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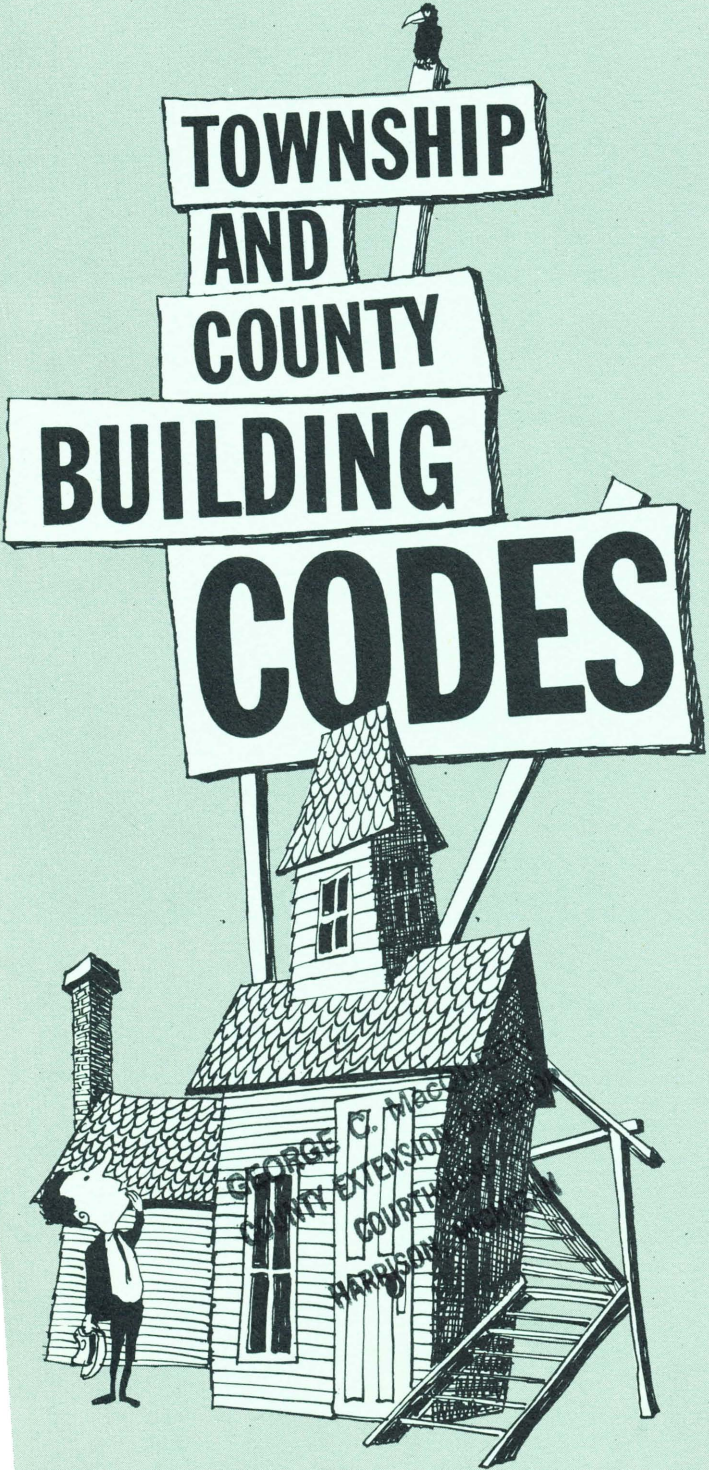
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MICHIGAN STATE UNIVERSITY
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BUILDING CODES TOWNSHIP AND COUNTY

By Louis A. Wolfanger

Departments of Soil Science and Resource Development Cooperating

Drive through any community. Look at its buildings. One glance and you unconsciously size up the community as either "good," or "fair," or "poor."

The quality of homes, stores, industrial plants, summer cottages – or whatever its buildings may be – places an almost indelible stamp upon the character of a community.

How good are the homes and other buildings in your community? Are they well built? Are they standing up as they should? Do you take pride in your community?

Good construction standards are fundamental in creating safe, sound and attractive communities. They help maintain property values and protect the community against depreciation. They are as important as good standards in the use of the community's lands and other resources.

What Is A Good Building?

What do you look for in a building?

It should not be a fire-trap or fire hazard.

It should provide safe health conditions and ample light and air for its occupants.

It should stand up under the ordinary forces to which it is exposed – weather, wind, snow and the like. It should bear on an adequate foundation.

It should not cause accidents because of faulty design, construction or materials.

It should possess built-in quality – in appearance as well as in construction.

All of these are fundamental.

Why A Building Code?

A building code provides a means of promoting good building standards. With good building standards, your community can become a community of safe, sound and attractive homes, commercial and industrial establishments, and other buildings.

A building code governs the two basic conditions upon which the quality of every building rests:

(1) *The kind of materials that are used* – the use of materials with the strength and other qualities able to meet the purposes of the building.

(2) *The manner of construction* – the use of good and safe construction practices.

Without standards to guide construction, a community tends to become a chance-medley of homes and buildings of non-descript character. Bad and half-bad construction mixes with good, sound, decent construction. In the course of time, the poorly constructed pull down the quality of both neighborhood and community. They often increase fire-risk and other hazards.

Good Standards Not Costly

Good construction does not call for costly buildings. Many durable and low cost building materials are available, and new ones are constantly coming on the market. Good building practices are not more costly than poor or slipshod methods; in fact, they are cheaper in the long run. Safe and sound buildings do not necessarily mean high construction costs.

Good construction, moreover, is sound investment. Dollars spent in good construction are invested dollars. Such construction is long-lived and requires minimum upkeep. It is also more satisfying. It pleases both the occupants and the neighbors.

Dollars invested in poor, or jerry-built construction are practically thrown-away dollars. Such construction is short-lived, quick to deteriorate, and always costly to maintain. Furthermore, poorly constructed buildings drag down the quality of the neighborhood. This happens everywhere: in resi-

dential neighborhoods, in business and industrial districts, in resort and recreational areas, in farm communities. It happens in low-cost, medium-cost and high-cost neighborhoods.

ONLY UNINCORPORATED AREA

Michigan's laws permit any township or county to adopt a building code, but the code may govern only the unincorporated area. Incorporated towns and cities in the township or county must enact their own building codes.



Building codes are not new. They can be traced back into ancient history. Cities have long had some kind of building ordinances.

Their use outside of cities – in suburban and rural communities – is only relatively recent, however. The great expansion, in recent years, of homes, stores, industrial structures and other buildings outside of our towns and cities – some well-built, others poorly constructed – has now created considerable interest in good building standards for these new communities.

MINIMUM REQUIREMENTS

A building code specifies only minimum requirements. The purpose is not to run up costs or require the erection of costly buildings, but to assure safe and sound construction. In fact, most people voluntarily build as good if not better than the standards set by building codes. Codes act chiefly to check slipshod, indifferent and unsafe construction.

Code requirements, moreover, must be reasonable. They must be made in accordance with a plan designed to promote the public health, safety and welfare. They must contribute to the safety, protection and sanitation of the buildings and structures being erected. They must also give due consideration

to any existing zoning ordinance in effect. This ties them into any land-use plan of the township or county.

CHIEFLY NEW CONSTRUCTION

Township and county building codes concern themselves chiefly with new construction. They generally cover mainly the principal buildings: dwellings, cottages, commercial construction, industrial plants, and the like. Accessory buildings, and alterations to existing buildings may or may not be included. The extent to which secondary construction is included depends upon whether the township or county is primarily rural, largely suburban, or possesses resort developments.

All ordinary farm buildings and structures — barns, sheds, fences, and the like — are commonly exempted in the agricultural areas, although properly built barns and other farm buildings do help keep down storm and fire insurance costs.

CONSTRUCTION DISTRICTS

The regulations adopted may be township-wide or county-wide, i.e., uniform or the same throughout. This is the common practice. Under Michigan's laws, however, a township or county may divide its territory into districts, if it prefers, and provide different standards for different parts of its area.

These districts may be any number, shape or size best suited to accomplish the aims. They may, if desired, coincide with the township's or county's zoning districts, if it has zoned or is being zoned. The only limitation is that the requirements be uniform for each class of dwelling, building, or structure throughout each district, although the provisions of one district may differ from those of other districts.

MAJOR STEPS

1. Resolution to Enact a Code

The first legal step is the adoption of a resolution by the township board or county board of supervisors declaring the intention to adopt a building code

under its appropriate enabling act. Townships must act under Act 185 of the Public Acts of 1943, as amended; counties under Act 62 of 1943, as amended.

Public notice of the resolution must be given in a newspaper within ten days of passage. Township boards must employ a newspaper of general circulation in the township. County Boards of Supervisors must use a newspaper published in the county, or in an adjacent county if the county has no such newspaper.

The adoption of such a resolution does not mean that the township or county then has a building code. The resolution is merely a declaration of intention to prepare and adopt a building code ordinance.

The township or county board may adopt the necessary resolution on its own initiative. Or it may be prompted by petition of its registered voters. In townships, the voters must reside in the township and be equal in number to not less than eight percent of the total vote cast in the township for all candidates for governor at the last preceding election. In counties, the voters must reside outside of the limits of its incorporated cities, and be equal in number to not less than eight percent of the total vote for governor in the county outside of its cities.

2. Preparation of the Code

Unlike zoning, no special official agency is required to prepare the building code. If the township has a planning commission or a zoning board, or the county has a planning or zoning commission, that agency may be asked to prepare the code. Or a committee may be appointed made up of whatever persons the township or county wishes. Or professional help may be engaged. The enabling acts permit each township and county to decide for itself as to method or choice of persons or agency.

SPECIFYING REQUIREMENTS

Building codes employ one of two different methods to set forth their requirements, or they may use combinations of them:

- (1) Specify the exact materials and the exact methods of construction that must be used.

- (2) Merely set the performance standards, i.e., the conditions or standards which the materials and the methods of construction must meet.

For many years, codes followed chiefly the first method. It is clear and simple. However, such codes tend to impose rather rigid requirements upon construction. Unless amended from time to time to take advantage of new or better methods of construction, they soon become out-of-date and may prove more of hindrance than help to better construction.

A combination of the two methods which permit a choice of either new or specified types of material or manner of construction provides greater flexibility. The only requirement is that the results measure up to the standards set by the code. The reports of engineering laboratories and other qualified organizations are generally acceptable evidence that the materials or methods of construction are equal to the performance standards.

STUDY EXISTING CONDITIONS

Before preparing a code, the agency or committee would do well to make a careful study of existing buildings and structures in the township or county. It should look for conditions which have caused fires or collapse, been health problems, resulted in unsound construction or poor quality buildings, produced accidents, or in other ways have been problems necessitating a building code.



All natural conditions in the area that bear upon good construction should also be considered. Temperature, humidity, drainage, water supplies, topography, wind, snow, ice, surface soils, subsoils and frost conditions, including the termite situation, should all be studied.

The information will be most useful when placed on maps or charts if possible to do so. The facts and relationships they possess are then more easily seen and evaluated.

WHAT TO INCLUDE

A code may be "long" or "short." It may cover every type of construction and every kind of building and structure, or only a selected few.

Obviously any construction not included in the code may be erected as its builder fancies. It may be sound or flimsy, a low fire risk or a high fire risk, a sanitary or unsanitary practice. In short, the construction may follow poor standards or good ones.

Basically, a building code should cover at least the following subjects:

- 1 The conditions or standards to be met in the method of construction to assure strength (such as the ability of the design used to carry a given load or stress.)
- 2 The quality of the materials employed, including their fire resistance.
- 3 Structural protection against fire.
- 4 Health standards to be met in the interest of adequate light and ventilation, and for safe waste and sewage disposal, plumbing, and septic tank systems.
- 5 Safe wiring and electrical facilities.
- 6 Chimney construction and safe heating equipment.
- 7 Other items concerned with materials or construction which local experience indicates as especially important or desirable.

Differing buildings and types of construction will call for differing requirements. Masonry construction differs from frame (wood) construction. Dwellings vary from industrial and commercial type buildings. Public assembly buildings (religious, educational, recreational, and the like) differ from dwellings in exit and floor-load requirements.

The extent to which these and other building requirements are included will depend upon existing and expected developments in each township or county.

3. Enactment of Code

Following preparation, the code may be immediately adopted by the governing body. No public hearing or other action is required. Adoption may take place at any regular or special meeting. Township boards and county boards of supervisors merely follow the same procedure that they generally do in enacting any other ordinance.

4. Publication of Code

Within 10 days following its adoption of a code, a township must publish a true copy of the code in a newspaper which circulates in the township (Act 191 of the Public Acts of 1939.) This need not be a newspaper of general circulation, but may be one of more limited circulation such as a weekly paper. Counties, however, are not required to publish their codes in the press. They may do so voluntarily, or they may have copies printed in leaflet form as a public convenience.

ADOPTION "BY REFERENCE"

If a township or county does not wish to prepare its own building code, it may adopt certain recognized codes "by reference" (Acts 92 and 93 of the Public Acts of 1951, respectively). These codes may be any standard plumbing, electrical or building code which has been formulated by the State of Michigan or any of its agencies, or by any national organization or association conducted for the purpose of developing such codes.

When utilizing such codes, townships and counties have the option of adopting them either in their entirety, or only such parts they may choose. Only the adopting ordinance must then be published, not the adopted code, or the parts selected.

The publication must contain a notice to the effect that a complete copy of the adopted code is available for public use and inspection at the office of the clerk. The only other requirements are that the adopted code be clearly identified in the adopting ordinance, and the purpose of the ordinance stated. Note that counties must publish the adopting ordinance the same as townships are required to do when

enacting any ordinance, although counties are not required to do so within a 10-day limit as townships are.

ADVANTAGES OF STANDARD CODES

One advantage of adopting codes by reference is that they are prepared by professionally qualified organizations. They include opinions of qualified building officials and engineers. They are generally based upon laboratory tests. They call for requirements or performance standards generally recognized as safe and sound and they are kept up to date.



Any township or county adopting such a code also saves materially on the expense of preparation. Townships realize an additional saving since only the adopting ordinance, which may be comparatively short, must be published.

LIMITATIONS OF STANDARD CODES

The first standard building codes produced were primarily designed for cities. They covered nearly every kind of building and structure, often in considerable detail, including heating, electric and other facilities. "Abridged" or shortened codes were then prepared for the use of smaller cities and political subdivisions. The abridged codes have been especially popular in heavily populated suburban communities.

Some townships and counties which are chiefly rural may find even the abridged codes "too long," however, and including details beyond their needs. They may prefer formulating their own code. When an ordinance is more inclusive or comprehensive than desired, the temptation always exists not to enforce unwanted requirements. Lack of enforcement can easily lead to laxity and indifference towards the entire ordinance.

5. Optional Referendum or Vote

Within 30 days following the adoption of a building code, a petition may be filed for a referendum on the code. The code will then not take effect until it has been approved by a majority of the qualified electors that vote. The referendum may take place at any regular election, or a special election may be called for that purpose.

The petitioners must be equal in number and qualifications to those required to actuate a code by petition, described in the last paragraph under step one on page 7. A majority of those qualified and voting determines the issue.

A referendum is entirely optional on the part of the electorate. It is not a legal requirement, just as it is not a requirement in zoning.

6. Administration of the Code

The state enabling acts provide that the township board, or the county board of supervisors, as the case may be, designate an official to administer and enforce the code. This person is usually called the "building inspector." The duty of enforcement may also be combined or coordinated with any zoning ordinance which the township or county may have enacted, and delegated to the administrator of the zoning ordinance.

Anyone planning to build any building or structure subject to the code is usually required to first file an application which describes his intentions. If his declaration conforms to the code, the administrative agent will issue a permit. If a fee is charged for the permit the amount is set by each township or county. It must, however, be reasonable.

Violations of the code are legally "misdemeanors." A misdemeanor is punishable by fines up to \$100 or imprisonment up to 90 days, or both. Each township and county must set the penalty for violation of its code within these limits. The courts then fix the exact amount upon conviction.

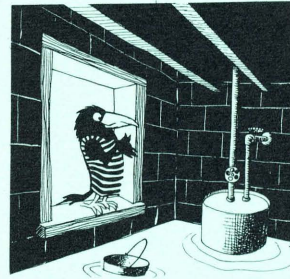
Boards or Appeals

Appointment of a Board of Appeals is not a legal requirement as in zoning. However, such a board can be very helpful in smoothing out problems that arise in the administration of the building code. It could be authorized to pass upon the merits of new materials and methods of construction. As in zoning, it could be of service in interpreting provisions of the code when the meaning or application is not clear. It could help adjust differences between an applicant and the administrative agent without the need for slow and costly court action. It could be given permission to vary the strict letter of the code when practical difficulties present themselves or unnecessary hardship would be imposed.

If the township or county is zoned, the duties of such a board could be assigned to the zoning board of appeals. If so assigned, one member of the board might well be an architect, a qualified builder, or some other person experienced in building.

Amendments

The procedure for amending the building code is the same as that required for enacting the code. No special committee or board is needed to study the proposed amendment nor is a public hearing required. It may be adopted as soon as formulated and agreed upon. Townships must of course publish the amendment within ten days of adoption. Counties need not. Finally, if the electorate of the township or county wish to vote on any respective amendment, they must petition for a referendum within 30 days following adoption. The requirements for a petition are the same as those described under Step 5 on page 12.



Building codes based upon performance standards or permitting their use require relatively few amendments. Any improved practice and new materials

are automatically permitted if they meet the standards set by the code.

To facilitate keeping a building code up to date, the administrative official could be required to report periodically to the township or county board on the operation of the code together with recommendations, if any, for its improvement.

NOT ZONING

Zoning and building codes are often regarded as about one and the same thing, probably chiefly because many zoning ordinances require "building permits." However, the permit required by a zoning ordinance is more in the nature of a use permit or certificate. It certifies that the kind of building proposed, its use, and its location both in the township or county and on the premises are in conformity with the provisions of the zoning ordinance. Michigan Extension Folder F-272, "Rural Zoning in a Nutshell," describes zoning.

The building permit required by a building code is directly concerned with actual construction. It provides the property owner confirmation that the proposed building conforms to the requirements of the code; and on any check-up inspections that may follow, it provides him assurance that the building is being erected in conformity with good standards.

NOT SUBDIVISION OR DEED RESTRICTIONS

A building code should not be confused with subdivision or deed restrictions. These restrictions are in the nature of private contracts between buyer and seller. While they include limitations on the use of property similar to zoning, and construction standards similar to building codes, action is voluntary. No one need purchase property under private restrictions unless he chooses to do so.

Subdivision and deed requirements may be either stricter or less exacting than the zoning ordinance or building code governing their area. If they happen to be less strict, then the provisions of the ordinance or code must be observed as a matter of law. When any property restriction happens to be higher, then it must be observed as a matter of private contract.

Zoning ordinances and building codes neither nullify nor lower subdivision or deed restrictions.

SEPARATE ORDINANCES

Although zoning and building requirements are inter-related, they should be adopted as separate ordinances. Neither ordinance should include provisions belonging to the other. To do so endangers their constitutionality. Michigan's constitution declares that "no law shall embrace more than one subject." The legislature, moreover, has provided separate enabling acts for each kind of ordinance. The provisions of the two ordinances can, and should, be coordinated.

Should We Have a Building Code?

Without building standards, a community tends to grow like Topsy. Some sections will consist largely of good homes, business buildings, and other well-built structures. Others will be made up of either poorly constructed buildings, or a hodgepodge of poorly-built with well-built buildings.

Poorly constructed buildings deteriorate relatively rapidly. They soon become unattractive and pull down the quality of the entire neighborhood. They are often serious fire hazards. They frequently create health problems. They become the problem areas of a community.

What kind of buildings do you and your fellow citizens prefer having in your community in the future?

Do you prefer having your community made up chiefly of safe, sound, healthful and attractive homes and buildings?

If so, then encourage your township board, or your county board of supervisors, to enact a building code with such standards as are needed to keep your community a good place in which to live, work and play.

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