action 3-1: The Bureau of General Services (BGS) has developed newly revised policies for leasing space which incorporate the statutory priority areas (downtowns and growth areas). This policy update is effective as of January 1, 2001 for most new lease projects involving various tenant state agencies. Bonus points for priority areas will now be utilized in selection criteria for all request-for-proposals (RFPs). The State Planning Office (SPO) participated in the development of these BGS policies.

BGS will be reaching out to all municipalities where lease space is utilized in order to determine each municipality's downtown and growth area geographic boundaries. The responses from each municipality will be shared with SPO for review and concurrence. New leases, which are desired outside of the priority areas, or which are not exempt from the statute, will not be entered into unless they are approved by the Land and Water Resources Council. All new leases as of January 1, 2001 will be tracked in the BGS database and categorized as "downtown", "growth area", "N/A", or "other;" this will assist BGS in reviewing implementation of the statute.

Finding 3-2: The workgroup, with other smart growth partners, determined that a key barrier to attracting state agencies to, and keeping state agencies in downtowns was the lack of capital for leasehold improvements.

Recommendation 3-2: Capitalize a Downtown Leasehold Improvement Fund with \$5 million to provide for necessary improvements to buildings located in downtowns to help create appropriate spaces for state offices and courts.

Policy Area #4: Reviewing and, as appropriate, making recommendations for changes to codes, policies, rules and regulations that restrict the reuse of existing structures to encourage renovation of existing downtown buildings for productive and economical use while continuing to promote the purposes of these codes and regulations. The review must include a review of New Jersey's rehabilitation subcode for existing buildings undergoing renovations and its applicability to Maine.

Finding 4-1: An initial review of New Jersey's building rehabilitation subcode was undertaken (see Appendix D). This led to a review of the Maryland building rehabilitation code (see Appendix E), and other models as well (both state and federal). A number of follow-up phone conversations took place between the department, and state officials in New Jersey and Maryland. A Rehab Code Forum was held in Augusta on November 30, 2000 with eighty-three interested parties registered, and forty-six attending the session. New Jersey and Maryland sent representatives to discuss how and why their codes were developed, and the investment results they have documented so far. New Jersey noted that in 1998, the first year the code was in effect,

rehabilitation work in its five largest cities increased by 60%. Maryland was still a work-in-process, and on task to complete its subcode by year's end.

Both states were guided by the principles that health and safety concerns were paramount, and smaller rehabilitation projects should have fewer codes to meet, while larger projects should have more. Both offered to continue to be of assistance to Maine as it explores subcode development further. In fact, New Jersey received \$100,000 as an "Innovations in American Government Award" for establishing its subcode, and is providing extensive technical assistance to interested states. Of the thirty-one forum attendees who submitted written responses, twenty-six (83%) felt that given their own experience with building codes, and based on what they heard from the two states, there were many features that are applicable to Maine (see Appendix F).

Recommendation 4-1: Establish some type of building rehabilitation code in Maine in order to encourage the reuse and redevelopment of existing buildings in downtowns throughout the state. However, rather than deciding now to follow any specific state or federal model, it is recommended that an advisory council with a fairly tight deadline be created to make the decision. A draft legislative document is attached (see Appendix G). It attempts to ensure that a progressive building rehabilitation code is adopted, while not locking Maine into one code path or another.

APPENDICES

- A. Chapter 776 of the Public Laws of 1999
- B. Downtown Initiative Workgroup
- C. Maine Downtown Center
- D. New Jersey
- E. Maryland
- F. Maine Rehab Code Forum
- G. Maine Rehab Code Proposed Legislative Document

An Act to Implement the Land Use Recommendations of the Task Force on State Office Building Locations, Other State Growth-Related Capital Investments and Patterns of Development
(Approved May 10, 2000 by Governor – Chapter 776 Public Law)

I. Investment Policy. The Department of Economic and Community Development shall develop an investment policy that will provide further means to improve the condition of downtown properties and infrastructure to meet the multiple-use needs of downtowns.

A. Proactive Strategy. The policy must be based upon a proactive strategy that promotes investment in downtowns by:

1. **Targeting Funds.** Targeting transportation, economic and business development funds to assist in renovations to meet the contemporary needs of retail and office businesses and to provide appropriate access to and circulation within downtowns;

2. **Encouraging Mixed-Use.** Encouraging the development and redevelopment of mixed-use spaces, including residential units, in downtowns;

3. **Attracting State Facilities.** Providing outreach and active technical assistance to communities that have state offices or facilities that serve clients to attract state facility development and other downtown business opportunities; and

4. **Reviewing Rehabilitation Codes (including New Jersey's) for Existing Buildings.** Reviewing and, as appropriate, making recommendations for changes to codes, policies, rules and regulations that restrict the reuse of existing structures to encourage renovation of existing downtown buildings for productive and economical use while continuing to promote the purposes of these codes and regulations. The review must include a review of New Jersey's rehabilitation subcode for existing buildings undergoing renovations and its applicability to Maine.

II. Collaboration with Agencies. The Department of Economic and Community Development shall work with the Bureau of General Services within the Department of Administrative and Financial Services, the Department of Transportation, the Maine State Housing Authority, the Finance Authority of Maine, the State Fire Marshal, the State Planning Office within the Executive Department, the Historic Preservation Commission, the Maine Human Rights Commission and other state agencies in developing this state policy.

III. Consultation with Interested Parties. The department shall also consult, as appropriate, with local code enforcement officers, developers, realtors, builders, architects, disability rights advocates and other interested parties.

IV. Report due January 15, 2001. The department shall submit a report, including its proposed policy and any implementing legislation, to the joint standing committee of the Legislature having jurisdiction over business and economic development matters by January 15, 2001. The joint standing committee of the Legislature having jurisdiction over business and economic development matters may report out a bill to the First Regular Session of the 120th Legislature concerning the proposed policies.

DOWNTOWN INITIATIVE WORKGROUP

COMMISSIONERS AND DIRECTORS

Steven Levesque - Dept. of Economic & Community Development
Charlie Spies - Finance Authority of Maine
Martha Kirkpatrick, Dept. of Environmental Protection
Michael Finnegan - Me. State Housing Authority
John Melrose - Dept. of Transportation
Evan Richert - State Planning Office
Earle Shettleworth, Maine Historic Preservation Commission
Janet Waldron - Dept. of Administrative and Financial Services

STATE & LOCAL AGENCY REPRESENTATIVES

Matt Nazar - State Planning Office
John Conrad - Dept. of Administration and Financial Services, Bureau of General Services
Craig Freshley - Me. Development Foundation
Kathy Fuller - Me. Dept. of Transportation
Mark Hyland - Dept. of Environmental Protection
Valerie Iverson - Me. State Housing Authority
Charles Jacobs - Dept. of Admin. and Financial Services, Bureau of General Services
Debbie Johnson - Dept. of Economic & Community Development
Diane Langlois - Dept. of Economic & Community Development
David Markovchick - Finance Authority of Maine
Cindy Nichols - Finance Authority of Maine
Jim Nimon - Dept. of Economic & Community Development
Elaine Clark, Dept. of Admin. and Financial Services, Bureau of General Services
Dana Vaillancourt - Me. Historic Preservation Commission
Rebecca Conrad – LA Excels, Bates College

GUESTS

Dean Bennett - Penobscot Valley Council of Governments
Suzanne Bussiere - Central Maine Power
James Buckley - Public Utilities Commission
Steve Dodge - Me. State Fire Marshal's Office
Michael Duguay - Midcoast Council for Business Development
Jeffrey Hewitt - Town of Skowhegan
Chris Huck - Kennebec Valley Council of Governments
Steve Kaiser - Town of Farmington
Bill King - Bath Business Association
John Maloney - Androscoggin Valley Council of Governments
Tom Martin - Hancock County Planning Commission

APPENDIX B

Steve McCulloch - Northern Maine Development Commission
Jane Palmer - Bath Business Association
Randy Poulton - Me. State Housing Authority
Rich Rothe - Mid Coast Regional Planning Commission
Mark Russell - State Planning Office - Code Officer Training & Certification
Program
Paul Schumacher - Southern Maine Regional Planning Commission
Tim Vrable - Central Maine Power
David Willauer - Greater Portland Council of Governments
Jeff Zimmerman - City of Augusta

THE MAINE DOWNTOWN CENTER

A program of the MAINE DEVELOPMENT FOUNDATION

FACT SHEET

The mission of the Center is to develop Maine downtowns by building community capacity and promoting main streets.

Making downtowns more attractive and more competitive is an effective economic development approach and an antidote to sprawl.

The Center will foster downtown development that is dynamic and community-based, and results in economic development, business growth and job creation, housing revitalization, historic preservation, and cultural enhancement. In so doing, it will create models both to stimulate and educate others

The Center is unique nationally, although it will incorporate many of the lessons that have proven effective nationwide. It is not a grant-making agency. It is a self-help instigator. It is not about bricks and mortar, new sidewalks and streetlights, as important as these may be. It is about programs, community involvement, creating sustainable local capacity, and cutting-edge competitiveness. It is not a lobbying agency, but will seek to inform and educate policy makers about the importance of downtowns. It is not driven by pre-conceived solutions, but will act in response to what local communities identify as their problems, and will help to solve those problems. The Maine Center is affiliated with the NTHP's National Main Street Center.

The Center's objectives are to:

- ~ Serve as a clearinghouse/point of contact for information related to downtown development in Maine.
- ~ Promote and build awareness about the importance of vital downtowns.
- ~ Provide training and technical assistance to communities that demonstrate a willingness and ability to revitalize their downtowns.

Each year, at least three communities will receive intensive, on-site technical support.

A statewide partnership of business, government and foundation interests will support community action. The partnership will include several state agencies, businesses, and the non-profit and foundation sector.

The Maine Development Foundation administers the Center and delivers its program, in partnership with several statewide organizations. The Foundation is a non-profit, private organization whose mission is to champion sustainable economic growth. A core budget from state government, business and foundations supports the Center's staff.

An Advisory Committee, appointed by the Foundation, is co-chaired by business, government and community leaders. The committee meets quarterly to assist with program design, community selection, and evaluation.

The Center is a program of the Maine Development Foundation.

45 MEMORIAL CIRCLE ♦ AUGUSTA ME 04330 ♦ TEL 207-622-6345 ♦ FAX 207-622-6346

♦ EMAIL: CFRESHLEY@MDF.ORG ♦ WWW.MDF.ORG

RULES THAT MAKE SENSE NEW JERSEY'S REHABILITATION SUBCODE

William M. Connolly

INTRODUCTION

Ensuring an adequate supply of affordable housing is a concern in most states and municipalities, and particularly within and close to major cities. New Jersey has an old housing stock, which means that rehabilitation and conversions play a critical role in state, local, for-profit, and non-profit 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, the counties with the state's two largest cities, the median year for houses is 1941 and 1949, respectively.¹ New Jersey also has many older non-residential buildings that are vacant or under-utilized and are good candidates for adaptive re-use.

Rehabilitation of existing buildings is important for several reasons. Redevelopment of urban areas preserves existing open space and helps reduce the amount of suburban sprawl. This improves the quality of life for the jurisdiction's residents and reduces the impact of development on the environment. Renovating existing buildings in urban areas conserves natural resources by requiring less building material than is used to construct a new structure.

THE PROBLEM

Many existing buildings throughout the United States were built to comply with an earlier building code or with no code, yet are often still safe and sound. With some exceptions, these buildings continue to be occupied, used, and maintained. In 1996, local construction offices in New Jersey issued building permits authorizing work that had an estimated cost of more than \$7 billion. Additions to and alterations of existing structures accounted for about 47 percent or about \$3.5 billion. In New Jersey's cities in particular, conversions and reha-

bilitation projects play an integral role in the creation of decent, affordable housing. In Newark, about \$3 out of every \$4 of the estimated cost of construction authorized by permit in 1996 was for work on existing houses. In Trenton, housing rehabilitation work outpaced new housing construction by more than 14 to 1.

There is housing stock available in many urban areas that remains untapped, in part because rehabilitation projects are required to bring buildings into compliance with current building codes for new construction. For new buildings, complying with the construction code is a straightforward process. Materials to be used, processes to be followed, and safety standards to be met are clearly stated, and the cost of compliance is predictable. It is much less so in the case of existing buildings. Until recently in New Jersey and currently in Massachusetts and elsewhere, construction standards written for new buildings have been applied to rehabilitation work on existing buildings without demonstrated improvements in safety and despite the associated, often prohibitive costs. Building codes developed with new construction in mind are difficult to apply rationally and predictably to existing buildings. Because developers and building owners cannot predict with certainty what will be required to bring a deteriorated building back into use, projects in existing buildings are often not attempted at all and the buildings remain unimproved.

Prior to the development of the Rehabilitation Subcode, the rules in effect in New Jersey triggered code requirements for work in existing buildings based on the cost of the project. The greater the ratio of the cost of the project to the replacement value of the building, the more the building needed to comply with the standards for new buildings. Other approaches, such as the method outlined in Chapter 34 of the 1996 Building Officials and Code Administrators (BOCA) National Building Code, which Massa-

¹ 1990 Census Bureau data.

achusetts relies on for its provisions, also use new building construction as the benchmark against which existing buildings are measured. Chapter 34 of BOCA begins with the premise that altered portions of the building must meet the requirements for new structures. As an alternative to this, the code allows the user to go through an extensive evaluation of the building. The building is given points for fire safety systems and features that meet or exceed the code requirements for a new structure, is assessed negative points for features that are viewed as hazardous, and are given no points for those features deemed to have neither a positive nor negative effect on the fire safety of the building. If the existing building does not meet a specified point value after assessing these features, the building owner is required to improve features until the building has enough points. This often requires building owners to add features and fire safety systems to the building that would not be required if the building were new.

Basing requirements for existing buildings on the standards for new construction causes several problems:

1) In many cases, the requirements for new structures cannot 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. New building requirements for stairway geometry (minimum tread and maximum riser dimensions) often mean that existing stairways are too steep and need to be replaced. Stairways with shorter risers and wider treads require more room and often cannot be fit into existing buildings without totally reconfiguring the space. Other new construction requirements that often cannot be easily met in existing buildings are ceiling height requirements, egress window requirements, and corridor and doorway width requirements.

2) A second problem is predictability. Code officials recognize that making an existing building meet all of the requirements of the code applicable to new buildings is impossible. However, there is little consistency among code officials about which requirements are necessary to improve safety. A building owner often has no idea what will be required prior to submitting plans for review or meeting with the

code official. Using the building point evaluation in BOCA Chapter 34 can help reduce the amount of uncertainty. However, it requires a rather extensive evaluation of the existing building. It also requires the owner to assess up front which improvement will give him the most points per dollar. A level of uncertainty remains because it is difficult to predict what obstacles will be encountered when trying to place a new building system into an existing structure. This uncertainty makes building owners hesitant to undertake building improvements because they cannot predict the cost of the project.

3) Rules that aim to impose new construction standards on existing buildings penalize building owners who want to improve their buildings. Such rules can expand the applicant's scope of work by requiring a building owner to renovate portions or features of the building that are neither unsafe nor in disrepair. For example, because BOCA Chapter 34 counts life safety improvements only when they are made to an entire structure, a building owner who plans to renovate a single floor of his building and is willing to install a fire suppression system on that floor would not be able to use that installation to meet his BOCA Chapter 34 point obligation. If the building owner wanted the installation of the fire suppression system to count, he would have to suppress the entire building. The additional costs associated with expanding the applicant's scope of work can make a rehabilitation project financially infeasible. This may cause the building owner to abandon planned improvements to the floor. To the detriment of the building, the building owner, and the community, the building remains unimproved.

The challenge accepted by New Jersey was to develop provisions for existing buildings that were rational, predictable, and that delivered safe and sound rehabilitated structures.

THE SOLUTION

New Jersey's Rehabilitation Subcode was developed by the 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 was composed of code officials, fire officials, architects, historic preservation-

ists, advocates for people with disabilities, and government representatives. The committee met over two years and approved the draft document at its final meeting on January 31, 1997. Department staff then made the draft a proposal, which was published in the *New Jersey Register* on August 18, 1997. Two public hearings were held. Comments were received and discussed, and some clarifications and improvements to the proposed document were made. Signed on December 8, 1997, the Rehabilitation Subcode was published as a rule adoption in the *New Jersey Register* on January 5, 1998.

The Rehabilitation Subcode is not only a change in building code requirements, it is a change in building code philosophy. The past philosophy had been that if a building owner has money to spend on his building, he should be required to spend a good portion of that money to make that building approach the current code for new structures. There are two flaws with this way of thinking. The first is assuming that the goal is to have existing buildings meet the current code for new building construction. Using new building standards for renovated buildings can result in expensive improvements that have little real benefit in terms of occupant safety. The second is that this philosophy ignores the positive effect of money invested to improve an existing building even when not specifically earmarked for code compliance. The past philosophy said to building owners, if you can't make the leap up to the standards we have set, don't take the step to make your building better. The Rehabilitation Subcode addresses this problem by, to the greatest extent possible, letting the applicant choose the scope of the project, and by establishing specific requirements that make sense in existing buildings.

Instead of basing requirements on the cost of the work to be performed, the Rehabilitation Subcode bases requirements on the nature of the work. The code establishes specific requirements for each category of work. There are five sets of requirements:

Products and practices list items that are required and those that are prohibited.

Materials and methods explains how to use the materials selected for a project. It does not contain requirements on how much fixing has to be done. The section was developed by going

through the model codes for new buildings and taking out the scoping requirements (the provisions that tell how much work must be done). What was left is in materials and methods (the basic characteristics of materials and how they are to be installed).

New building elements are created as part of a rehabilitation project. Each item listed in this section must conform to specific sections of the other technical subcodes of the UCC, which are listed in the new building elements section of the Rehab Subcode. Some examples of new building elements are new atriums, new corridors, and new door openings.

Basic requirements are the most fundamental scoping requirements. They cover such topics as capacity of means of egress, dead end corridors, and exit signs. They are imposed only within the work area when the work is a reconstruction project.

Supplemental requirements are imposed when the work is a reconstruction project and the work area exceeds a certain size.

The Rehabilitation Subcode establishes three types of projects: rehabilitation, change of use, and additions. There are four categories of rehabilitation work: repair, renovation, alteration, reconstruction. Requirements are based on the category of work.

1) "Repair" means fixing a building component that is worn or broken. Under this category, materials and assemblies may be replaced with like materials and assemblies. There is no limit to how much repair may be undertaken in connection with a project. There are only a few specific exceptions to this rule. They include requiring certain products and practices, such as putting in a low flow toilet when a toilet is being replaced, and prohibiting other items, such as certain electrical materials or supplies.

2) "Renovation" is generally restorative in nature, such as the replacement of interior finish, trim, doors, or equipment, but involves the use of different materials. There is no reconfiguration of space. The materials used and the methods of installation must conform to the requirements found in the materials and methods section. The requirements set out in products and practices also apply.

3) An "alteration" project includes reconfiguring existing space. Products and practices

and materials and methods requirements apply to alteration work. To address the possibility that the reconfiguration of space could create a safety hazard, there are some additional requirements for alteration work. These specify that the work undertaken cannot create a non-conformity with the basic requirements that did not exist before the alteration began.

This is a key issue to understand. In an alteration, the portion of the building being worked on does not need to be brought up to the standard established in the basic requirements. The basic requirements are used as a measuring stick. The work being done cannot make the building less conforming with the basic requirements than it was before the work was undertaken.

4) "Reconstruction" is a project consisting of the other categories of work where the work includes an entire tenancy (a portion that is under the ownership or control of one owner or tenant) and precludes occupancy during the project. This category involves extensive work to the interior of a building, floor, or tenant space. It is commonly referred to as a "gut rehab." Reconstruction includes repair, renovation, and/or alteration in any combination. Reconstruction does not include projects comprised only of floor finish replacement, painting or wall-papering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects are not classified as reconstruction although occupancy of the work area is not permitted.

Repair, renovation, and alteration work that make up a reconstruction project must comply with the requirements for the applicable category of work. The entire work area must comply with basic requirements. Certain reconstruction projects must also meet the supplemental requirements, which apply only when the work area for a reconstruction project exceeds a specific size, and it could include new building elements, depending on the scope of work.

The Rehabilitation Subcode uses the concept of "work area" to define the portion of the building in which the basic requirements must be met in a reconstruction project. The applicant designates the work area as part of the permit application. Only in defined cases specified in the Supplemental Requirements does the code

require that the applicant do any work outside of the work area. These are limited to systems in the building that are best applied on a floor-by-floor or building-wide basis. Such systems include fire alarm systems, elevators, and fire suppression systems. When the work area is large enough to justify the installation of these systems on a floor-by-floor, or in some cases, on a building-wide basis, the Rehabilitation Subcode requires them. For example, when the applicant chooses to completely redo a floor of a building and the building is a type that would require a fire suppression system, the owner is required to install the system on that floor and not throughout the building.

5) A "change of use" results from one of two conditions: a change of the building use group or a change in the nature or intensity of the use. The change of use section details what must be done, for example, when a building that has been a store (Use Group M) is changed into a restaurant (Use Group A) or when a small restaurant is expanded into a larger one. The change in the use of a building space may trigger the requirements of one or more of the technical subcodes of the New Jersey Uniform Construction Code. For example, the plumbing subcode may require additional toilet fixtures, the electrical subcode may require ground fault circuit interrupters, or the mechanical subcode may require that the heating, ventilation, and air conditioning system be upgraded. The amount of work required depends on whether the change in the use of the building creates a greater hazard.

The premise underlying the change of use is reasonable—only if the change creates a hazard must the hazard be ameliorated. Amelioration is achieved by applying specific requirements spelled out in this section of the Rehabilitation Subcode.

There are six hazard tables in the change of use section. The first table categorizes the overall hazard associated with the new use group relative to the existing use group. The next five tables address specific hazards associated with the following technical issues: means of egress, height and area, exposure of exterior walls, fire suppression, and structural loads. These tables operate independently of one another; each must be consulted. Only where there is an increase in

hazard are requirements triggered. There are separate requirements for vertical openings, fire alarms, fire detection, and smoke detectors. There are also separate sections that address work required by the plumbing, electrical, mechanical, or barrier free accessibility subcodes.

6) An "addition" increases a building's size; the Rehabilitation Subcode applies to the existing portion of the building. An addition is required to comply with the provisions of the technical subcodes for new construction of the Uniform Construction Code. Work in the existing building must comply with the requirements for repair, renovation, alteration, and reconstruction, as applicable.

Not New, But Safe

In addition to being specific, the requirements do not contain many of the arbitrary dimensions that are included in the code for new structures. For example the BOCA National Building Code, which New Jersey uses for new building construction, requires that doors within dwelling units have a 29 3/4-inch clear opening. This essentially means that all doors within a dwelling unit must be 32-inch doors. Safety is not compromised with a 30-inch or even 28-inch door in a dwelling unit. Therefore, the Rehabilitation Subcode does not contain such a requirement nor does it contain other requirements for changes to existing building features without any corresponding improvement in building safety. The thrust of the Rehabilitation Subcode is to ensure a building that meets an acceptable threshold of safety and that it is no less safe after the project than it was before. It results in a safe building, though not necessarily a new building.

HISTORIC BUILDINGS

Imposing new building requirements on existing buildings creates a barrier to restoring historic buildings. Applying new building standards to these structures often disturbs the historic character of the building. Regulations that are specific and tailored to existing buildings can vastly facilitate and improve historic preservation efforts.

The Rehabilitation Subcode includes provisions for buildings that meet the standards for historic buildings established by state or federal agencies. The Rehab Subcode allows the use of

replica materials, establishes provisions for historic buildings used as historic museums, and identifies building elements that may meet relaxed code requirements in order to preserve the historic value and integrity of a historic building.

Some of the code requirements that are problematic for historic buildings include doorway dimensions, corridor dimensions, tread and riser dimensions, interior finishes, and door hardware. The Rehabilitation Subcode allows some novel approaches to overcome these problems. For example, it allows existing non-conforming interior finishes to be painted with fire-retardant paint instead of requiring their replacement. It allows owners of certain historic buildings that are open to the public (house museums) to limit their occupant load instead of upgrading egress elements to comply with the regulations for new museums. It also allows flexibility when locating exit signs and permits electrical and plumbing systems that are historic and in view to remain and be repaired with materials and methods consistent with the original construction.

COSTS AND BENEFITS

The Rehabilitation Subcode has been used in New Jersey for more than a year and is working well. Construction indicators suggest that adoption of the Rehab Subcode has stimulated rehabilitation of existing structures, particularly in the cities. While statewide the estimated cost of alterations and additions grew slightly less than 8 percent between 1997 and 1998, in New Jersey's larger cities, rehab work grew more rapidly. The estimated cost of all rehab work in Newark grew by nearly 60 percent in the same period, by 84 percent in Jersey City, and by 41 percent in Trenton. While there are certainly other factors contributing to this growth, New Jersey's Department of Community Affairs attributes much of the increase to the Rehab Subcode. In Newark, nonresidential rehabilitation projects accounted for most of the increase, while housing rehab work continued to decline. This was not the case in other cities or in New Jersey as a whole (see table 1).

Some small-scale evaluations have been done on the impact of the subcode. One Jersey City building, after standing vacant for eight

Table 1. Estimated Cost of Rehab Construction Authorized by Building Permits, Selected New Jersey Cities and Statewide: 1996, 1997, 1998

	1996 (millions of \$)	1997 (millions of \$)	1998 (millions of \$)	Percent Change	
				1996-7	1997-98
Newark					
housing rehab	22.2	19.3	15.2	-12.9	-21.2
nonresidential rehab	36.4	48.8	93.3	34.2	90.9
total rehab	58.6	68.1	108.5	16.4	59.2
Jersey City					
housing rehab	22.5	16.7	17.6	-25.7	5.5
nonresidential rehab	29.0	31.8	71.4	9.8	124.4
total rehab	51.5	48.5	89	-5.7	83.5
Trenton					
housing rehab	14.4	8.0	10.3	-44.4	27.8
nonresidential rehab	18.1	12.9	19.1	-28.5	47.7
total rehab	32.5	21.0	29.4	-35.6	40.1
New Jersey					
housing rehab	1,274.3	1,395.6	1,561.3	9.5	11.9
nonresidential rehab	2,028.9	2,401.7	2,527.3	18.4	5.2
total rehab	3,303.2	3,797.3	4,088.6	15.0	7.7

Source: N. J. Department of Community Affairs.

years, has been renovated to provide 24 apartments for low- and moderate-income senior citizens and a day care center. The estimated cost savings attributable to the Rehabilitation Subcode were \$391,000, about one-quarter of the total project cost. In Trenton, two floors of a vacant office building, more than 50,000 square feet, were renovated for use as a charter school. The Rehabilitation Subcode made it possible for this building to be used and saved an estimated \$100,000 to \$125,000. While savings on privately funded projects may accrue to owners or to buyers, taxpayers reap the benefits when the project is publicly funded. The Subcode enables communities to stretch public dollars, providing more affordable housing for less and reusing buildings that might otherwise stand vacant or be destroyed.

As with any new regulation, especially one that involves a change in philosophy, training is necessary. The New Jersey Department of Community Affairs has a continuing education program for all state-licensed code officials. Rehabilitation Subcode training followed the program already in place, but was expedited as a special program.

Two kinds of classes were offered: full-day Rehabilitation Subcode briefings provided an overview and emphasized how to use the code, and half-day workshops, which were limited to approximately 15 code officials per class, gave participants the opportunity to ask questions about the application of the code to specific projects. All working building and fire protection subcode officials were required to attend a full-day briefing. Attendance at a briefing was a prerequisite for the workshop.

In the fall of 1997, 20 full-day briefings were held with 1214 attendees. In the spring of 1998, seven briefings were held with 405 students. In the fall of 1998, four briefings trained 110 officials, and in the spring of 1999, five briefings were held with a total of 118 participants. Thus, from the fall of 1997 through the spring of 1999, 36 Rehabilitation Subcode briefings were held throughout New Jersey, with a total of 1847 code officials trained in the new rules governing construction work in existing buildings.

In the spring of 1998, 26 half-day workshops were held with 436 participants. In the fall of 1998, six workshops were held with 22 participants. Rehabilitation Subcode training is

now part of the continuing education program for licensed code officials. It is not a mandatory course.

The initial cost of the training was higher than usual because of the need to provide many training opportunities across the state in an abbreviated time frame. In the first year, the cost per class, which included instructor, room rental, coffee service, and class materials, was approximately \$1,700.

The Department of Community Affairs made this extraordinary effort to provide training for code officials in advance of the promulgation of the rule because of a strong belief that code knowledge leads to effective code enforcement. However, the Rehabilitation Subcode, with its categories of work and specific requirements, provides the code user with guidelines that are easily followed. There is virtually no guesswork involved in applying the code.

New Jersey's Rehabilitation Subcode is an example of government reassessing its regulations and actually improving the effectiveness of the regulations by imposing fewer and more sensible requirements on the public. Building departments win because buildings are improved and made safer. Building owners win because they are able to improve their properties, increase their value, and produce buildings in which people want to live and work. But, most importantly, the public wins because urban areas are revitalized, open space is preserved, resources are conserved and, in general, quality of life is improved.

REPLICATION IN MASSACHUSETTS

As in New Jersey, much of the housing stock in Massachusetts was built prior to the adoption of stringent building codes. Nearly 60 percent of the 2.5 million housing units in the state in 1990 were reportedly built before 1959; 40 percent were built before 1939. The median age of housing units in the state in 1990 was almost 50, as the median year structures were built was given by the Census Bureau as 1953. In Suffolk County, which includes the City of Boston, 73 percent of 290,000 housing units (again 1990) were built before 1959, more than half (56 percent) before 1939. The median age of housing in Suffolk County was 60 years; the

1990 Census gives 1939 as the median year structures were built. Hampden County, which includes the urban areas of Springfield, Holyoke, and Chicopee, had a median year of 1954 for housing structures, as did Worcester County.

While data on the value of rehabilitation work undertaken in Massachusetts are not available, and deferred renovation is impossible to estimate, it is generally accepted that building codes designed for new construction are a deterrent to the rehabilitation of older buildings. Adopting a rehabilitation subcode in Massachusetts modeled on New Jersey's would likely stimulate rehabilitation, particularly in the Commonwealth's urban areas. The benefits would fall on community residents, taxpayers, and society as a whole. Resources would be conserved as the life of existing buildings is extended. Buildings that might otherwise be abandoned to disrepair and eventually destroyed would be brought back to a usable condition. Public funds for affordable housing would be more efficiently expended, creating more units for the same outlay of funds. The increase in housing stock would benefit communities as well as potential tenants.

New Jersey's Rehabilitation Subcode has been hailed as a national model for facilitating urban redevelopment efforts. It formed the basis for the Nationally Applicable Recommended Rehabilitation Provisions (NARRP) distributed by the U.S. Department of Housing and Urban Development and received a 1998 New Jersey Historic Preservation Award. An appropriate version of the subcode should be adopted in Massachusetts.

ABOUT THE AUTHOR

William M. Connolly is director of the New Jersey Division of Codes and Standards, which implements and oversees the enforcement of all construction codes in New Jersey. Mr. Connolly is a registered architect and has been with the State of New Jersey for 26 years. He served as New Jersey's delegate to the National Conference of States on Building Codes and Standards for 19 years and is a past director and president of that organization.

Maryland Building Rehabilitation Code

Smart Codes

"Ultimately, Smart Growth cannot work if people cannot build, if people cannot reuse, if people cannot redevelop. Yes, our buildings must be safe, accessible, and fit the historic character of their surroundings. But what requirements are counterproductive? And how can they be streamlined or rewritten to support redevelopment? ... We need to develop guidelines that permit more flexibility in design standards and encourage more attractive, livable communities. We have to remember that one size does not fit all."

Gov. Parris N. Glendening

Smart Codes Conference, May 26, 1999

Smart Growth Goals:

Smart Growth encourages investment in existing communities. Reusing old buildings, saving our stock of historic housing, and converting buildings to new uses is essential to neighborhood conservation. These structures are the heart of our existing communities, give our communities their unique character and represent the architectural legacy of our state.

The Need:

People in the building and development fields have repeatedly raised concerns that the application of the state's current construction codes can present a significant barrier to the improvement or redevelopment of existing buildings. Maryland regulates building construction with a complex patchwork of ten individual codes that vary from local jurisdiction to jurisdiction. These codes include the building code, fire code, mechanical code, plumbing code, electrical code, boiler safety code, energy code, elevator code, accessibility code, and provisions for historic structures. This codes framework can pose at least four distinct barriers to redevelopment:

- **Lack of Uniformity:** Maryland's construction codes sometimes overlap, resulting in unclear requirements.
- **Unpredictability:** Codes requirements vary among jurisdictions and code interpretations vary among enforcement officials.
- **Inflexibility:** Codes can be inflexible as applied to existing buildings.
- **Need for Training:** Codes training is needed on a statewide basis for code officials, design professionals, and building contractors.

The Proposal:

To encourage rehabilitation and reuse of existing buildings, the Maryland Building Rehabilitation Code and new coordinating body called the Rehabilitation Code Advisory Council are proposed. Enabling legislation would set out the goals and parameters of the new Rehabilitation Code based on categories of work established in a model rehabilitation code developed by the U.S. Department of Housing and Urban Development and the National Home Builders Association. The legislation also would charge the state agencies responsible for regulating the building industry and the Rehabilitation Code Advisory Council to promulgate the provisions of the new Rehabilitation Code through the Maryland Code of Regulations (COMAR) process.

The Benefit:

The new Rehabilitation Code will encourage rehabilitation and reuse of existing buildings in at least three ways:

1. It will integrate the 10 codes that now commonly govern construction work on existing buildings in Maryland into one document.
2. It will clearly separate rehabilitation requirements from those for new construction.
3. And, it will set up an easy-to-use framework of code requirements that gradually increase as the scope of the rehabilitation project increases: the smaller the rehabilitation project, the fewer the code requirements that apply. This framework is accomplished by separating rehabilitation work into six distinct categories of work that range from "repair," which involves almost no code compliance requirements, to "addition," which triggers compliance with the most stringent code requirements.

Application:

The new Rehabilitation Code would be implemented using the current state building code, the Maryland Building Performance Standards, as a model. Under this framework, the Code would operate statewide and local jurisdictions could amend its provisions. To encourage uniformity and the greatest degree of rehabilitation activity, however, the State would provide financial incentives for localities that choose not to amend the new Rehabilitation Code.

Code Council:

A Rehabilitation Code Advisory Council is proposed to help draft and implement the Maryland Building Rehabilitation Code. The Council would coordinate the efforts of government and private organizations that are involved in administering and working with the State's construction codes. The Council would act as an umbrella body with three primary functions:

1. Draft and update periodically the Maryland Building Rehabilitation Code.
2. Issue advisory resolutions of issues that arise in implementing the new code.
3. Oversee training for code officials, design professionals, and others in the construction industry.

Successes:

After adopting a similar code in New Jersey, investment in rehabilitation work rose statewide by nearly 8 percent, but most significantly in older communities such as:

- Newark, where rehabilitation spending rose by 60 percent, from \$68 million to nearly \$109 million.
- Jersey City, where spending increased by 83 percent, from \$49 million to almost \$90 million.
- And, Trenton, where spending rose over 40 percent, from \$21 million to \$30 million.



For Additional Information please contact

Johns Hopkins
Maryland Department of Housing and
Community Development
1201 West Pratt Street, Suite D
Baltimore, Maryland 21223
hopkins@dhcd.state.md.us

phone: 410.209.5815 fax: 410.685.8270

or visit us on the WEB at: www.on.state.md.us

Frequently Asked Questions Maryland Building Rehabilitation Code

Smart Codes

1. Why do we need a new statewide Rehabilitation Code?

If the State and local governments are to take advantage of their investments in schools, roads and other infrastructure and simultaneously reduce development pressure on farms and forests, we need to encourage the rehabilitation and re-use of older structures in our existing communities. Our current state rehabilitation code and other construction codes too often discourage such rehabilitation work because they inadvertently make such work too costly and time-consuming.

2. How will the new Rehabilitation Code promote the rehabilitation and re-use of existing buildings?

The new code will promote reinvestment in existing buildings in two ways:

First, it will provide a framework in which code requirements will gradually increase as the scope of the rehabilitation project increases. This will allow small rehabilitation projects to proceed that otherwise would have been postponed or abandoned due to the unnecessarily long time delays and high costs of achieving compliance with the full set of construction codes for new buildings.

Second, in place of the confusing patchwork of construction codes that vary among jurisdictions, the new Rehabilitation Code will provide building owners, contractors, design professionals, and local code officials with a predictable, easy to use code that will spell out all of the code requirements for existing buildings.

3. Why is that important?

The Rehabilitation Code is important to communities because it will encourage property owners to upgrade their structures and put abandoned buildings back into active use. It also will preserve the historic architecture that makes our older communities unique and provide "recycled" space for businesses and residences that otherwise might move to greenfields sites.

4. Will the new Rehabilitation Code be mandatory or voluntary for local governments?

The new Rehabilitation Code would be implemented along the lines of the state building code, the Maryland Building Performance Standards Code, which is adopted by local governments.

5. Is there any advantage for jurisdictions that choose not to amend the new Rehabilitation Code?

To encourage uniformity and the greatest amount of rehabilitation activity, the State will provide financial incentives for localities that choose not to amend the new Rehabilitation Code. These include new funds for the Maryland Department of Transportation's Neighborhood Conservation Program, the State's Rural Legacy Program, and a new low interest mortgage finance program. Over \$800,000 also would be provided for training and assistance in implementing the new Rehabilitation Code.

6. How will the Rehabilitation Code affect making fire safety improvements to buildings that are being renovated?

The Rehabilitation Code is intended to help improve fire safety throughout the state. As a baseline, the Code will require compliance with the State Fire Code, a comprehensive safety code based on national standards that has been in place in Maryland for over thirty-five years. The new code will continue to allow local code enforcement officials to exercise discretion project-by-project to ensure fire and life safety concerns are addressed. On top of this safety baseline, the Rehabilitation Code will improve fire safety by encouraging the renovation and re-use of buildings that are currently vacant or in need of improvement. Research has shown that occupied buildings are significantly safer than abandoned buildings, and renovations of currently occupied buildings will bring them up to a higher fire safety level. The kinds of fire safety improvements envisioned under the Rehabilitation Code include improved exits, installation of fire alarm and detection systems, and automatic sprinkler systems for some buildings. Under the Code, buildings will be brought up to minimum fire safety standards without requiring that the buildings themselves be completely rebuilt to the standards for new construction.

7. *Has any other State done this? What has been their record of success?*

Maryland's proposed new Rehabilitation Code is modeled after a rehabilitation code the State of New Jersey adopted in 1997 with tremendous success. One year after adoption of the code, the dollar investment in rehabilitation projects increased in Trenton, Newark, and Jersey City by 40%, 60%, and 80%, respectively.

8. *Will the new Rehabilitation Code make it more difficult to undertake small rehabilitation projects, such as minor repairs, that currently do not require a permit?*

No. Projects that currently do not require a code permit will not be covered by the new Rehabilitation Code. In addition, small projects that currently do require a code permit will be easier and less expensive to complete.

9. *As a statewide code, how will the new Rehabilitation Code address local code issues that vary from jurisdiction to jurisdiction, such as snow load requirements for structures or frost line requirements for burying plumbing pipes?*

The new Rehabilitation Code will include tables listing construction code requirements that vary from jurisdiction to jurisdiction depending on geography, weather, and other local conditions. During drafting of the new code, all local jurisdictions will be asked to contribute to the development of these requirements. Recognizing that "one size does not fit all," these variations from jurisdiction to jurisdiction will be incorporated in the code up-front. In addition, local jurisdictions will be represented on the Rehabilitation Code Advisory Council, which will help draft the new code and will be responsible for making amendments to it. Local conditions that require special requirements may be developed through the Advisory Council.

10. *How would the Rehabilitation Code Advisory Council affect existing local code appeals processes?*

The Rehabilitation Code Advisory Council will not displace existing local code appeals processes. The Council would have authority over two areas concerning interpretation of the new Rehabilitation Code. First, the Council would oversee a "codes hotline," through which Council staff would provide non-binding advisory opinions over the telephone to local code officials, developers, and others who request assistance interpreting provisions of the new code in specific situations. All parties receiving information from the codes hotline would be encouraged to follow the advice of the Council staff, but would be free to pursue their own interpretations through the local appeals process without penalty.

Second, the Advisory Council would provide advisory determinations on disputes that arise under the Code at the request of local appellate bodies. As with the codes hotline, this resolution process would not be binding on local governments; local appellate bodies would have the option of following the Advisory Council's determinations or rendering their own opinions. The process is intended to provide uniform resolution of common issues that have broad applicability across the state.



For Additional Information please contact:

Johns Hopkins

Maryland Department of Housing and

Community Development

1201 West Pratt Street, Suite D

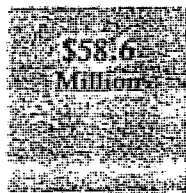
Baltimore, Maryland 21223

hopkins@dhcd.state.md.us

REHAB INVESTMENT TRENDS

State of New Jersey

NEWARK



1996



1997

Passage of the
Rehab Subcode



1998

59.2%

Increase in rehab
investment since
implementing
the Rehab Subcode

JERSEY CITY

\$51.5
Million

1996

\$48.5
Million

1997

Passage of the
Rehab Subcode

\$89.0
Million

1998

83.5%

Increase in rehab
investment since
implementing
the Rehab Subcode

TRENTON

\$32.5
Million

1996

\$21.0
Million

1997

Passage of the
Rehab Subcode

\$29.4
Million

1998

40.1%

Increase in rehab
investment since
implementing
the Rehab Subcode

Infill Development and Smart Neighborhood Models

Smart Codes

"Why not locate shops so they can serve as the community focal points they are meant to be? We can make our communities walkable again. That is the way our communities were historically built -- with mixes of uses, mixes of incomes, mixes of people all living and working together. That recipe still works in Annapolis, and Ellicott City, and in downtown Frederick, and in small communities like Snow Hill, and in Baltimore City's most vibrant neighborhoods."

"It is ironic that in most parts of this State, you could not build a new Annapolis or a new Ellicott City because it would be illegal! The streets are too narrow, the building setbacks too varied, and the retail, commercial and residential uses are too mixed. Yet these communities are among the most popular, most visited areas in our State. We need to find a way to allow these types of communities to thrive in the State."

--Gov. Parris N. Glendening, May 26, 1999.

Smart Growth Goals:

The 1997 Smart Growth Areas Act emphasizes the importance of "investment in the revitalization of older neighborhoods" as a means of reducing the pressure on the State's valuable natural resource and agricultural areas. Infill development provides an effective means to use vacant, bypassed and underutilized lands, ranging in size from single lots to many acres, within existing built-up areas from small rural towns to highly urbanized municipal centers. It takes advantage of existing infrastructure and public services while creating new business and employment centers, new residential opportunities, and new public institutions within the fabric of an established community.

Smart Growth also strives to create healthy communities with mixes of uses, incomes, and people. Over the next 20 years, Maryland's population is projected to increase by 1 million, from 5 million to 6 million people. Compact mixed-use development, or Smart Neighborhood development, will help accommodate such growth by integrating higher density residential, commercial, employment, and public uses to create neighborhood centers that provide access to a variety

of goods and services within a relatively small geographic area. In addition to their ability to absorb a higher proportion per acre of the state's projected population growth, smart neighborhoods 1) generate cost savings to local governments for water, sewer, roads and schools, 2) assist in meeting transportation goals through reductions in the number and length of vehicle trips while increasing the viability of alternative travel modes, and 3) make significant contributions to community open space, including environmental areas, recreation areas, and public squares.

The Needs:

Currently, people interested in pursuing infill and smart neighborhood projects often are faced with a number of impediments created by land development regulations, including:

- Numerous variances required for setbacks.
- Zoning that is incompatible with Maryland's traditional older neighborhoods and towns.
- Non-conforming building footprints.
- Standards that promote designs that are out of character with the current neighborhood.
- Increased complexity of approval process, resulting in higher development costs, compared with standard development on green fields.
- Excessive road width, lot size, and parking requirements.
- Compatibility of infill development.
- Permit delays.
- Disconnect between design guidelines and building standards.

The Proposal:

To further the State's Smart Growth goals, legislation is proposed directing the Maryland Office of Planning to develop model infill development and smart neighborhood tools that *support and enhance the development of land in existing communities and promote compact new developments in Priority Funding Areas*. Although the Maryland Office of Planning already is authorized to develop these tools under its existing Models and Guidelines process, legislation for these specific tools has been put forth to promote their adoption by local governments.

Increased flexibility within development standards is key to promoting infill development and new smart neighborhoods. Flexibility can be achieved through establishing floating zones, overlay zones, or new zoning categories for infill and smart neighborhood development that address:

- building height
- building setbacks
- lot size
- density
- bulk and scale
- street widths and parking requirements
- open space/landscaping

The Benefits:

The Infill Development Model would encourage the use of vacant land in existing communities, while helping to ensure infill development meshes with the existing community fabric. Many jurisdictions have significant amounts of underutilized land in existing communities already served by roads, schools and other infrastructure and services. These areas can benefit from increased flexibility in development standards. The Infill Model would include community compatibility standards that involve land use transition, building orientation, privacy, and building materials. The proposed Smart Neighborhood Model would be aimed at accommodating population growth by encouraging communities with a mix of housing, employment, and community services concentrated in a small geographic area, thereby reducing sprawl. The proposed model would help ensure smart neighborhood developments will create attractive livable communities through compatibility standards.

Examples of Smart Development Successes:

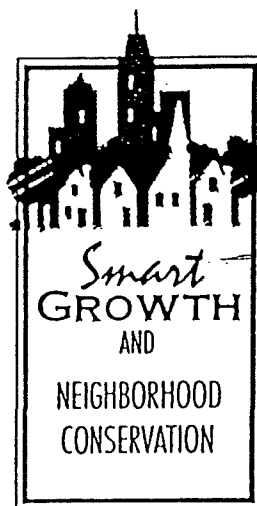
Infill Development:

- *Victoria's Walk* - Easton. 14 Condominium units on 1.03 acres.
- *Victoria West* - Easton. Commercial infill.
- *Spicer's Run* - Baltimore City. Townhouse project in Bolton Hill containing 86 units.
- *Prince Frederick Villas* - Prince Frederick. This rural infill project involves 25 townhome units on 4.6 acres.
- *Falls North* - W. North Ave., Baltimore City. This is an urban infill project with 40 townhomes on 2.6 acres.
- *Frostburg Public Library* - City of Frostburg. The library was constructed on top of a below-grade parking lot. The library is on Main Street and is designed to work with existing buildings.

- *300 W. Pratt Street Baltimore* - This is an addition to a cast iron building, designed to be sympathetic to the original structure.
- *Southside Marketplace Shopping Center* - South Baltimore City. This development contains 125,146 sq. ft. of commercial space and was developed in 1990.

New Smart Neighborhood Development:

- *Worman's Mills* - City of Frederick. This project on 307 acres contains 1,500 residential units, 100 acres of parkland, and has planned commercial space in a village square.
- *Kentlands* - City of Gaithersburg. This mixed use project on 352 acres contains 1,390 dwelling units, commercial space, and preserved open space.
- *King Farm* - Shady Grove. This development on 430 acres has 3,200 dwelling units, a village center with 120,000 sq. ft. of retail space walking distance from entire King Farm, an employment center, and is adjacent to the Shady Grove Metro station.
- *Lexington Terrace* - City of Baltimore. This mixed-use project on approximately 20 acres includes 303 townhouse units, 88 units for senior housing, and a business center with 30,000 sq. ft. of commercial space.



For Additional Information please contact:

Johns Hopkins

Maryland Department of Housing and
Community Development

1201 West Pratt Street, Suite D

Baltimore, Maryland 21223

hopkins@dhd.state.md.us

phone: 410.209.5815 fax: 410.685.8270

or visit us on the WEB at: www.op.state.md.us

Frequently Asked Questions Smart Growth Models

1. How will the proposed smart neighborhood and infill development models be developed?

The Maryland Office of Planning will develop the models through its existing Models and Guidelines process. The Office of Planning previously has developed more than 20 model planning tools as part of its Models and Guidelines series, many of which have been adopted by local jurisdictions throughout the state.

2. Will local governments be required to adopt the smart neighborhood and infill development models as written by the Maryland Office of Planning?

No. Local government adoption of the models will be entirely voluntary. Local governments could choose to use or modify the models. The models will be designed to provide local governments with a starting place to develop a more flexible approach to the comprehensive design and development of infill and mixed-use projects than existing procedures and regulations often allow.

3. Is there any advantage for jurisdictions that adopt the models?

Yes. Jurisdictions that adopt the models will be eligible for certain financial incentives from the State that will be determined as the models are being developed.

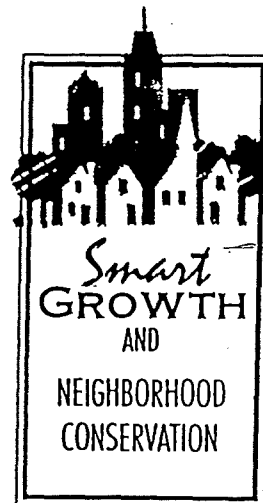
4. Would local governments have to adopt the smart neighborhood and infill development models word-for-word to be eligible for state incentives?

Local governments would be eligible to receive the designated state incentives by one of three ways: (1) adopting the models; (2) adopting versions of the models modified to suit local needs; or (3) demonstrating that they have in place ordinances that meet the intent and basic standards of the models. The Maryland Office of Planning will develop objective criteria to determine whether a local government meets the intent of the models if it chooses to follow options (2) or (3) above.

Smart Codes

5. Will the smart neighborhood and infill development models be better suited for urban rather than rural counties?

The models will be designed to work equitably in both rural and urban counties. In rural counties, they can provide tools for local jurisdictions to preserve rural character and reduce the opportunity for incompatible uses or designs that detract from existing communities. As models, they are presented as blue prints for local jurisdictions to adapt to accommodate the specific nature of their communities.



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SMART CODES OUTLINE
SB 207 / HB 284 -- MARYLAND BUILDING REHABILITATION CODE
SB 208 / HB 285 -- MODELS AND GUIDELINES

SB 207 / HB 284 – Maryland Building Rehabilitation Code

Proposal:

- Enabling legislation to draft the Maryland Building Rehabilitation Code
- Code will be based on a model rehabilitation code, the Nationally Applicable Recommended Rehabilitation Provisions, developed by the U.S. Department of Housing and Urban Development and the National Association of Home Builders

Benefits:

- Integrates the 10 codes that now govern construction in Maryland
- Establishes a progressive framework of codes requirements: fewer requirements for smaller rehabilitation projects and more requirements for larger projects
- Can reduce the cost of rehabilitation work by 20% or more
- New Jersey Success: Rehabilitation investment increased 40, 60, and 80 percent in Trenton, Newark and Jersey City, respectively, one year after New Jersey adopted a similar code in 1997

Code Advisory Council Created to:

- Draft and update the Rehabilitation Code
- Provide training for code officials, contractors, and design professionals
- Issue advisory statements on Rehabilitation Code implementation

State Incentives:

- Counties and municipalities may amend the Rehabilitation Code. Those that do not are eligible for new money allocated to the following State programs:
 - MDOT Neighborhood Conservation Program (\$17 million per year for roadway and transit improvement projects)
 - Rural Legacy Program (\$10 million for open space preservation)
 - DHCD mortgage program (amount to be determined for below market rate home mortgages)
- State-funded Rehabilitation Code training and implementation assistance for localities that do not amend the Code (\$829,000 per year)

SB 208 / HB 285 – Models and Guidelines

Proposal:

- Direct Maryland Office of Planning to draft zoning models to promote infill and mixed-use development

Application:

- Establish models for infill development and “Smart Neighborhood” compact mixed-use development within Priority Funding Areas
- Models will promote flexibility in lot sizes, building setbacks, parking, and roadway design
- Voluntary local adoption of models (or substantially similar zoning regulations)
- State incentives to be determined for localities that adopt models

Information is available from the Maryland Revitalization Center: 410-209-5800 or www.op.state.md.us.

Reviewing New Jersey and Maryland Rehabilitation Codes For Existing Buildings

November 30, 2000
1:00 PM – 5:00 PM

Arnold-Howard Room
North Wing
Augusta Civic Center

Final Agenda

- | | |
|------|--|
| 1:00 | Welcome – <i>Jim Nimon</i> , Department of
Economic and Community Development |
| 1:15 | Roundtable Introductions & Exercise |
| 1:45 | Best Practice – State of New Jersey
<i>Emily Templeton</i> , Division of Codes and Standards |
| 3:00 | Break |
| 3:15 | Best Practice – State of Maryland
<i>Johns Hopkins</i> , Department of
Housing and Community Development |
| 4:30 | Roundtable Discussions & Next Steps |
| 5:00 | Adjourn |

Actual Attendee list for Rehab Code Forum

Andrews, Deborah	City of Portland Planning Dept.
Arch, Barbara	
Brandwein, Lee	Downtown Augusta
Bridgeou, William	City Manager for Augusta
Cahill, Richard	Gray Town Planner
Collins, Nelson	State Fire Marshal
Cox, Peter	Eco/Eco
Davis, Ginger	Preti, Flaherty
Dean, John	State Fire Marshal
Dodge, Stephen	State Fire Marshal
Dolby, Richard	Code Enforcement for City of Augusta
Eflin, Roxanne	Exec. Dir. Maine Preservation
Fraser, Margo	DECD
Freshley, Craig	Maine Dev. Foundation
Gailey, Jim	South Portland Planning
Glass, Chris	Architect
Grindle, Blaine	Code Enforcement Officer for Union
Hall, Chris	
Hensler, Bruce	Maine State Planning Office
Iverson, Valerie	MSHA
Ives, Amy Cole	Historic Preservation
Keller, Bruce	City of Augusta
Koffman, Ted	Eco/Eco
Lambert, Dick	Code Enforcement Officer for Saco
Landmann, David	Theriault, Landmann
Langlois, Diane	DECD
Marcotte, Tom	Town of Skowhegan
Mansfield, Linda	Maine Preservation
Miller, David	City of Bangor
Nazer, Matt	State Planning Office
Nimon, Jim	DECD
Nims, Jeff	Code Officer/Planner for Camden
Poulton, Randy	MSHA
Reynolds, Steve	VP MEREDA
Root, John	City of Rockland
Schaffer, Peggy	DECD
Shaub, Dave	Historical Society of Union Maine
Smith, Laurie	City of Auburn
Stevens, Terry	DECD
Suslovic, Ed	Ed Suslovic Real Estate
Tracey, Tobin N.	Turk, Tracey, & Larry Architects
Vaillancourt, Dana	Historic Preservation
Walter, Ben	Curtis, Walter, & Stewart Architects
Wellington, Dan	City of Bangor
West, Mary Jane	
Wheelock, Cynthia	

Reviewing New Jersey and Maryland Rehabilitation Codes For Existing Buildings

November 30, 2000
Downtown Investment Exercise

Chapter 776 of the Public Laws of 1999 requires that DECD "develop an investment policy that will provide further means to improve the condition of downtown properties and infrastructure to meet the multiple-use needs of downtowns" in Maine. The law then asks that the policy include a proactive strategy that promotes investment in downtowns.

One part of the strategy requires a review of New Jersey's rehabilitation code for existing buildings undergoing renovations (established as a rule adoption on January 5, 1998), and its applicability to Maine. Maryland's rehabilitation code has been included for review because it is a work-in-progress due as a draft to the Governor on December 31, 2000.

Following review, as appropriate, recommendations must be made "for changes to codes, policies, rules and regulations that restrict the reuse of existing structures, to encourage renovation of existing downtown buildings for productive and economical use, while continuing to promote the purposes of these codes and regulations."

A. How many years of experience do you have working with downtown development issues and building codes? ____

B. Based on your experience, what are the top five barriers to downtown investment?

- 1.
- 2.
- 3.
- 4.
- 5.

Downtown Investment Exercise

A. 1-5yrs = 9

6-10yrs = 4

11-15yrs = 5

16-20yrs = 5

20+ yrs = 4

no answer = 8

B.

1. Local perceptions – “lack of parking”
2. Lack of financing that encourages redevelopment
3. Building codes for new construction being applied to existing buildings.
4. Lead paint/asbestos abatement
5. Municipal incentives for new construction instead of redevelopment
6. ADA compliance with in historic buildings as historic correctness
7. Politics of codes vis/vis cost effectiveness of rehab
8. Interpretation of ADA code – uniformity
9. Enforcement of code – uniformity
10. Parking limitations and requirements
11. Rental costs
12. Zoning restrictions (height, etc.)
13. Building codes
14. ADA
15. Under capitalization/ lending challenges
16. Lack of understanding and sympathy to historic buildings & architecture
17. Lack of demand for 2nd floor space
18. High property taxes no rehab occurs
19. Lack of a combined vision for revitalization and economic value of downtown
20. Fire Code; sprinkler/egress issues
21. Local code interpretation towards “highest” interpretation of codes (liability)
22. Need to retro/upgrade historic buildings in category of “New Construction”
23. ADA costs related to evaluators
24. Identifying niche businesses that will fit in downtown

25. Handicapped accessibility
26. Historic preservation expense
27. Capital for projects – start-ups in retail
28. Lack of parking
29. Upgrade of infrastructure – water, sewer, etc.
30. ADA/MHRA
31. Structural condition of buildings
32. Parking
33. Cost of rehab > cost of new construction
34. NIMBYism
35. Perceived problems with “gangs” & crime
36. Making historic buildings accessible
37. Meeting current energy requirements when rehabilitating
38. Cost of upgrading the entire building to meet current code requirements
39. Lack of parking
40. Restrictive zoning
41. Parking requirements
42. Setbacks
43. Cost of meeting code requirements
44. Building height restrictions in areas zoned shoreline
45. Multiple owners in buildings (condos)
46. Undercapitalized
47. Codes not sensitive to historic buildings
48. Lack of communication and cooperation between building owners
49. Lack of adequate federal and state funding for the renovation of existing buildings i.e.: Public schools
50. Niche businesses – in foot traffic
51. Handi
52. Historic preservation
53. Back to downtown – how to get people & stores parking
54. Accessibility code requirements (ADA, MHRA)
55. Parking
56. Absentee landlords
57. Difficulty in prosecution of code violators
58. Attitude of population – downtown being an “undesirable place” to live/shop
59. Shopping malls
60. Traffic congestion
61. Parking problems

- 62.Deteriorated buildings
- 63.Building not designed for modern day office use or retail use
- 64.Multiple owners of parts of buildings
- 65.Lack of capital funding
- 66.Federal & state regulations (ADA)
- 67.Development incentives
- 68.Building/Fire codes
- 69.Handicapped Accessibility
- 70.Cost for rehabilitation (true cost)
- 71.Parking issues (real and perceived)
- 72.Land use/zoning
- 73.Costs
- 74.ADA accessibility requirements
- 75.Historic preservation requirements
- 76.Parking requirements
- 77.Infrastructure
- 78.Code compliance issues =costs
- 79.Parking
- 80.Absence of desirable housing
- 81.ADA vulnerability
- 82.Size of available buildings/lots (smaller buildings are less able to be converted economically)
- 83.Building codes: egress & fire, structural (earthquake), haz-mat, etc.
- 84.Zoning: change of use approvals, parking, site plan approvals, etc.
- 85.Historic preservation used for "NIMBY"
- 86.Planning policy – managing development
- 87.Land ownership (lot size, unmotivated owners)
- 88.Parking requirements
- 89.Perception of being passed by – only malls can succeed in retail
- 90.Codes, including ADA
- 91.Lack of cohesive vision by more involved – compete with each other
- 92.Outdated zoning – single use - requirements
- 93.Low assessment
- 94.Barrier free requirements (ADA)
- 95.Strip malls, cheap space
- 96.Cost of renovation
- 97.Limited parking
- 98.ADA
- 99.Maine human rights commission
100. No statewide building code

101. Traffic
102. Transportation
103. Parking
104. Mass transit system
105. Cost of rehab
106. Parking
107. Access to parking
108. Handicapped access
109. Secondary means of egress
110. Cost/resistance to sprinkler installations
111. High rental costs
112. Failure of owners to maintain buildings
113. Availability of buildings
114. Pressure to move to mall areas with more parking
115. Run-down condition of older buildings
116. Loss of local customers and residents who have move to out
lying areas
117. Loss of activity throughout the day, partly due to fewer
residents living downtown and businesses and social services located
out of town
118. Sense of decline, crime....empty store fronts, loss of trees,
benches, good lighting
119. Availability of parking – perception of reality
120. ADA
121. ADA
122. Common wall restrictions
123. Parking space requirements
124. Lack of middle income residential housing
125. Perception
126. ADA
127. Parking
128. Life safety issues
129. Narrow buildings that are hard to rehab & combine to make
large spaces
130. No amenities downtown to attract residents to live there
131. Accessibility issues
132. Sewer smell from treatment plant
133. Parking
134. ADA – Maine has many wonderful buildings not enough clear
specifications, enforcement by suit

135. Poor choices for transportation - generally only allows for motor vehicles, not public transit, bicycles
136. Zoning poor in most communities oriented towards suburban growth
137. Sewer and water – many small downtown's in Maine do not have public sewer and water
138. School subsidy formula and tax policies hurt urban areas
139. Lack of parking
140. Use and reuse of old buildings
141. 2nd and 3rd floors and above are hard to get to
142. Lack of open lots/spaces for buildings
143. Physical constraints – old buildings and infrastructure that are not easily adapted to modern re-use
144. Overall depth of regulation – licenses, taxes, codes, etc. this drives the cost of doing business beyond what is reasonable for small business owners
145. Small businesses cannot inhabit these older structures (the small storefront business) for a long enough period of time to be established. They merely come and go.
146. Sprawl growth in the developing areas of cities and municipalities. The “Big Box.” However desirable it may be, will squeeze out these smaller downtown businesses.
147. Under capitalization for needed upgrades
148. ADA access both main entrances & upper floors
149. Multiple ownership/individual buildings
150. Lack of development incentives to address code issues
151. Risk (unforeseen expenses)
152. Risk (recuperating costs)
153. Guaranteed parking availability
154. Low-income environment
155. Loan underwriting
- 156.

Reviewing New Jersey and Maryland Rehabilitation Codes For Existing Buildings

November 30, 2000
Group Discussion & Next Steps

A. Based on the information you have heard today, and given your experience, do you think there are any features of the New Jersey or Maryland rehabilitation codes that are applicable to Maine? Yes ____ No ____

B. If so, what are the top five "process" features in NJ or MD that you think are applicable and replicable in Maine?

1.

2.

3.

4.

5.

C. If so, what are the top five "product" features in NJ or MD that you think are applicable and replicable in Maine?

1.

2.

3.

4.

5.

D. Would you recommend that the features you listed above be considered for action or adoption in Maine? Yes ____ No ____

E. What questions or concerns or caveats would you raise for the consideration of policy-makers going forward from this meeting to the next legislative session?

Group discussion & Next steps results

A. YES = 26

No = 2

Maybe = 1

No answer = 2

B.

1. Extensive study of the issue/process
2. Involvement of all interested groups
3. State wide committee to organize or prepare a code
4. Involvement of a broad selection of people
5. Training program
6. State licensing
7. Continuing education
8. Interdisciplinary task force
9. Advisory council
10. Interdisciplinary groups
11. Advisory council
12. Cookbook approach to new code – put use groups identification in the book
13. Task force – balanced and interdisciplinary
14. Work sessions – training
15. Advisory council
16. Legislation support for implantation
17. Advisory committee for rehab code
18. Study under – utilized existing buildings
19. ID growth areas – establish state policy that only invests infrastructure improvements in ID growth areas
20. MD – live near your work mortgage program
21. Mandatory building code training for building code officials
22. Multidisciplinary & balanced task force on codes (problem)
23. Goal to make rehab codes: uniform, predictably, reasonable, and mandate training
24. Comprehensive education process to bring code enforcement/fire officials, local officials, etc. up to speed to accept legislative edge
25. Promote economic feasibility of downtown & other rehabs
26. Task force
27. “Now is not the perfect time”
28. Taking two years

29. Involving code and fire people
30. Committing appropriate amount of money
31. Brood task force
32. Time
33. Copy
34. Rewrite
35. Review-Rewrite
36. Task force created w/numerous disciplines & interests
37. Helpful to have assistance of reps from the states who have already been through the process
38. Perhaps true incentive model is more realistic
39. Reasonable approach to dealing w/ unique and individual characteristics of existing structures
40. Separating out the uses – from the scope
41. Uniformity looking at all the codes – plumbing, fire, etc.
42. Not trying to force everything at once
43. Separate between retrofit and new construction
44. Advisory committee
45. Rehab standards for commercial use
46. Training
47. Certification
48. Education
49. Bringing together building, fire, plumbing officials, architects, engineers, and planners
50. Having a “lay” person decipher what the “officials” are all talking about
51. Reviewing what other states codes say regarding rehab
52. We have no statewide building code
53. We have no mechanical code
54. Smaller municipalities won’t be anxious to adopt a code to write
55. “No less safe”
56. “Now is not the perfect time”
57. “Predictability”
58. Representative advisory board
59. Uniformity
60. Advisory committee
61. Hire consultant to write code
62. Have Muskie oversee advisory committee
63. Work Ted Kaufman
64. Involve CEO’s and fire marshals office early and often

65. Advisory group w/many code officials and hsg. Econ, and non-profit
diverse group-very important
66. 5 premises from NJ good
67. Be reasonable
68. Be predictable and consistent
69. Groups contain various experiences
70. Relate to what already is
71. Process of adoption
72. Advisory board
73. Implementation
74. Require entire state to adopt
75. Adopt model from HUD
76. Multi-disciplinary, task force approach
77. Identify goals, premises, safety thresholds
78. Allow for a philosophical debate on hot-button issues
79. Set up advisory council
80. Have designated state officials "overseeing" the code and its
administration
81. Balanced task force – broad input and support
82. Code and fire officials input article
83. "Secondary" code(ADA, historic preservation, AHA, hospital...) important to consider and coordinate
84. Multi level licensing of CEO's
85. Committee process to create the codes
86. Longer process than the 8 short months DECD was given for a report
87. Mixed/interdisciplinary approach (public/private/etc)
88. Link to smart growth
89. Task force w/fire, code inspectors, architects, contractors, developers,
economic and community dev. folks, housing
90. Setting up task force, including fire and code officials
91. Involving proper government agencies
92. Drafting code and incentives
93. Mobilizing public support, especially in small downtown's
94. Form council with CEO's and fire marshals
95. Standardize codes in the state
96. Create graded codes
97. Get codes enacted
98. Stand back and watch the stampede

C.

1. A uniform code
2. Reasonable rules
3. Consistency
4. Reliability
5. Common sense
6. Small building/large building
7. Website access to all information as we progress
8. White paper summary
9. Prefer mandate versus carrots, but money to downtown infrastructure fund if carrots needed
10. Form task force
11. Write codes (or use similar)
12. Get it through legislature
13. Implement
14. State wide building code (NJ)
15. Model rehab code (MD)
16. The levels of redo/rehab/etc.
17. The principals-(make better but not perfect)
18. Realism
19. ADA issues
20. Coordination among "code" agencies
21. Predictability for developers
22. Reasonableness of expense
23. The matrix
24. Uniformity
25. Rehab standards
26. Training
27. Certification
28. Written code
29. Creating levels of rehabilitation and defining in writing ..
30. Realizing it is more important to try and improve the building rather than trying to make fully comply with current codes
31. Training of code officials
32. Some provisions are useful only in larger or high risk situations
33. Some relief/consideration of smaller is safer could be reviewed
34. Uniform code
35. Rehab code
36. Tenured CEO's
37. State portion of fees

38. Rehab codes
39. Code officer tenure
40. Uniform rehab code
41. State wide mandatory adoption with financial incentives to local amendment
42. Have our own (known & recognized) content/area experts write the code we decide on to suit Maine
43. Designate funds for training of code officials, fire officials, and other users
44. Follow the "Materials and Methods" and "scoping" of NJ code, as well as basic requirements
45. Make it user friendly, written in plain language
46. Coordinated and flexible(relaxed/realistic)code
47. Requirements all in other place
48. Uniform state wide requirements
49. Training/licensing requirements
50. Rehab code! Code to address existing construction
51. Minimum life safety features differentiated from "discretionary" codes
52. Linkage to smart growth and downtown revitalization
53. Linkage to other programs that create incentives for redevelopment
54. Statement codes
55. Mandatory training for CEO's
56. State level approval process
57. A safety based, flexible code
58. A predictable code
59. Reduced cost for rehab, particularly of public buildings
60. Separate rehab code – repairs of like-with-like
61. Adaag specifics take burden of proof off developers
62. Historic certification with less than 50yr cut off (5yr?)
63. Code training for CEO's & design professionals
64. State rehab tax credits(not just historic)

D. Yes = 24

No = 0

E.

1. "How quickly can this happen?"
2. How can we streamline approval of a similar code in Maine – 2yrs would be excellent
3. How quickly can this happen?
4. Involvement of all to insure support
5. Use as much of NJ as is possible don't reinvent the wheel!
6. Please ensure that the differences between the NJ system (state uniform codes which are not amendable) and the Maine system (local option codes which are amendable) is giving great weight.
7. Uniformity
8. Concern – make allowances for innovation, energy conservation. BOCA and similar codes are too driven by private code business – hurts building standard. ADA concerns
9. Do not get side tracked by nay-sayers. Code officials want a building code. Professionals want a building code. Do not let Northern Maine "tank it."
10. Make sure fire safety requirement changes are legally defensible
11. "Let's get going"
12. Don't let it wait. The time is right.
13. Fire safety should not be reduced beyond reason
14. Handicapped requirements looked at!
15. Floodplain
16. Concern: There is no underlying state wide building code that any of this could be based on. The only chance for something like this to work under the current set of circumstances is to promote it for adoption on the local level in municipalities that have a building code and a "downtown problem."
17. Maine should have a statewide building code before a rehab code.

120th MAINE LEGISLATURE

First Regular Session

Legislative Document ###

An Act to Establish Smart Codes - Maine Building Rehabilitation Code

Preamble

WHEREAS, In this era of rapid population growth, while new residential and commercial development consumes agricultural land, forests, and other undeveloped land, thousands of existing buildings in our communities are not being fully utilized or are abandoned. Many existing buildings contain historic architectural elements that are in danger of deteriorating or being lost; and

WHEREAS, The migration of businesses and residents out of our cities and towns threatens the economic vitality, health, and safety of the citizens living in those communities; and

WHEREAS, Vacant and underutilized buildings pose a threat to the health, safety, and welfare of the citizens of the State; and

WHEREAS, There is private and public interest in rehabilitating older buildings, which would be enhanced if regulatory procedures and standards regarding rehabilitation and reuse are made predictable, consistent, and flexible; and

WHEREAS, The rehabilitation of existing buildings in Maine communities is often hampered by certain constraints in the building construction regulatory system; and

WHEREAS, The many existing codes that apply to rehabilitation projects are sometimes conflicting and overlapping and vary, from jurisdiction to jurisdiction, posing a challenge to redevelopment; and

WHEREAS, Building construction regulatory procedures and standards for the rehabilitation of existing buildings will be improved by the adoption of a consistent building rehabilitation code; now, therefore,

Be it enacted by the people of the State of Maine as follows:

Sec. 1. ? MRSA §?????:

1. Maine Building Rehabilitation Code (MBRC). The provisions of this section are designed to augment existing fire and life safety provisions of law. The provisions of this section do not supersede the planning, zoning, or subdivision authority of local jurisdictions.
2. Purpose. The purpose of the MBRC is to encourage and facilitate the rehabilitation of existing buildings by reducing the costs and constraints on rehabilitation resulting from existing procedures and standards. The MBRC is intended to help improve fire and life safety throughout the state.
3. Rehab Code Adoption Deadline and Rulemaking. The State Planning Office shall adopt major substantive rules on or before December 31, 2001, pursuant to Title 5, chapter 375, subchapter II-A, in order to establish the MBRC.
4. Rehab Code Review. The State Planning Office, in cooperation with the MBRC Advisory Council, shall review the MBRC and adopt any necessary or desirable revisions at least every 3 years.
5. Local Authority. A local jurisdiction may adopt local amendments to the MBRC that apply only to the local jurisdiction. A local jurisdiction amending the MBRC shall furnish a copy of the amendment to the State Planning Office. Any local amendments must be consistent with existing rules, regulations, and statutes enforced by the Department of Public Safety.
6. Incentives for Adopting the MBRC. All local jurisdictions that adopt the MBRC shall be eligible for certain state incentives.
7. Complex Project Meetings. The MBRC shall contain provisions that give an opportunity for a person proposing a complex rehabilitation project involving multiple codes, prior to the submission of a construction permit application, to meet with all local officials or their designees responsible for permit approval and enforcement in construction related laws and regulations that may be applicable to the rehabilitation project. The purpose of the meeting shall be to anticipate and expedite the resolution of problems a complex rehabilitation project may have in complying with the applicable laws and regulations and the MBRC.

8. Advisory Council Established. There shall be an MBRC Advisory Council comprised of 15 members as follows:

A. The Director of the Maine State Planning Office, or designee;

B. The State Fire Marshal, or designee;

C. The Commissioner of the Department of Economic and Community Development, or designee;

D. The Director of the Maine Historic Preservation Commission, or designee; and

E. 11 Members appointed by the Governor, including:

1. Two representatives of the building trades who are directly involved or have experience in code setting or enforcement, including plumbers, electricians, heating, ventilation, air-conditioning, and refrigeration contractors, and boiler operators;

2. An architect practicing in Maine whose practice involves a significant portion of rehabilitation projects;

3. A professional engineer;

5. A contractor specializing in rehabilitation construction;

6. Two representatives of municipal government;

7. A commercial or industrial building owner or developer;

8. A multi-family building owner or developer;

9. A local fire official; and

10. A local building code official.

F. From among the members of the Council, a Chair shall be designated.

9. Advisory Council Duties. The MBRC Advisory Council shall:

A. Advise the State Planning Office on the development, adoption, and revisions to the MBRC;

B. Provide technical advice on the interpretation of the MBRC to property owners, design professionals, contractors, local jurisdiction code officials, and local jurisdiction code appeal boards;

C. To the extent possible, develop the MBRC to seek to avoid increased costs to local jurisdictions arising from implementation of the MBRC; and

D. To the extent provided in the state budget, ensure that training on the MBRC is provided to code enforcement officials and other public and private construction-related professionals.

10. Advisory Council Terms. The terms of the initial appointed members of the MBRC Advisory Council shall expire as follows:

A. 3 members in 2002;

B. 3 members in 2003;

C. 3 members in 2004; and

D. 2 members in 2005.

11. Staff. The Council shall be staffed by the State Planning Office.

Summary:

This bill requires the State Planning Office to adopt a Maine Building Rehabilitation Code (MBRC) for certain purposes; provides that the MBRC shall apply to all rehabilitation projects within the State on or after a certain date; authorizes local jurisdictions to adopt local amendments and provides certain benefits to local jurisdictions that adopt the MBRC; requires that certain State departments and State boards and commissions modify their regulations to be consistent with the MBRC; provides that there be an MBRC Advisory Council and provides for Council membership, terms, duties and responsibilities; provides for the initial terms of Council members; and provides that there be staff to the Council.