

THE ADVISABILITY AND MERITS OF ADOPTING  
STATEWIDE BUILDING REGULATIONS IN KANSAS

by

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B.S., Kansas State University, 1972

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A MASTER'S REPORT

submitted in partial fulfillment of the

requirements for the degree

MASTER OF REGIONAL AND COMMUNITY PLANNING

Department of Regional and Community Planning

KANSAS STATE UNIVERSITY  
Manhattan, Kansas

1975

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TABLE OF CONTENTS

Chapter

|      |                                           |    |
|------|-------------------------------------------|----|
| I.   | INTRODUCTION. . . . .                     | 1  |
| II.  | HISTORICAL AND LEGAL DEVELOPMENT. . . . . | 7  |
| III. | NATURE OF CODES . . . . .                 | 15 |
| IV.  | THE KANSAS SITUATION. . . . .             | 22 |
| V.   | ACTION TAKEN BY OTHERS. . . . .           | 42 |
| VI.  | SUMMARY . . . . .                         | 49 |
|      | APPENDICES. . . . .                       | 58 |
|      | SELECTED BIBLIOGRAPHY . . . . .           | 71 |

## CHAPTER 1

### INTRODUCTION

One of the most urgent problems facing the United States today is the availability of decent and suitable housing.<sup>1</sup> Urban ghettos and rural slums demonstrate the need for an increased supply of low and moderately priced housing. In 1974 the median price for conventionally built homes in the United States was \$32,040.<sup>2</sup> In Kansas the average cost of residential construction in 1974 was about \$24 per square foot, or about \$24,000 for a modest home of 1,000 square feet.<sup>3</sup> At this current level of price it may be quite difficult or impossible for many low or moderate income families to afford housing of an adequate size to fulfill their needs.

There are many factors which determine the costs of housing and other structures. The economy, inflation, interest rates, land costs, property taxes, zoning restrictions, subdivision controls, building codes, building materials and labor costs are some of the most commonly mentioned variables of housing costs. Some of these costs are dictated by the market place while others are under governmental control. The economy, interest rates, land costs, building materials and labor costs

are, in theory, controlled by the supply and demand of the free market; although, governmental control of fiscal policy and national labor unions strongly affect this free market system.

Zoning, subdivision controls and building codes are examples of indirect housing costs incurred from local governmental regulation under the auspices of the police power. The police power, or the protection of the public health, safety and general welfare is the legal basis on which these local governmental land use controls are justified.<sup>4</sup>

In order not to repress the delivery of housing supply, it becomes the duty of the local government to insure that these land use regulations serve the public to the degree necessary and reasonable while minimizing their possible negative side effects. These side effects may include the partial loss of certain property rights in the ownership of land and the loss of time and expense in complying with such regulations. These aspects will be more fully discussed in a latter chapter of this report.

One of the major problems which the land use controls of zoning, subdivision regulations and building codes present is that they have traditionally been the exclusive function of local government. Constitutional provisions of home rule have reserved liberal powers of self-government to the cities. Due to the nature of zoning and subdivision regulations it appears

that these controls are legitimate concerns of local government. That is, they deal with particular aspects of growth and development and thus they may reflect different development and growth management policies which will be unique to each city.

Building codes, on the other hand, are simply the application of standards in the regulation of the construction of a structure to ensure that its physical properties of design, materials and assembly are sufficient to protect the public health, safety and general welfare. It is recognized that different geographic locations may present various physiographic or climatic differences between regions. But, it may be possible to develop a uniform or standardized code which could resolve such problems. Provisions of the home rule law make it possible for the legislature to enact certain laws which are applicable uniformly to all cities.<sup>5</sup> Thus, there exists the possibility that a single uniform building code could be adopted on a statewide basis.

A partial survey of Kansas in 1971 revealed that 257 different building codes were in use.<sup>6</sup> Many of these were simply a version of some model code, but an estimate of the possible combinations which could be derived from these codes numbered over 124,000.<sup>7</sup> This example illustrates the multiplicity and non-uniformity of codes in use in the State, and serves as substantial justification for the study of the advisability and merits of adopting statewide building regulations in Kansas.

The adoption of a statewide building code could result in numerous benefits to the designer, builder, building inspector and the consumer of housing. Some of the more commonly mentioned benefits or advantages could be:

1. A statewide code could protect the public in areas which previously had not been covered by a building code. This is contingent upon the assumption that such a code could and would be uniformly enforced.
2. A statewide code could consolidate the numerous and sometimes conflicting code requirements by various agencies of the state.
3. A statewide code would provide for a commonly known code which all designers, builders and enforcement officials working in the state could become familiar with and rely upon.
4. A statewide code, particularly if it was some form of a national model code, would be free of local prejudice and politics and would reflect expertise from experts all across the country.
5. A statewide code making use of a model code or based on a model code could satisfy most of the requirements of the Federal government making it easier for all communities to take advantage of federal programs.
6. A statewide code could incorporate standards by which mobile homes, modular housing and other industrialized housing could be more uniformly acceptable.
7. A statewide code could, given time for acceptance, reduce the code related costs of housing and promote greater competition in housing construction and further reduce costs.

With these possible advantages in mind it is necessary to remember that the legal use of codes is for the protection of the public welfare. Only number one above satisfies this requirement, the additional benefits will accrue only as the

result of the careful utilization of a quality code, the active acceptance and support of the code and the effective and uniform administration of such. Thus, the goal of code adoption must be to protect the public with a reasonable non-arbitrary and minimum regulation. While the objective may be to implement such a code in a manner that will reduce possible conflict and achieve user benefits.

The three major purposes of this report are:

1. Explain the historical and legal development of codes as a method of land use control, Chapter II.
2. Compile information on the types and use of codes in the cities, counties and departments of the state, Chapter IV, and
3. To draw conclusions and make recommendations concerning the advisability and merits of adopting statewide building regulations in Kansas, Chapter VI.

In order to accomplish these purposes Chapter III will explain and differentiate between certain terms and concepts as they will be used in this report. Also, in formulating recommendations it will be useful to explore briefly the actions which several federal agencies and national organizations have taken on this issue, Chapter V.

## FOOTNOTES

<sup>1</sup> Richard M. Nixon, Second Annual Report on National Housing Goals (Washington, D. C.: U. S. Government Printing Office, 1970), p. III. Decent and suitable housing is defined as housing meeting minimum designated standards.

<sup>2</sup> Department of Economics and Research, National Association of Realtors, 1975.

<sup>3</sup> Everett Tomlin, "Housing! What Are the Problems? What Are the Issues?" in Kansas Housing Conference Report (Topeka, Ks.: League of Kansas Municipalities, 1975), p. 8.

<sup>4</sup> This aspect of the police power and the legal considerations of land use controls will be discussed in Chapter II.

<sup>5</sup> Article 12, Section 5(b), Kansas Constitution.

<sup>6</sup> Oblinger-Smith Corporation, Certification of Industrialized Housing: State of Kansas (Topeka: Planning Division, Kansas Department of Economic Development, 1973), p. 2.

<sup>7</sup> Ibid.

## CHAPTER II

### HISTORICAL AND LEGAL DEVELOPMENT

The legal foundation upon which codes are founded is based on a lengthy historical documentation of their need and use. Codes are a land use control of necessity brought about by 5,000 years of urbanization by man. As people gathered together in groups establishing shelters and places of commerce, worship, and business, the orientation and nature of their individual structures became increasingly important. Building materials, structural characteristics, land usage, set backs, sanitation and mechanical systems all have a collective influence upon the health, safety and welfare of the inhabitants of an area. Thus, zoning, subdivision regulations and codes have developed to provide this needed protection.

#### Historical Background

Various controls on the construction, maintenance, and utilization of structures have been exercised for over 5,000 years. Some of the earliest and more significant historical highlights resulting in building regulations are:

3500 B.C. - In early Babylon, grade marking of bricks was required by the King to assure quality and public safety.

2000 B.C. - King Hammurabi of Babylon decreed death for a builder whose work collapsed, killing the owner. Restitution for damaged goods and repairs was to be made at the builder's own cost.

340 B.C. - In Greece, contractors were directed to perform in person, in the presence of the commissioners, the insertion of the dowels and clamps and the pouring of the lead and shall close no joint without having shown it.

27 A.D. - A wooden amphitheater near Rome collapsed killing or injuring 50,000 people, and lead to the first regulation of safety in public buildings.

64 A.D. - After the fire which destroyed Rome, Emperor Nero initiated a master plan to rebuild the city. One of his programs was the close control and monitor of both public and private construction.

1348-1350 - The Plague or Black Death killed an approximate one quarter of the population of Europe. This was caused, to a large extent, by the unsanitary conditions of cities and the spread of pestilence.

1625 - New Amsterdam's first ordinance regulated the type and locations of houses constructed as well as their roof coverings.

1666 - The Great Fire of London in 1666 was the fourth of the devastating fires which plagued that city in 798, 982, and 1212. Two years later, in 1668, Parliament enacted the London Building Act.

1692 - In Massachusetts laws were passed requiring the use of brick or stone in buildings and the roof to be of slate. These laws were passed for the prevention and spread of fire.

1800-1900 - The Chicago Fire of 1871 was the most devastating and costly of eleven extensive fires in American cities during this period. Hundreds of lives were lost and hundreds of millions of dollars of property was destroyed. In 1875 Chicago adopted its

first comprehensive building code and fire prevention ordinance.

These few examples demonstrate the increasing importance of building regulations, in a growing society, for the protection of the public health, safety, and general welfare. Regulations were needed not only for structural and fire safety, but also for sanitation and health reasons.

### Legal Development

Early United States history may be used to trace the legal beginnings of building codes. A long series of events has led to the gradual judicial recognition of the police power as the legitimate basis for the establishment of building codes and other land use controls.

Prior to 1916, and the recognition of the police power as the basis for land use controls, the common law of nuisance and private restrictive agreements were the mainstays of land use law. The common law of nuisance "discloses early judicial recognition of the fact that some uses are incompatible with others and that the rights of all landowners will be diminished unless the rights of all are subject to reasonable restraints."<sup>1</sup>

Private agreements or restrictive covenants are the agreements made between two or more landowners, sometimes written into and passing with the deed, which control the use of land. The common law of nuisance was the most commonly used method, of

the two, to control the construction of buildings.

The nuisance law was first used in Colonial America in 1692 by the General Assembly of the Province of Massachusetts-Bay in New England to enact a fire zone ordinance.<sup>2</sup> This ordinance was established for the prevention of accidents, damage and loss due to fires caused by the nearness of buildings of frame construction. It specified that "no dwelling, shop, warehouse, barn, or any other form of housing more than eight feet in length or breadth, and seven feet in height, shall be erected and set up in Boston, but of stone or brick, covered with slate or tile."<sup>3</sup> The ordinance was held valid in the cities of Boston, Salem, and Charleston as a proper regulation of fire nuisances for the protection of the general welfare. Thus, the first form of land use control developed out of the need to restrict structures built of certain materials to prevent the spread of fire.

In 1706 the common law of nuisance was used again to restrict the use of land. The Massachusetts-Bay Province banned the manufacture and storage of large quantities of gun powder within the populous part of the city.<sup>4</sup> It was determined that this use created a potential danger of fire and explosion. In 1880 the New York Supreme Court upheld the same regulation on the keeping of gun powder.<sup>5</sup> It stated that the storage of gun powder, although not a nuisance per se, did constitute a nuisance in the area where it was situated. Although these

regulations are the forerunners of zoning, the segregation of uses into districts, it supports the coming recognition of the police power and all land use controls.

Shortly after these initial regulations, numerous building codes, fire zones, housing codes, height ordinances, and sanitary codes were established. These regulations were met with mixed acceptance by the public and some were voided by the court. The judicial rule which the courts established in deliberating on the legality of these regulations was that of reasonableness.

Reasonableness is "manifestly not what extremists on the one side or the other would deem fit and fair but what from the calm sea level of common sense, applied to the whole situation, is not illegitimate in view of the end attained."<sup>6</sup> As applied to building codes, reasonableness is determined by its relationship to the public health, safety and the general welfare and must bear rational relation to the ends to be served. That is, a building code must be exercised with reason and purpose and that an ordinance or regulation, to be valid, must comply with certain criteria of reasonableness.

The specific criteria needed to legally enforce a building regulation, on the assumption that it is a reasonable exercise of the police power, is that the regulation must be necessary, not arbitrary, statutorily legal, minimum in nature and uniform in application.<sup>7</sup> Even when a building code meets these requirements its reasonableness may be challenged, and must be determined

on the merits of each particular case. In *Senefsky v. City of Huntington*, 12 N.W. 2d 38, the court held that "the reasonableness of the exercise of the police power is always subject to judicial review."<sup>8</sup> Furthermore, in *Scarborough Apartments v. City of Englewood*, 87 A. 2d 537, the court left the burden of proof of unreasonableness on the asserting party.<sup>9</sup> Thus, a building code may be challenged at any time, but the challenger must apply the merits of his case to show unreasonableness and substantiate his charge.

There has been a noticeable lack of court challenges of the validity of building regulations since *Namm v. Carlin*, 169 NYS 295 (1918).<sup>10</sup> In this case the court held that the superintendent of buildings has the discretionary responsibility as to the prudence and safety of a contemplated construction in addition to the requirements of the building regulation. Thus, the court ruled that the potential danger of construction to the public was significant enough to warrant regulation in excess of the given building code. The *Namm* case was significant in that it firmly established building regulations as a valid use of the police power, and required enforcing officials to assume an additional discretionary responsibility for the public safety.

Although the need for building regulations is seldom questioned today, there is still the feeling that this governmental control of the free use of private land is an infringement on

the rights of ownership. This feeling is ingrained in Americans from the Fifth and Fourteenth Amendments of the United States Constitution as one of the original articles of the Bill of Rights, the right to property. Thus, in William Reilly's book, The Use of Land, he states:

"Americans have historically thought of development rights as coming from the land itself, up from the bottom like minerals or crops. It is equally possible to view them as coming down from the top, as being created by society and allocated by it to each land parcel. Development potential, on any land and in any community, results largely from the actions of society,"<sup>11</sup>

and therefore, concludes Robert Anderson in the American Law of Zoning,

"the right to use land is not an unrestricted license to use it without regard to the impact of such use upon the land of others, and it was not enjoyed without restriction under common law. Thus, the ancient maximum 'sic utere tuo ut alienum non laedas' enjoined landowners to use their property in such a manner as not to injure the land of another."<sup>12</sup>

Concluding, it is recognized that building codes do infringe upon the absolute free use of property. But, it has been demonstrated through history that this is a necessary restriction and has as its goal the protection of the public from uncontrolled development. Perhaps the greatest drawback in the use of building regulations is that they are not universally enforced and the public still suffers damages.

## FOOTNOTES

<sup>1</sup> Robert M. Anderson, American Law of Zoning Vol. 1, (San Francisco: Bancroft-Whitney Co., 1968), p. 37.

<sup>2</sup> James Metzenbaum, Law of Zoning Vol. 1 2nd ed. (New York: Baker, Voorhis, & Company, 1955), p. 14.

<sup>3</sup> Ibid., p. 5.

<sup>4</sup> Ibid., pp. 1-3.

<sup>5</sup> Heeg v. Licht, 80 NY 579 (1880).

<sup>6</sup> 75 CJS 635.

<sup>7</sup> 101 CJS 811.

<sup>8</sup> Senefsky v. City of Huntington, 12 NW 2d 387.

<sup>9</sup> Scarborough Apartments v. City of Englewood, 87 A 2d 537.

<sup>10</sup> People ex rel Namm v. Carlin, 169 NYS 295 (1918).

<sup>11</sup> William K. Reilly, ed. The Use of Land: A Citizens' Policy Guide to Urban Growth (New York: Crowell Co., 1973), pp. 22-25.

<sup>12</sup> Anderson, American Law of Zoning, p. 35.

## CHAPTER III

### NATURE OF CODES

As described in Chapter II building controls have developed for the protection of the public health, safety and welfare. To provide this protection there are many types of laws enforced controlling specific aspects of building and structural development. Often there is no clear differentiation between the connotation and usage of many of these building related terms. It is important to understand the differences in these terms in order to have a clear perspective of the overall problem of building control. This chapter will define various terms as they are to be used in this report and clarify some common misconceptions relating to codes.

The designer, builder and building official often deal with terms which are used interchangeably by the public but have different connotations, examples are standard, code and regulation. These terms are defined as:<sup>1</sup>

Standard - A rule, measure, concept or procedure established to achieve a relative level of acceptable quality or performance of materials, products and devices.

Code - A collection of standards, rules and procedures used to promulgate certain levels of quality and

physical performance of materials, products and devices as they are assembled in certain configurations to meet a recognized purpose.

Regulation - A legal device having the force of law by which a constituted authority may establish or adopt certain rules of order.

These definitions are cumulative in nature, in that a standard is the basis for a code or collection of standards. The code may then in turn be adopted, giving it the force of law as a regulation. Thus, a building standard may be incorporated into a building code which may now be adopted as the building regulation of a community.

There are two primary ways in which a code may be written, either specification or performance orientated, defined as:

Specification code - A collection of rules and standards which define particular materials, products, devices, and methods of assemble such that they meet the levels of quality as stated.

Performance code - A collection of rules and standards which define particular levels of acceptable quality using materials, products, devices, and methods of assembly as may be suitable to meet the stated requirements.

The specification code tends to limit innovations in design or construction methods unless it is continually revised to reflect this new technology. It may also have the characteristics of being discriminatory or arbitrary thus testing the rule of reasonableness.

The performance code is more flexible and has a much greater acceptability than the specification code. The nature

of the performance code follows closely the rule of reasonableness and has a greater judicial acceptance. The primary disadvantage of performance codes is that they may be difficult to enforce due to the level of technical expertise required to interpretate the code.

Codes may be adopted which are either model codes or locally developed codes, defined as:

Model code - One of the many codes written and published by one of the four national code organizations.

Local code - A code written by or for a particular municipality or governmental agency.

Model codes are almost always performance orientated and may generally be applicable on a nationwide basis. Model codes are written in such a manner that they may be adopted by reference if the necessary state enabling legislation exists.<sup>2</sup>

These codes are usually written to include all the necessary administration, organization, enforcement, and legislative clauses to stand alone as a legally valid and enforceable regulation upon adoption.

Local codes may be either performance or specification orientated. They are usually written to solve a particular local building problem, to simplify building requirements, or to protect various local interests. The manner in which they are written may provide legal problems in enforcement.

A municipality's use of either a model code or local code is generally determined by the pressures applied on the political

body responsible. It is felt that both the initial cost of adoption and the continued costs of maintaining a model code are less than that of a local code.<sup>3</sup>

There are numerous types of codes in use, but most may be classified into one of these two types:

Building or construction codes - govern the requirements for all types of structures regulating their design, quality of materials, methods of assembly, and certain equipment and site location factors given the type of use and degree of occupancy. Examples are building, electrical, fire, mechanical, plumbing codes, et cetera.

Housing or maintenance codes - are concerned with the quality of the structural environmental, primarily as related to the health and safety of the physical upkeep of buildings for its use and occupancy. Examples are housing, health, sanitation, fire, life-safety, dangerous structures code, et cetera.

Although the legal foundation for both building and housing codes is the same, there may be a vast difference in the levels of acceptability of certain aspects of existing structures from one area to another. Thus, while some of the aspects addressed in this report may be applicable to certain types of housing or maintenance codes, the intent, content, and recommendations of this report are focused on building codes.

#### Model Codes

There are four major model code publishers. The oldest (1905) is the National Building Code (NBC) published by the National Board of Fire Underwriters now known as the American

Insurance Association (AIA). The AIA publishes only the NBC and provides only limited back-up or supportive services for their code as they rely on Underwriters Laboratories for product testing and research. The NBC is revised as conditions dictate and is extensively used nationwide.

The second (1927) model code is the Uniform Building Code (UBC) published by the Pacific Coast Building Officials Conference who have since changed their name to the International Conference of Building Officials (ICBO). ICBO also publishes and maintains the following codes:

- Uniform Building Code Standards
- Uniform Mechanical Code
- Uniform Housing Code
- Uniform Sign Control Code
- Uniform Fire Code
- Uniform Code for the Abatement of Dangerous Buildings
- Plan Review Manual
- Building Department Administration

In addition to these publications, ICBO provides plan examination, code interpretation, and education and research departments. These codes are used nationwide with a greater distribution in the West and Midwest.

The third (1945) model code is the Southern Standard Building Code (SSBC) published by the Southern Building Code Congress (SBCC). The SBCC also publishes and maintains these codes:

- Southern Standard Plumbing Code
- Southern Standard Gas Code
- Southern Standard Housing Code

SSBC also provides annual code maintenance, code interpretation and a research department. This code is used mostly in the South.

The fourth (1950) model code is the Basic Building Code (BBC), published by the Building Officials Conference of America now known as the Building Officials and Code Administrators, International (BOCA). BOCA publishes and maintains these additional codes:

- Basic Housing Code
- Basic Fire Prevention Code
- Basic Plumbing Code
- Building Department Recommendations

They also provide annual code maintenance, plan examination, code interpretation, and a research department. This code is used nationwide with a greater distribution in the Northeast and North Central.

Of the four national code publishers only the National Building Code is written and maintained exclusively by AIA staff. The other three publishers all encourage and utilize external participation in code writing and revision.

While all codes may be technically equal the codes of ICBO and BOCA provide a higher level of supportive back-up services than the AIA code, and appear to be more nationally orientated than the codes of the SBCC. Therefore, it is concluded that the codes of ICBO and BOCA may be the two best model codes for consideration of use as a statewide code.

## FOOTNOTES

<sup>1</sup>

The definitions found in this Chapter were formulated exclusively by the author and are not necessarily universally accepted.

<sup>2</sup>

In Kansas, legislation for the adoption of codes by reference does exist. See, K.S.A. 1974 Supp. 12-3301.

<sup>3</sup>

Richard L. Sanderson, Codes and Code Administration, (Chicago: Building Officials Conference of America, Inc., 1969), p. 49.

## CHAPTER IV

### THE KANSAS SITUATION

In Kansas the question of code conflict has been discussed since the late 1960's. A report, Planning for Housing in Kansas, prepared in 1971 by Langston and Kitch for the Planning Division of the Kansas Department of Economic Development (KDED), recognized that "restrictive building codes and non-uniformity of building codes are a major deterrent" in the supply and delivery process of housing in Kansas.<sup>1</sup> This chapter will explain the actions of the State Architect, the Kansas Economic Development Commission, the Planning Division of KDED, and the Kansas Legislature since the initial investigation by Langston and Kitch. The actions of the Advisory Committee on Statewide Building Codes, established by statute (K.S.A. 74-121), will also be explored. A survey made of codes in use by agencies of the state, municipalities, and counties will be analyzed, as will various comments expressed by interested people throughout Kansas.

#### Early Development

In 1972, subsequent to the Langston and Kitch report, then

State Architect Mr. William Hale recommended the adoption of a statewide building code.<sup>2</sup> Mr. Hale noted in testimony before the Kansas Economic Development Commission "that there has been little attempt to cure the problem of building and housing codes with respect to the (Kansas) legislature."<sup>3</sup> He recommended that:<sup>4</sup>

1. A statewide plan be adopted to serve the entire state and not some locality, county, region, or other geographical area.
2. All regulatory agencies who have jurisdiction on some phase of construction should coordinate their activities.
3. A state building code council should be established to work out any disputes and make recommendations on amending the adopted code, and
4. A system of registration and periodic training of all building inspectors should be created to insure uniform interpretation of the State code.

Following the Langston and Kitch report and Mr. Hale's recommendations, the Kansas Economic Development Commission established a subcommittee to develop their own position on the question of statewide building codes. They determined that their primary concern was in the relationship and conflict of codes in the supply and delivery of adequate housing, as opposed to all structural development. It was recommended by the Commission "that a bill be introduced which would provide for the creation of an agency which would have the responsibility to prepare, review, and certify a state model code package for adoption by local units of government for all aspects of residential development."<sup>5</sup> The Commission also suggested that

a similar code be developed for commercial buildings. As recommended, these codes would be under the administrative jurisdiction of a new state agency whose powers for code enforcement would supercede those of all other state agencies.

The Planning Division of KDED for whom the initial study (Planning for Housing in Kansas) was done, has since published several other reports which also recognize building codes as a major deterrent in the delivery process of housing in Kansas.<sup>6</sup> Based upon the comments and recommendations of the State Architect, the Kansas Economic Development Commission, and the reports published by the Planning Division of KDED the 1973 session of the Legislature provided for an Advisory Committee on Statewide Building Codes.

K.S.A. 74-121 through 74-126, see APPENDIX A, authorized the Governor to appoint fifteen members to a temporary advisory committee to study and make recommendation to the Governor and the Legislature in the following areas:<sup>7</sup>

1. Survey and evaluate building codes, regulations and standards presently in use by departments of the state and cities and counties of the state;
2. Survey and evaluate methods, procedures and administrative structures employed by cities, counties and departments of the state in the enforcement of building codes, regulations and standards;
3. Make recommendations concerning the adoption of building codes, regulations and standards including the feasibility of adopting statewide codes, regulations and standards; and

4. Make recommendations concerning the methods, procedures and administrative structures necessary for the proper administration and enforcement of building codes, regulations and standards.

With this action the Legislature authorized the initial investigation of building codes using a committee of technical and administrative people composed of interests from the state, municipal, and private sectors.

The Advisory Committee on Statewide Building Codes began its work in February of 1974 and has met monthly since that time. In January, 1975, the Committee submitted an Interim Report to the Governor and the Legislature and made the following preliminary recommendations concerning the building code question:<sup>8</sup>

- (1) The adoption of statewide building codes be pursued; however, in order to make a complete and comprehensive proposal, an extended detailed study must be made to develop an administrative structure or alternatives which are essential to implement such codes.
- (2) The Uniform Building Code Package, published by the International Conference of Building Officials, be used as a standard or basis of study.
- (3) Coordination among state agency regulations be programmed before or concurrent with the enactment of legislation for statewide regulations.

The Legislature has since referred this Interim Report to Legislative Research for their study and thus no formal action or reaction on the report is foreseen by the 1975 session of the Legislature. Similarly, the Governor's office is in the process of studying the report and plans no immediate comment.<sup>9</sup>

Thus, there will apparently be no legislative action taken on the code problem until at least the next legislative session.

#### Survey of Codes in Kansas

One of the most important considerations in investigating the advisability and merits of a statewide building regulation is a survey of codes presently in use and the problems encountered by those who must use these codes. Several surveys were conducted to determine the types of codes in use and the jurisdiction of each. In cooperation with the Advisory Committee on Statewide Building Codes, surveys of incorporated areas, counties, and departments of the State were completed. The results of these surveys will help determine which codes are most popularly used and what problems are encountered in their enforcement.

#### State Requirements

The provisions adopted by State agencies which regulate health, safety and welfare provisions in the construction of buildings are an important aspect of the code problem in Kansas. In the outset there appeared to be significant areas of overlap among State agencies in their regulation of structures.

It was determined that at least seven State agencies may be involved in some aspect of building control; they are:

Division of Architectural Services  
Office of State Fire Marshall  
Department of Health and Environment  
Division of Mental Retardation  
Department of Labor  
Department of Education  
Department of Food Services and Lodging

Most of these agencies have jurisdiction in only specialized types of building rather than for all buildings in general.

The Division of Architectural Services, the State Fire Marshall, the Department of Health and Environment, and the Department of Labor are perhaps four of the more important State regulatory agencies.

The Division of Architectural Services is charged with the responsibility of enforcing the 1970 edition of the Uniform Building Code for the construction of all public, private or parochial schools in the state.<sup>10</sup> The same code is also used to enforce provisions in the design of all state building, for both new construction and remodeling. In addition, the Division of Architectural Services has the responsibility to certify all recreational vehicles and mobile homes built after September 1, 1973.

Any mobile home or recreational vehicle manufactured for sale in Kansas must meet the provisions of the American National Standards Institute 119.11 - 1972 Mobile Home Standards.<sup>11</sup> These provisions are enforced by plan review and on-site inspection at the manufacturing plant by either Underwriters Laboratory or one of nine approved third parties.

The State Fire Marshall is responsible for enforcing fire and safety provisions in all schools, hospitals, care facilities, and all major public buildings. The Fire Marshall has adopted an amended form of the 1967 edition of the Fire and Life-Safety Code published by the National Fire Protection Association.<sup>12</sup> The policy of the Fire Marshall to enforce the provision of the Fire and Life-Safety Code in schools and state owned buildings is in apparent conflict with the State Architect's use of the Uniform Building Code in school and state building construction. Thus, there is a degree of conflict or at least nonconformity between the codes regulating schools and state owned public buildings by two separate and autonomous state agencies.

The Department of Health and Environment abides by the Fire and Life-Safety Code in its jurisdiction over hospitals, rest homes and other health care facilities.<sup>13</sup> Their requirements are closely aligned with the State Fire Marshall's program, but they must also comply with the various requirements set down by the federal government or risk the loss of federal assistance. Thus, another level of government may require additional code regulations.

The Industrial Safety Division of the Department of Labor enforces the Boiler Code published by the American Society of Mechanical Engineers.<sup>14</sup> They inspect the initial installation of and also make yearly checks on boilers and other pressurized mechanical devices for conformance with the code and the continued

maintenance of these systems.

This review of the code requirements of State agencies supports the contention that there may be significant areas of code conflict and non-uniformity among State agencies. Perhaps the largest problem is that there is a lack of understanding among the agencies and with the public, as to the relationship and jurisdictions of the various regulations. It is difficult to estimate the amount of time and money which may be lost by the State, designer, builder and owner due to such code conflicts and problems. State Architect, Louis J. Krueger, says that "the State of Kansas has been spending hundreds of thousands of dollars for (state required) fire and life safety improvements in existing buildings throughout the State, some of which are unjust and unrealistic."<sup>15</sup>

#### Municipal Code Requirements

A common problem voiced by builders, designers, and others throughout the State is the multiplicity, nonconformity, and outdated codes adopted in various Kansas municipalities.<sup>16</sup> To explore this problem a survey of the State's incorporated areas was conducted.

The Advisory Committee on Statewide Building Codes, with the aid of the League of Kansas Municipalities, distributed a questionnaire to each city in Kansas, requesting data relating to building codes and their enforcement. Information was

received from 310 communities representing 1,705,314 persons. This is approximately 74% of the State's total population (2,301,623) and about 94% of the State's total population residing in incorporated areas (1,815,233).<sup>17</sup> Ninety-six per cent (96%), or 189 cities, of population in towns over 1,000 are represented in this survey. Responses from an additional 121 communities with population less than 1,000 are also included.

The tabulation of the survey, TABLE 1, CITIES PER CODE, shows that the National Building Code (NBC) is nearly twice as popularly used as the Uniform Building Code (UBC).<sup>18</sup> The Basic Building Code (BBC) and the Southern Standard Building Code (SSBC) are seldom used by cities in Kansas. Less than 10% of the cities surveyed use their own locally written (OWN) code. TABLE 1 also shows that 44.6% of the cities surveyed do not have any code, however, 31.2% are cities of under 1,000 in population. Of the cities which have no code, two are cities of population over 5,000, while no city over 5,000 writes their own code. Reviewing TABLE 1 the NBC is used more often than the other four codes combined. However, if population figures are applied to the cities using each code, the results change significantly.

**THIS BOOK  
CONTAINS  
NUMEROUS PAGES  
WITH DIAGRAMS  
THAT ARE CROOKED  
COMPARED TO THE  
REST OF THE  
INFORMATION ON  
THE PAGE.**

**THIS IS AS  
RECEIVED FROM  
CUSTOMER.**

TABLE 1

## CITIES PER CODE

(July 1974)

| <u>Population</u> | <u>NBC</u> | <u>UBC</u> | <u>BBC</u> | <u>SSBC</u> | <u>OWN</u> | <u>NONE</u> | <u>TOTAL</u> |
|-------------------|------------|------------|------------|-------------|------------|-------------|--------------|
| 20,000 up         | 1          | 12         | 2          | 0           | 0          | 0           | 15           |
| 10,000-20,000     | 6          | 10         | 2          | 0           | 0          | 0           | 18           |
| 5,000 -10,000     | 11         | 2          | 3          | 0           | 0          | 2           | 18           |
| 2,000 - 5,000     | 37         | 7          | 4          | 3           | 8          | 9           | 68           |
| 1,000 - 2,000     | 25         | 5          | 0          | 0           | 10         | 30          | 70           |
| Under 1,000       | 9          | 9          | 0          | 0           | 6          | 97          | 121          |
| Total             | 89         | 45         | 11         | 3           | 24         | 138         | 310          |
| % of Total (310)  | 28.6%      | 14.5%      | 3.5%       | 1.0%        | 7.7%       | 44.6%       | 100%         |

TABLE 2, POPULATION PER CODE gives a breakdown of code usage as it affects population. It shows that the UBC affects nearly three times the population as the NBC. The UBC is also more popularly applied than all the other codes combined.

TABLE 2 shows that 44.3% of the entire state's population or 56.2% of the state's population who reside in incorporated areas use the UBC. APPENDIX B gives the complete listing of codes in use by city and population. It also shows a heavy concentration of BBC usage in Johnson County and that eleven cities are considering the adoption of the UBC.

TABLE 2

## POPULATION PER CODE

(July 1974)

| <u>Population</u>                                              | <u>NBC</u> | <u>UBC</u> | <u>BBC</u> | <u>SSBC</u> | <u>OWN</u> | <u>NONE</u> | <u>TOTAL</u> |
|----------------------------------------------------------------|------------|------------|------------|-------------|------------|-------------|--------------|
| 20,000 Up                                                      | 30,343     | 841,951    | 111,828    | 0           | 0          | 0           | 984,122      |
| 10,000-20,000                                                  | 83,474     | 131,792    | 27,463     | 0           | 0          | 0           | 242,729      |
| 5,000 -10,000                                                  | 74,286     | 11,523     | 22,244     | 0           | 0          | 17,086      | 125,139      |
| 2,000 - 5,000                                                  | 118,062    | 21,547     | 11,229     | 10,319      | 21,496     | 24,565      | 207,218      |
| 1,000 - 2,000                                                  | 36,443     | 7,151      | 0          | 0           | 14,385     | 41,822      | 99,801       |
| Under 1,000                                                    | 4,917      | 5,394      | 0          | 0           | 2,668      | 33,326      | 46,305       |
| Total                                                          | 347,525    | 1,019,358  | 172,764    | 10,319      | 38,549     | 116,799     | 1,705,314    |
| % Total State<br>Population<br>(2,301,623)                     | 15.1%      | 44.3%      | 7.5%       | 0.4%        | 1.7%       | 5.1%        | 74.1%        |
| % Total State<br>Population<br>Incorporated<br>Areas 1,815,233 | 19.1%      | 56.2%      | 9.5%       | 0.7%        | 2.1%       | 6.4%        | 94.0%        |

As stated in Chapter III, the UBC and the BBC are perhaps the most professionally written model codes and may be the most desirable for use in Kansas. APPENDIX B shows only one city of population over 20,000 using a code other than the UBC or the BBC. It should be noted that the NBC is free upon request from its publisher the American Insurance Association. This may help explain the high usage of this code in the smaller towns, where the importance of a code is recognized but sufficient budget is not available to support another code.

The principle conclusions drawn from this survey are:

1. The UBC affects the largest number of persons, while the NBC affects the largest number of communities.
2. Eleven communities totaling 75,996 population have indicated that they are considering adoption of the UBC.
3. The BOCA is heavily used in the suburban Johnson County area.
4. Only three communities in the state use the SSBC.
5. Concordia (7,680) and Roeland Park (9,406) have no building code. They control development by using zoning and subdivision regulations as do many of the smaller communities.
6. Approximately 25% of the State's population was not represented by this survey, of these only 6% (109,919 persons) live in incorporated areas and nearly all of these persons live in communities under 1,000 population. The remaining 486,390 persons live in incorporated areas.
7. The study indicates that approximately 700,000 or one-third of the population may be without protection of a building code.

### County Code Requirements

A survey of the counties' code requirements revealed that only five of the 79 counties responding had an adopted building code. The counties with a code and the type of code as of August 1974 are:

| <u>COUNTY</u>       | <u>CODE</u>                                    |
|---------------------|------------------------------------------------|
| Clay                | Uniform Building Code                          |
| Geary               | National Building Code                         |
| Grant (City/County) | National Building Code                         |
| Saline              | Local Code                                     |
| Sedgwick            | Uniform Fire Code and<br>Uniform Building Code |

Figure I, COUNTY CODE MAP on page 36, shows the counties with codes, those presently considering adopting codes, those with no codes, and those who made no response.

Generally, a county building code will regulate only that area of a county outside incorporated areas, unless there is a city/county code as in Grant County.

The survey reflected that many county officials recognized the need for a building code but felt that the (lack of) funds necessary to establish and enforce a code would be prohibitive.<sup>19</sup> Reno County officials are considering the adoption of the Uniform Building Code package and they chose "a model code because they felt local codes could become political and difficult to enforce."<sup>20</sup>

### Additional Comments

The most crucial need in a building code program is not



only for a high quality code, model or otherwise, but also for a proper and well developed enforcement and inspection program. For, without the inspection and enforcement of a code, no code may be good or better than the best model code.

The surveys of the municipalities and the counties produced these comments:<sup>21</sup>

Orlin Smith, City Inspector at Ottawa, "The biggest problem is the non-uniformity of codes between cities."

K. D. Cain, City Inspector at Abilene, "Would like to see the State adopt a package code so that cities in Kansas could adopt it to get uniformity."

Clearwater, Kansas, "Problem of inspection, including finding qualified inspectors."

Charles J. White, City Clerk in Paradise, "I have been on this job since 1960 and there has not been a new house built in Paradise in that time. I don't think we need a building code."

Kansas City, Kansas, "Our city has doubled in size in the last several years - we are short on staff and have problems with enforcement."

Billie Huff, City Clerk in Claflin, "Inasmuch as we do not have an inspection program and would not be able to fund one with our limited budget, we have not attempted to enforce our building code."

Mike Bailey, City Planner in Chanute, "The State Fire Marshall and the State Architect's office require us to enforce #1 fire zone provisions, yet we repeatedly receive erroneous information from them."

Gerald A. Jones, Building Code Engineer in Overland Park, "State agencies such as the Fire Marshall and Food and Lodging Board are making inspections and requiring modifications to new building conforming to the model codes. The conflicting requirements could be avoided if the state inspectors would communicate with local officials."

Janine Swists, City Clerk in Lakin, "Problems only a small town would have, the code is not actively enforced and there are no funds to help."

G. C. Newby, City Manager in Sterling, "Any model code that is prepared for larger cities does not always fit the smaller towns and some are harder to enforce. If a state code is adopted it should be prepared so it will fit all 1st, 2nd and 3rd class cities."

These are typical comments voiced by the officials around the state who answered the survey. The first two comments reiterate the quest for uniformity of codes. The next three comments deal with inspection problems. Clearwater can't find inspectors, Paradise has no development or growth and doesn't need inspectors or even a building code, and Kansas City is growing so fast it can't do all the necessary inspection. The sixth comment is the usual one of lack of funds to finance the program. Chanute and Overland Park both agree that the state agencies present have certain conflicts in their jurisdictions. These are problems which have all previously been addressed. Perhaps the last two comments from Lakin and Sterling sum up the consideration which must be faced in the possible adoption of a statewide building code. That is, as a Lakin official asks, how could a statewide building code be enforced uniformly across the state and who is going to pay for it? From Sterling's point of view, is it even possible to develop a code which can deal adequately with all areas of the state, both urban and rural; and, what are the possibilities of the acceptance of such a code throughout

the state? These are questions and problems beyond the scope of this report which must be resolved before a well developed plan may be accepted.

#### Legal Authority

Kansas provides authority for both cities (K.S.A. 12-3009) and counties (K.S.A. 12-3303) to adopt codes, standards and model ordinances by reference (see APPENDIX C). The "codes" adopted, "may be, but are not limited to: building codes, plumbing codes, electrical wiring codes, gas piping codes, health and sanitation codes, . . . any any other code which embraces a subject which is a proper legislative matter."<sup>21</sup> Thus, the statutes provide the necessary vehicle for the adoption of enumerable codes as may be subject to the discretion of the police power. Provisions are also made for the easy use and adoption of model codes by reference.

## FOOTNOTES

<sup>1</sup> Langston, Kitch & Associates, Inc. Planning For Housing in Kansas (Topeka: Planning Division, Kansas Department of Economic Development, 1971), p. x.

<sup>2</sup> William Hale, "Comments and Recommendations Concerning Building Codes", 1972. (Typewritten.)

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Kansas Economic Development Commission, "Minutes of Meeting", July 9, 1972. (Typewritten.)

<sup>6</sup> See the bibliography for the reports published by the Planning Division of KDED.

<sup>7</sup> K.S.A. 74-122.

<sup>8</sup> Advisory Committee on Statewide Building Codes, "Interim Report", 1975. (Typewritten.)

<sup>9</sup> Interview with Ron Service, Governor's Aide, Topeka, Kansas, 17 February 1975.

<sup>10</sup> Louis J. Krueger, Letter, 1974.

<sup>11</sup> Interview with Art Jones, Division of Architectural Services, Topeka, Kansas, 17 February 1975.

<sup>12</sup> Interview with Paul Markley, State Fire Marshall's Office, Topeka, Kansas, 17 February 1975.

<sup>13</sup> Interview with Herman Janzen, Department of Health and Environment, Topeka, Kansas, 10 January 1975.

<sup>14</sup> Interview with Mike Johnston, Division of Industrial Safety, Department of Labor, Topeka, Kansas, 18 February 1975.

<sup>15</sup> Louis J. Krueger, Letter, 1974.

<sup>16</sup> Interviews with Jim Safely, Architect, Wichita; Robert Douglas, Contractor, Topeka; Gordon House, Building Inspector, Pittsburg; from December 1974 through January 1975.

<sup>17</sup> Kansas State Board of Agriculture, "Population on Kansas", 1974. (Typewritten.)

<sup>18</sup> This survey deals only with building codes and not fire, electrical, mechanical, plumbing, or other codes. For purposes of tabulation, specific editions in use were not recorded. Rather, codes published by the same organizations are grouped together regardless of edition.

<sup>19</sup> General conclusions drawn from the many responses to the County Codes Questionnaire, distributed to all counties in Kansas.

<sup>20</sup> Ralph A. Davis, Letter, 1974.

<sup>21</sup> Selected comments, made by the respondents to the County Code Questionnaire, which appear to typify the attitudes of most concerning the code issue.

<sup>22</sup> K.S.A. 1974 Supp. 12-3301.

## CHAPTER V

### ACTION TAKEN BY OTHERS

The problem of multiple codes and code conflict is not unique with Kansas. There are several federal agencies and other organizations dealing with this problem on a nationwide scale. This chapter will briefly review requirements of federal agencies and the actions of other organizations relating to the building code issue.

#### Federal Regulations

In considering the advisability of a statewide building code it becomes necessary to review the programs of various federal agencies in order to resolve any potential conflicts. To facilitate the delivery of housing, schools, hospitals, and other federally insured or financed building programs, the code requirements of the Department of Housing and Urban Development, the Federal Housing Authority, the Farmers Home Administration, the Veterans Administration, and the Department of Health, Education and Welfare were surveyed. This is not to preclude that these are the only federal agencies involved in building controls. It is estimated that approximately 35

federal agencies either directly or indirectly regulate construction.<sup>1</sup> The agencies surveyed, however, are felt to be the more important agencies as far as actual "building codes" are concerned. Many of the other federal regulations are concerned with requirements which are now controlled locally by zoning and subdivision regulations, i.e., minimum lot size, set-back requirements, sewer and utility hook-ups. Other requirements deal with the heavy construction of dams, bridges, streets, and highways which are not covered under traditional building codes.

The Department of Housing and Urban Development publishes a set of Minimum Property Standards (MPS) for one and two family dwellings, Multifamily Housing, and Care-Type Housing. These Minimum Property Standards are "intended to provide a sound technical basis for the planning and design of housing under the numerous programs of the Department of Housing and Urban Development."<sup>2</sup> The application of these standards is much broader than the field of building codes. For example, the MPS also deal with site design, streets and parking, and drainage problems, all of which are beyond the scope of building codes. These standards "are not intended to serve as a building code, but do apply when the local code permits lower standards than these MPS."<sup>3</sup>

Code Adoption and Enforcement is one of the four elements in the HUD Workable Program for Community Improvement. In order

to obtain Workable Program Certification, communities are required to "adopt either reasonably current editions of nationally recognized model codes or state or local codes with standards comparable to model codes, the types of codes which are required cover building, housing, plumbing, electrical and fire safety considerations."<sup>4</sup>

The Federal Housing Authority being an agency of HUD follows the same general guidelines set by the MPS and the Workable Program. The Farmers Home Administration and the Veterans Administration also follows HUD requirements relating to model codes and Minimum Property Standards.

The Department of Health, Education and Welfare publishes a Technical Handbook for Facilities Engineering and Construction Manual, which deals with minimum design criteria. Relating to building codes HEW requires the following general criteria:<sup>5</sup>

- 1) one of the four model building codes
- 2) fire and safety code
- 3) electrical code
- 4) plumbing code
- 5) fallout shelter space
- 6) earthquake code
- 7) U.S.A. code for accessibility by physically handicapped, and
- 8) other special standards.

The specific criteria required under each of these elements may be found in the Technical Handbook. It is noted, that all

of the above criteria do not necessarily have to be met before HEW will approve a project, as it depends on the facility being constructed.

The adoption of approved model codes on a statewide basis would apparently be consistent with the requirements of most federal agencies. FHA, FmHA, and VA all require standards based upon and very similar to those of HUD. HUD and HEW appear to require, under various instances, codes regulating building, housing, plumbing, electrical, earthquake, fire, and life-safety. In most cases national model codes covering these areas are acceptable to the federal agencies.

This acceptance of model codes is consistent with the federal government's policy in recent years. Since 1966 the federal government, through HUD, has been stressing the importance of the modernization and uniformity of building codes.<sup>6</sup> In 1970 the Annual Report on National Housing Goals alluded to the possibility of a Federal code if the states don't take action.

"HUD is working with state and local governments to secure needed changes in building codes, zoning, and trade practice limitations. If these voluntary efforts prove unsuccessful, alternative measures will be developed to assure that all American families can benefit from the free flow through interstate commerce of whatever improved materials, technology, and land financing techniques may be developed."<sup>7</sup>

The possibility of federal action to resolve the code problem may provide an impetus for rapid state or local governmental action on this question.

### Other Organizations

Several national organizations are working to help solve the building code problem. Two of the groups are the Council of State Governments (CSG) and the National Conference of States on Building Codes and Standards (NCSBCS).

The CSG has recognized that "with the growth of a nationwide market for many types of building products and regional markets for others, including manufactured components. . . a uniform and comprehensive approach to regulation of the construction of buildings has become highly desirable."<sup>8</sup> On this premise the CSG has drafted three model bills which would promote intra and interstate uniformity of regulations, and interstate reciprocal acceptance of building products. These three bills of Suggested State Legislation are the State Building Code Act, the Manufactured Building Act, and the Mobile Home Act, (APPENDIX D contains the State Building Code Act). These acts were drafted with the assistance of the model codes organizations, the design professions, HUD, the United States Department of Commerce, and NCSBCS.

The National Conference of State on Building Codes and Standards is a division of the National Bureau of Standard of the Department of Commerce. The NBSBCS is composed of Governor's delegates who have organized to help solve building code and standards problems within and among their states. The four stated activities of the NBSBCS are reciprocity and

coordination, standards and evaluation, education and qualification, and management and regulatory procedures.<sup>9</sup>

The efforts of these groups and others are essential if there is to be a coordinated solution to this problem. The federal government is imploring that the states take immediate action to resolve the problem of the multiplicity and non-uniformity of codes. If this question can not be handled to the satisfaction of the federal government it is possible they will request a mandatory national code.

## FOOTNOTES

<sup>1</sup> Advisory Commission on Intergovernmental Relations, Building Codes: A Program For Intergovernmental Reform (Washington D. C.: U. S. Government Printing Office, 1966), p. 34.

<sup>2</sup> U. S. Department of Housing and Urban Development, Minimum Property Standards, 1973 ed. (Washington D. C.: U. S. Government Printing Office, 1973), p. iii.

<sup>3</sup> Ibid. p. 1-5.

<sup>4</sup> Samuel C. Jackson, Letter from U. S. Department of Housing and Urban Development, 1972.

<sup>5</sup> U. S. Department of Health, Education and Welfare, Technical Handbook for Facilities Engineering and Construction Manual, (Washington D.C.: U. S. Government Printing Office, 1972), p. v.

<sup>6</sup> Advisory Commission on Intergovernmental Relations, Building Codes: A Program For Intergovernmental Reform, p. 83.

<sup>7</sup> Nixon, Second Annual Report on National Housing Goals, p. 20.

<sup>8</sup> Committee on Suggested State Legislation, State Building Code Act, (Lexington: The Council of State Governments, 1974), p. 160.

<sup>9</sup> Policy statement of the National Council of States on Building Codes and Standards, 1975.

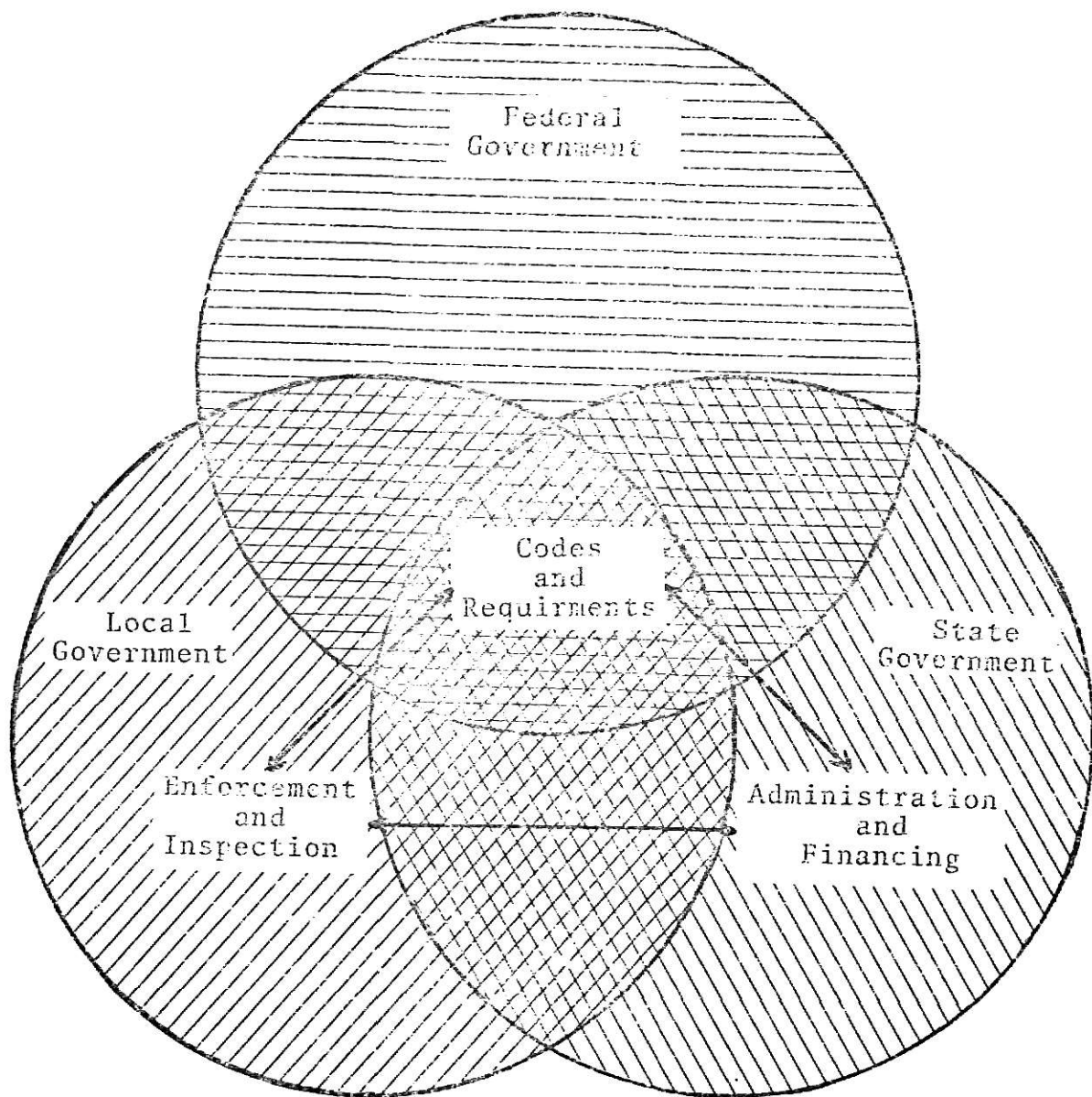
## CHAPTER VI

### SUMMARY

This report has been exploratory and investigative in nature, and in no way does it represent a comprehensive or conclusive study on the advisability and merits of adopting statewide building codes in Kansas. This report serves as an initial background study of the historical and legal development of codes, an explanation of certain terminology, model codes, and organizations, an analysis of the use of codes in Kansas, and a review of several federal agencies and national organizations, an analysis of the use of codes in Kansas, and a review of several federal agencies and national organizations. These are important aspects of the code problem but represent only a part of the study necessary to resolve the issue.

Figure II, CODES STUDY SCHEMATIC, recommends three levels of possible study in a comprehensive investigation of the feasibility and advisability of adopting statewide building codes. Figure II depicts three areas of study as being equal and dependent upon one another. It also illustrates the suggested governmental jurisdiction in each of the three areas.

This report is equivalent to the Codes and Requirements



Codes Study Schematic

FIGURE 11

study. That is, in addition to the background study, it provides information on state, local, and county codes in use, model codes organizations, and federal activities and code requirements. It explains that code requirements may be imposed on the local, state, and federal levels. Thus, it stands to reason that in order to adopt a statewide code it becomes necessary, or is recommended, that the requirements of all three levels of government be given consideration. However, priorities should be established to recognize that the ultimate product is to be a state code enforced by local governments.

The second area of study is on the Enforcement and Inspection activities. This would entail the development of a procedure which would insure that a statewide code could be enforced uniformly. It is recommended that the enforcement activity remain the function of local governments. Study elements might include, qualifications and registration of inspectors, code education programs, local building department administration, jurisdictional responsibilities, and local financing programs.

The State should develop a statewide registration or licensing procedure. The State may want to require that all building inspectors demonstrate their ability to enforce a code upon their registration. This could help dramatically to improve the quality of code enforcement. It would also

force the State to develop an appropriate testing procedure for licensing and emphasize the need for a continuing education program.

If licensing was required a code education program would be essential. As proposed the inspection and enforcement responsibilities would be a local function. In order to insure uniform interpretation the State should offer an educational program or cooperate with universities and vocational schools to develop a program. The development of this educational program could be monitored by a committee of local building officials and private professionals in the field. This could help to increase the acceptance of a statewide code while providing a broad based source of input into its development.

One of the most frequently mentioned problems of local code enforcement was building department administration. It may be necessary or desirable for the State to develop a model system for code administration. This could help in areas which have never had an inspection department and in those areas where administration is lacking.

Jurisdictional responsibilities of the state, municipality, and county could be resolved. That is, if all levels of government were responsible for the same code, there would be few jurisdictional disputes. This could bring about a more widespread understanding of the code and could create a greater acceptance of it.

Further incentive to accept and/or adopt a statewide code could be provided if the state would provide a financial subsidy. For example, this could take the form of free educational programs to participating localities, or the availability of a technical consultant to help handle unusual inspection problems. State financed programs are always difficult to initiate but the idea bears further investigation.

It should be emphasized that the second study element, Enforcement and Inspection, is just as important as the other two. For without an adequate and uniform enforcement program the objective of public safety and code uniformity is lost. To insure the greatest acceptance this activity should remain strictly a local function. Before initiating a statewide code this study element should be more fully developed.

Administration and financing is the third study activity. This is primarily a state level function. That is, if it is decided that a statewide code is advisable, what will be the nature of the state administration of such? Can the responsibilities and jurisdiction of all state related code activities be combined in one agency, and how can this be done? If an agreement on administrative responsibility can be reached, what laws and statutes will the Legislature have to change or establish? Finally, what will be the costs and how will the establishment and maintenance of the code and regulatory agency be financed?

In studying the administration of a statewide code one state agency should be responsible for its administration and all other state regulations on building codes. It may be preferable to create an entirely new office for this purpose. Representatives of all agencies currently having jurisdiction for enforcement of building regulations should act as advisors in the initial establishment of the new jurisdictional office.

To increase local acceptance of a statewide code a permanent advisory committee should be established to oversee the activities of the agency. This committee could be composed of local building officials, private professionals in the field and other interested persons and organizations. To insure equal representation a mixture of both rural and urban interests is desired.

Questions of code interpretation and code variances should be handled by some type of review board or policy committee. This committee should have a broad representation of local officials, professionals, and other concerned state agencies in primarily technical fields. Code revisions should be made with the advice and comments of the local users.

These are a few of the more obvious issues which must be addressed in determining a feasible administrative structure for a statewide code. It is stressed that a statewide code should not be initiated until jurisdictional responsibilities among all state agencies are consolidated, for only then can

a truly statewide code be established.

### Conclusions

The conclusions presented here are based solely upon the investigations derived from this report.

1. There is sufficient historical and legal documentation on the needs, use and legality of codes to justify the adoption of a statewide building code. The police power and the rule of reasonableness form the constitutional foundation for code adoption.
2. There is a widespread problem of the multiplicity and nonuniformity of codes enforced by state agencies and municipalities.
3. An estimated 700,000 people or one-third the population of the state may be without the protection of building codes. Few unincorporated areas of the state make use of codes.
4. Of the codes adopted, the UBC affects the largest number of people while the NBC is the most widely adopted code.
5. The services and codes of ICBO and BOCA appear to be more suited to this region and are written with greater representation than the codes of SSBCC and NBC, respectively.
6. Many communities find it difficult to obtain qualified inspection services and cannot finance an adequate enforcement program.
7. The adoption of approved model codes is consistent with the requirements and encouraged by the federal government.
8. There is significant need around the state for a statewide building code to protect the public safety and reduce the multiplicity of code requirements.
9. This report represents only a partial investigation of the code problem.

This study concludes that a statewide code is advisable, it now remains for a feasible administrative structure and enforcement program to be developed.

### Recommendations

The recommendations made in this report are based on the investigation of only one of three major areas of study recommended for a conclusive examination of the issue of statewide building codes. Thus, the recommendations made are based on the conclusions and should be reviewed as new information becomes available.

1. An indepth study of all three of the suggested areas of activity should be pursued in order to make a conclusive recommendation concerning the adoption of statewide building codes.
2. The Uniform Building Code and the Basic Building Code packages should be technically evaluated for their possible use as a statewide building code.
3. If a statewide building code is adopted, only some form of a model code should be used.
4. The coordination among state agency regulations should be programmed before or concurrently with the enactment of legislation for statewide regulations.
5. The jurisdiction of the enforcement of all forms of state regulations should be coordinated and administered by one state agency.
6. Methods and procedures for local enforcement of a statewide building code should be established.
7. To insure uniform interpretation, educational programs should be established and inspectors should be certified and registered by the state.

8. The legislature should immediately establish or designate a permanent office to administrate a statewide building code and all state building regulations. This office should first develop an acceptable administrative procedure to initiate the code and suggest guidelines for local enforcement programs, and then recommend a statewide code for adoption.

These recommendations suggest that immediate steps be taken to establish a statewide building code. A statewide code should only be adopted if a feasible means of state administration can be devised. If a statewide code is not adopted the state can either consolidate all current state building regulations into one office, or do nothing and continue as before. If no action is taken the state may be neglecting its duty of protecting the public health, safety and welfare; and it may be subject to possible federal imposition of a uniform code.

Chapter 74.—STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 1.—MISCELLANEOUS  
PROVISIONS—

**74-121.** Advisory committee on statewide building codes; membership; appointment; qualifications; secretary; staff assistance and supplies. There is hereby created and established a temporary advisory committee on statewide building codes, regulations and standards which shall be composed of fifteen (15) members. Membership on such committee shall include the director of the division of architectural services of the department of administration or his authorized representative, the state fire marshal or his authorized representative, the director of the state department of health or his authorized representative, the director of the division of planning of the department of economic development or his authorized representative and eleven (11) members to be appointed by the governor of whom no more than six (6) shall be of the same political party as the governor; who shall include an architect registered and licensed to practice in the state of Kansas, an attorney licensed to practice in the state of Kansas, an engineer licensed to practice in the state of Kansas, a general construction contractor, a mechanical contractor, an electrical contractor, a building contractor and three building inspection officials, one employed by a city or county having a population of more than one hundred thousand (100,000), one employed by a city or county having a population of more than twenty-five thousand (25,000) but not more than one hundred thousand (100,000) and one employed by a city or county having a population of not more than twenty-five thousand (25,000). Members of the committee shall be appointed within thirty (30) days after the effective date of this act and shall meet within thirty (30) days thereafter at a time and place to be designated by the governor. At such meeting, the committee shall elect from its membership a chairman and vice-chairman. The director of the division of architectural services of the department of administration or his authorized representative shall be ex officio secretary of such committee and shall provide such secretarial and staff assistance and supplies as may be required by the committee to fulfill the duties prescribed under the provisions of this act. [L. 1973, ch. 354, § 1; July 1.]

**74-122.** Same; duties. It shall be the duty of the advisory committee on statewide building codes, regulations and standards to:

(a) Survey and evaluate building codes, regulations and standards presently in use by departments of the state and cities and counties of the state;

(b) survey and evaluate methods, procedures and administrative structures employed by cities, counties and departments of the state in the enforcement of building codes, regulations and standards;

(c) make recommendations concerning the adoption of building codes, regulations and standards including the feasibility of adopting statewide codes, regulations and standards; and

(d) make recommendations concerning the methods, procedures and administrative structures necessary for the proper administration and enforcement of building codes, regulations and standards. [L. 1973, ch. 354, § 2; July 1.]

**74-123.** Same; meetings, when; reports. The advisory committee on statewide building codes, regulations and standards shall meet as often as may be necessary at times and places designated by the chairman in order to fulfill the duties prescribed under the provisions of this act. The advisory committee shall meet upon the call of the chairman or upon the call of a majority of the members of such advisory committee. Said committee may, if it deems the same advisable, present a preliminary report of any recommendations and findings completed by the committee prior to the 1974 session of the legislature to the governor and the legislature at the commencement of such session and shall present a final report of its findings and recommendations to the governor and the legislature at the commencement of the 1975 session of the legislature. [L. 1973, ch. 354, § 3; July 1.]

**74-124.** Same; expenses. Members of the committee shall not receive compensation for their services as members, but shall be reimbursed for the amount of their necessary expenses actually incurred by them in the performance of their duties in the amounts prescribed by K. S. A. 1972 Supp. 75-3203 and 75-3207. Expenses of members and all costs incurred by the division of architectural services in serving the committee shall be paid from funds made available by the legislature to the division of architectural services for such purposes. [L. 1973, ch. 354, § 4; July 1.]

**74-125.** Same; cooperation with committee by city, county and state officers and employees. City, county and state officers and employees shall at the request of the committee cooperate with and assist the committee in performing duties required under the provisions of this act. [L. 1973, ch. 354, § 5; July 1.]

**74-126.** Provisions of act expire July 1, 1975. The provisions of this act shall expire July 1, 1975. [L. 1973, ch. 354, § 6; July 1.]

## CODES IN USE BY CITIES

JULY 1974

NBC----NATIONAL BUILDING CODE  
 UBC----UNIFORM BUILDING CODE  
 BBC----BASIC BUILDING CODE  
 OWN----LOCAL CODE  
 NONE---NO CODE IN USE

| 20,000 & Up      | NBC     | UBC     | BBC     | OWN   | NONE  |
|------------------|---------|---------|---------|-------|-------|
| Emporia          |         | 21,898  |         |       |       |
| Hutchinson       |         | 42,360  |         |       |       |
| Junction City    |         | 20,368  |         |       |       |
| Kansas City, Ks. |         | 179,409 |         |       |       |
| Lawrence         |         | 46,128  |         |       |       |
| Leavenworth      | 30,343* |         |         |       |       |
| Manhattan        |         | 28,017  |         |       |       |
| Overland Park    |         |         | 82,729  |       |       |
| Olathe           |         | 20,283  |         |       |       |
| Pittsburg        |         | 20,449  |         |       |       |
| Prairie Village  |         |         | 29,099  |       |       |
| Salina           |         | 37,162  |         |       |       |
| Shawnee          |         | 23,347  |         |       |       |
| Topeka           |         | 139,764 |         |       |       |
| Wichita          |         | 262,766 |         |       |       |
|                  | 30,343  | 841,951 | 111,828 | - 0 - | - 0 - |
| 10,000-20,000    | NBC     | UBC     | BBC     | OWN   | NONE  |
| Arkansas City    | 13,538  |         |         |       |       |
| Atchison         |         | 12,783  |         |       |       |
| Chanute          |         | 10,225  |         |       |       |
| Coffeyville      |         | 17,398  |         |       |       |
| Dodge City       | 16,951  |         |         |       |       |
| El Dorado        |         | 11,775  |         |       |       |
| Garden City      |         | 17,530  |         |       |       |
| Great Bend       | 18,460  |         |         |       |       |
| Hays             |         | 15,651  |         |       |       |
| Independence     | 11,594  |         |         |       |       |
| Leawood          |         |         | 11,864  |       |       |
| Liberal          |         | 14,011  |         |       |       |
| McPherson        |         | 10,928  |         |       |       |
| Merriam          |         | 10,964  |         |       |       |
| Newton           |         |         | 15,599  |       |       |
| Ottawa           |         | 10,527  |         |       |       |
| Parsons          | 12,755* |         |         |       |       |
| Winfield         | 10,176  |         |         |       |       |
|                  | 83,474  | 131,792 | 27,463  | - 0 - | - 0 - |

\*Considering the adoption of UBC

| 5,000-10,000            | NBC    | UBC    | EBC    | OWN   | NONE   |
|-------------------------|--------|--------|--------|-------|--------|
| Abilene                 | 8,019* |        |        |       |        |
| Augusta                 | 6,074  |        |        |       |        |
| Bonner Springs          |        | 5,717  |        |       |        |
| Clay Center             | 5,093  |        |        |       |        |
| Concordia               |        |        |        |       | 7,680  |
| Derby                   | 8,016  |        |        |       |        |
| Fairway                 |        |        | 5,178  |       |        |
| Fort Scott              |        |        | 8,647  |       |        |
| Goodland                |        | 5,806  |        |       |        |
| Haysville               | 6,309  |        |        |       |        |
| Iola                    | 6,584  |        |        |       |        |
| Lenexa                  |        |        | 8,419* |       |        |
| Mission City            | 8,656  |        |        |       |        |
| Pratt                   | 6,583  |        |        |       |        |
| Paola                   | 5,139  |        |        |       |        |
| Roeland Park            |        |        |        |       | 9,406  |
| Russell                 | 5,582  |        |        |       |        |
| Wellington              | 8,231* |        |        |       |        |
|                         | 74,286 | 11,523 | 22,244 | - 0 - | 17,086 |
| 2,000-5,000             | NBC    | UBC    | BBC    | OWN   | NONE   |
| Anthony                 | 2,840  |        |        |       |        |
| Baldwin                 | 2,391  |        |        |       |        |
| Baxter Springs          | 4,801  |        |        |       |        |
| Belleville <sup>1</sup> |        |        |        |       |        |
| Beloit                  | 4,161  |        |        |       |        |
| Burlington              |        |        |        | 2,267 |        |
| Caney                   |        |        |        | 2,755 |        |
| Cherryvale              | 2,933  |        |        |       |        |
| Colby                   | 4,738  |        |        |       |        |
| Columbus                |        |        |        |       | 3,442  |
| Council Grove           | 2,468  |        |        |       |        |
| Elkhart                 | 2,374  |        |        |       |        |
| Ellinwood               |        |        |        | 2,878 |        |
| Ellis                   | 2,137  |        |        |       |        |
| Ellsworth               |        |        |        |       | 2,486  |
| Eudora                  |        | 2,429  |        |       |        |
| Eureka                  |        | 3,631  |        |       |        |
| Fredonia                | 3,559  |        |        |       |        |
| Frontenac               |        |        |        | 2,459 |        |
| Galena <sup>1</sup>     |        |        |        |       |        |
| Garnett                 |        | 2,988  |        |       |        |
| Girard                  | 2,786  |        |        |       |        |
| Herington               |        |        |        | 3,911 |        |
| Hiawatha                | 3,850  |        |        |       |        |
| Hill City               | 2,157  |        |        |       |        |
| Hillsboro               |        |        |        |       | 2,781  |
| Holton                  | 3,369  |        |        |       |        |
| Hoisington              | 4,164  |        |        |       |        |
| Horton                  | 2,386  |        |        |       |        |
| Hugoton                 | 3,058  |        |        |       |        |
| Humboldt                |        |        |        | 2,330 |        |
| Kingman                 |        |        | 4,143  |       |        |

\*Considering the adoption of UBC

| 2,000-5,000           | NBC     | UBC    | BBC    | OWN    | NONE   |
|-----------------------|---------|--------|--------|--------|--------|
| Kinsley               |         |        |        | 2,139  |        |
| Lansing               | 3,706   |        |        |        |        |
| Larned                | 4,988   |        |        |        |        |
| Leoti                 |         |        |        |        | 2,405  |
| Lindsborg             | 2,276   |        |        |        |        |
| Lyons                 |         | 4,324  |        |        |        |
| Marion                |         |        | 2,331  |        |        |
| Marysville            | 3,740   |        |        |        |        |
| Meade                 |         | 2,033  |        |        |        |
| Medicine Lodge        | 2,527   |        |        |        |        |
| Minneapolis           | 2,137   |        |        |        |        |
| Mission Hills         |         |        |        |        | 4,298  |
| Mulvane               | 3,285   |        |        |        |        |
| Neodesha <sup>1</sup> |         |        |        |        |        |
| Norton                | 3,759   |        |        |        |        |
| Oakley                | 2,417   |        |        |        |        |
| Oberlin               | 2,437   |        |        |        |        |
| Ogden                 | 2,336   |        |        |        |        |
| Osage                 |         | 2,677  |        |        |        |
| Osawatomie            | 4,649   |        |        |        |        |
| Osborne               | 2,036   |        |        |        |        |
| Oswego                |         |        |        |        | 2,179  |
| Phillipsburg          |         | 3,465  |        |        |        |
| Plainville            | 2,518*  |        |        |        |        |
| Sabetha               | 2,582   |        |        |        |        |
| Seneca                | 2,446   |        |        |        |        |
| Scott City            | 4,391   |        |        |        |        |
| Smith Center          |         |        |        |        | 2,494  |
| So. Hutchinson        |         |        |        | 2,499  |        |
| Sterling              | 2,039   |        |        |        |        |
| Tonganoxie            |         |        |        |        | 2,279  |
| Ulysses               | 4,389   |        |        |        |        |
| Valley Center         |         |        |        | 2,757  |        |
| WaKeeney              | 2,505   |        |        |        |        |
| Wamego                | 2,727   |        |        |        |        |
| Westwood              |         |        | 2,256  |        |        |
| Yates Center          |         |        |        |        | 2,201  |
|                       | 118,062 | 21,547 | 11,229 | 21,496 | 24,565 |

\*Considering the adoption of the UBC

1

Southern Code - 10,319

| 1,000-2,000     | NBC   | UBC   | BBC | OWN    | NONE  |
|-----------------|-------|-------|-----|--------|-------|
| Andover         |       |       |     | 1,927  |       |
| Arma            |       |       |     |        | 1,475 |
| Ashland         |       |       |     |        | 1,215 |
| Atwood          |       | 1,704 |     |        |       |
| Belle Plaine    |       |       |     |        | 1,560 |
| Blue Rapids     |       |       |     |        | 1,298 |
| Burlingame      |       |       |     |        | 1,071 |
| Caldwell        |       |       |     |        | 1,469 |
| Carbondale      |       |       |     | 1,013  |       |
| Chapman         | 1,522 |       |     |        |       |
| Cheney          |       |       |     |        | 1,177 |
| Chetopa         |       |       |     |        | 1,636 |
| Cimarron        | 1,427 |       |     |        |       |
| Clearwater      |       |       |     | 1,511  |       |
| Coldwater       |       |       |     |        | 1,147 |
| Conway Springs  |       |       |     | 1,158  |       |
| DeSoto          |       |       |     |        | 1,925 |
| Dighton         | 1,696 |       |     |        |       |
| Douglass        |       |       |     | 1,193  |       |
| Downs           | 1,317 |       |     |        |       |
| Elwood          |       |       |     | 1,814  |       |
| Enterprise      |       |       |     |        | 1,037 |
| Erie            |       |       |     |        | 1,539 |
| Frankfort       |       | 1,061 |     |        |       |
| Gardner         |       |       |     |        | 1,891 |
| Goddard         |       |       |     |        | 1,000 |
| Grandview Plaza | 1,094 |       |     |        |       |
| Greensburg      |       |       |     | 1,983* |       |
| Halstead        | 1,896 |       |     |        |       |
| Harper          | 1,820 |       |     |        |       |
| Haven           |       |       |     |        | 1,254 |
| Hesston         |       | 1,848 |     |        |       |
| Hoxie           |       |       |     | 1,558* |       |
| Johnson         |       |       |     |        | 1,145 |
| Kiowa           | 1,576 |       |     |        |       |
| LaCrosse        | 1,681 |       |     |        |       |
| LaCygne         |       |       |     | 1,054  |       |
| Lake Quivira    |       |       |     |        | 1,014 |
| Lakin           | 1,765 |       |     |        |       |
| Lincoln City    |       |       |     |        | 1,827 |
| Louisburg       |       |       |     |        | 1,267 |
| Madison         | 1,200 |       |     |        |       |
| Mankato         |       |       |     |        | 1,363 |
| Moundridge      | 1,313 |       |     |        |       |
| Ness City       | 1,804 |       |     |        |       |

| 1,000-2,000    | NBC    | UBC   | BBC   | OWN    | NONE   |
|----------------|--------|-------|-------|--------|--------|
| Nickerson      | 1,277  |       |       |        |        |
| Oxford         | 1,139  |       |       |        |        |
| Peabody        | 1,702  |       |       |        |        |
| Pleasanton     |        | 1,316 |       |        |        |
| Rossville      | 1,029  |       |       |        |        |
| St. John       |        |       |       |        | 1,654  |
| St. Marys      | 1,578  |       |       |        |        |
| Satanta        |        |       |       |        | 1,278  |
| Sedan          |        |       |       |        | 1,648  |
| Sedgwick       | 1,152  |       |       |        |        |
| Sharon Springs | 1,116  |       |       |        |        |
| Solomon        |        | 1,222 |       |        |        |
| Spring Hill    |        |       |       |        | 1,394  |
| Stafford       |        |       |       |        | 1,471  |
| Stockton       | 1,802  |       |       |        |        |
| Sublette       |        |       |       |        | 1,423  |
| Syracuse       |        |       |       |        | 1,932  |
| Towanda        |        |       |       | 1,174  |        |
| Tribune        |        |       |       |        | 1,195  |
| Troy           |        |       |       |        | 1,201  |
| Valley Falls   | 1,176  |       |       |        |        |
| Victoria       | 1,291  |       |       |        |        |
| Washington     | 1,699  |       |       |        |        |
| Wathena        |        |       |       |        | 1,316  |
| Wellsville     | 1,371  |       |       |        |        |
|                | 36,443 | 7,151 | - 0 - | 14,385 | 41,822 |

| UNDER 1,000  | NBC   | UBC   | BBC   | OWN   | NONE                |
|--------------|-------|-------|-------|-------|---------------------|
| Agra         | 324   |       |       |       |                     |
| Andale       |       |       |       | 498   |                     |
| Arlington    |       |       |       | 468   |                     |
| Attica       |       |       |       | 690   |                     |
| Auburn       |       | 265   |       |       |                     |
| Claflin      | 902   |       |       |       |                     |
| Deerfield    |       | 498   |       |       |                     |
| Delphos      |       | 636   |       |       |                     |
| Gaylord      | 228   |       |       |       |                     |
| Holcomb      |       | 462   |       |       |                     |
| Kechi        | 201   |       |       |       |                     |
| Kirwin       |       |       |       | 292   |                     |
| Lenora       |       | 508   |       |       |                     |
| Leonardville | 476   |       |       |       |                     |
| Linn         |       | 480   |       |       |                     |
| Moran        | 617   |       |       |       |                     |
| Morrill      |       |       |       | 356   |                     |
| Natoma       | 590   |       |       |       |                     |
| Onaga        |       | 798   |       |       |                     |
| Oskaloosa    |       | 997   |       |       |                     |
| Scranton     | 601   |       |       |       |                     |
| Silver Lake  | 978*  |       |       |       |                     |
| Tipton       |       |       |       | 364   |                     |
| Waterville   |       | 750   |       |       |                     |
|              | 4,917 | 5,394 | - 0 - | 2,668 | 33,326 <sup>2</sup> |

**12-3009.** Subjects which may be incorporated in ordinance by reference. Any city is hereby authorized and empowered to incorporate in an ordinance by reference, in the manner hereinafter provided, any standard or model code or ordinance, regulation having the effect of law of a state officer, board or other agency, or statute, or portions thereof on any subject on which a city may legislate, which standard or model code or ordinance or state regulation is available in book or pamphlet form: *Provided*, That nothing herein shall be deemed to waive any statutory procedural requirement concerning a zoning ordinance, except that any city may incorporate by reference in conformity with K. S. A. 12-3010 a zoning ordinance or subdivision regulations in code form as that term is defined in K. S. A. 1968 Supp. 12-3301 (c) if all other procedural requirements set forth in K. S. A. 1968 Supp. 12-708 are met. [K. S. A. 12-3009; L. 1969, ch. 87, § 1; April 25.]

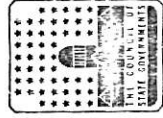
**Law Review and Bar Journal References:**

Mentioned in "1969 Kansas Legislature—A Review of Enactment," Robert F. Bennett, 38 J. B. A. K. 89, 91 (1969).

**12-3303.** County adoption by reference in resolution. The provisions of any code may be incorporated in a county resolution by reference and shall be as much a part of the resolution as if the same had been set out in full therein when the resolution has been passed by the board of county commissioners in the manner provided by law and it is published and copies of said code are filed and marked as hereinafter set forth in sections 3 [12-3303] and 4 [12-3304] of this act. Any section, article, chapter, part or portion of such code not incorporated shall be clearly and specifically described by the incorporating resolutions and declared to be omitted and any provisions changing or adding to the incorporated provisions shall be stated in full and published as a part of the resolution. Instead of incorporating with omissions, the incorporating resolution may designate specifically the sections, articles, chapters, parts or portions of the code to be incorporated. No such resolution shall be deemed to have incorporated therein any code or part thereof unless the same shall be clearly described in the resolution by name or title, and the resolution contain the name or title of the person, association, agency or other organization which prepared, compiled, published or promulgated the same, the year, edition of the work and the statute number or other sufficiently identifying description. The amendment of any code or the publication of any revision by the person or organization sponsoring the same shall not affect the incorporating resolution but such incorporating resolution shall continue in effect until it is repealed or amended or a later code is incorporated by reference: *Provided*, That any statute or section thereof or any state regulation or portion thereof which has been incorporated by reference and which is amended by the legislature or changed by the state officer, board or agency, shall cease to be effective until and unless incorporated by amendment of the incorporating resolution or the passage of another incorporating resolution. [L. 1967, ch. 165, § 3; July 1.]

APPENDIX D

REPRINTED FROM



1974

SUGGESTED  
STATE LEGISLATION

VOLUME XXXIII

STATE BUILDING CODE ACT

Developed by  
The Committee on Subgastod State Legislation  
  
The Council of State Governments  
Iron Works Pike  
Lexington, Kentucky 40511

## State Building Code Act

With the growth of a nationwide market for many types of building products and regional markets for others, including manufactured components and whole building units of room size and larger, a uniform and comprehensive approach to regulation of the construction of buildings has become highly desirable. The State Building Code Act and two companion bills, the Manufactured Building Act and the Mobile Home Act, respond to this need through state rather than federal action by promoting intra- and interstate uniformity of regulation and interstate reciprocal acceptance of building products. This Act represents a synthesis of the experience of federal, state and local governments in regulating construction and manufacture to enable States to better protect the public health, safety and welfare. The three Acts are written in a manner permitting them to be administered by a single state agency and a single building code council if a State enacts any two of them, or all three. If a State enacts but one of them, each Act is complete and may be administered independently.

The basis regulatory scheme of the State Building Code Act parallels the existing situation in most places: (1) a builder submits to a local enforcement agency the plans and specifications for a building he intends to erect within the jurisdiction; (2) the local enforcement agency issues a building permit if the proposed building will comply with the State Building Code; (3) the local enforcement agency inspects the building during construction; and (4) if the finished building complies with the State Building Code, the local enforcement agency issues a certificate of occupancy.<sup>1</sup>

The State Building Code Act was drafted by representatives of the National Conference of States on Building Codes and Standards; the National Association of Home Builders; the Southern Building Code Congress; the Building Officials and Code Administrators International, Inc.; the International Conference of Building Officials; the design professions, with assistance by the U.S. Department of Commerce and the U.S. Department of Housing and Urban Development. It was sponsored for publication by the National Conference of States on Building Codes and Standards, a cooperating member of the Council of State Governments.

## Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [Short Title.] This Act may be cited as the [State] Building  
2 Code Act.

1 Section 2. [Legislative Findings and Intent.] [Note: Each State should

<sup>1</sup>A section-by-section analysis of the Act, prepared by the drafting group, has been distributed to State Legislative Service Agencies by the Council of State Governments.

## Building Code Act

2 write its own legislative findings to meet the individual conditions. The  
3 following are suggested possibilities:]

4 [Conditions exist in this State which create a shortage of decent, safe,  
5 and sanitary housing and buildings, such as schools, hospitals, and other  
6 public facilities, at prices which residents and political subdivisions of this  
7 State can afford. This shortage contributes to an increase in community  
8 tension, crime, and blight, and constitutes a menace to the health, safety,  
9 and welfare of the residents of this State. Increasing the available supply  
10 of housing and other buildings at prices which residents and political sub-  
11 divisions of this State can afford will alleviate community tension and  
12 blight, reduce crime, increase the building inventory subject to property  
13 taxes, increase employment, attract new industries, and materially im-  
14 prove the health, safety, and welfare of the residents of this State.]

15 [The use of new and improved technologies, techniques, and materials  
16 will increase the available supply of housing and other buildings at prices  
17 which most residents and political subdivisions of this State can afford.]

18 [Uniformity of building codes and uniformity in procedures for en-  
19 forcing codes throughout the Nation and the State are matters of nation-  
20 wide and statewide interest and concern in that uniformity would increase  
21 the efficiency of the building industry and further assure the safety of its  
22 products.]

23 [The use of new technologies, techniques, and materials is enhanced by  
24 the utilization and application of uniform building codes and uniform  
25 procedures for enforcing building codes within this State, and would be  
26 further enhanced by widespread reliance upon uniform and reasonable  
27 material specifications and the use of performance criteria.]

28 [The Legislature intends, by this Act, to create conditions in this State  
29 which will facilitate the production and use of new technologies, tech-  
30 niques, and materials consistent with the requirements of health, safety,  
31 and welfare.]

32 [The Legislature intends that the administration and enforcement of this  
33 Act shall be within the jurisdiction of a single administrative agency.]

1 Section 3. [Definitions.] Wherever used or referred to in this Act, the  
2 terms defined herein have the meanings assigned to them unless a different  
3 meaning is clearly indicated by the context.

4 (1) "Administrative agency" means the [agency] which is charged with  
5 the administration and enforcement of this Act.

6 (2) "Building" means any combination of materials, whether portable  
7 or fixed, which comprises a structure affording facilities or shelter for any  
8 use or occupancy. The word "building" shall be construed wherever used  
9 herein as if followed by the words "or part or parts thereof and all equip-  
10 ment therein" unless the context clearly requires a different meaning.  
11 "Building" shall not mean a mobile home certified pursuant to the [State]  
12 Mobile Home Act or a manufactured building certified pursuant to the  
13 [State] Manufactured Building Act.

14 (3) "Construction" means the erection, fabrication, reconstruction,

## Building Code Act

15 demolition, alteration, conversion, or repair of a building, or the in-  
16 stallation of equipment therein.

17 (4) "Equipment" means facilities or installations, including, but not  
18 limited to, plumbing, heating, electrical, ventilating, air conditioning, and  
19 refrigerating facilities or installations, and elevators, dumbwaiters, es-  
20 calators, boilers, and pressure vessels.

21 (5) "Local enforcement agency" means the agency or agencies of local  
22 government with authority to make inspections of buildings and to en-  
23 force the laws, ordinances, and regulations enacted by the State and by  
24 the local government which establish standards and requirements appli-  
25 cable to the construction, alteration, repair, occupancy, or demolition of  
26 buildings.

27 (6) "Local government" means any county, city, municipal cor-  
28 poration, town, or other political subdivision of this State with authority  
29 to establish standards and requirements applicable to the construction,  
30 alteration, repair, occupancy, or demolition of buildings.

### Section 4. [Building Code Council.]

1 (a) A [Building Code Council or such other name as may be designated  
2 for this function, hereinafter called the "Council"] is created. The  
3 [Council] shall consist of 12 qualified persons: the [chief executive officer  
4 of the administrative agency] (nonvoting), a representative of the general  
5 public, one registered architect, one registered professional engineer  
6 (structural), one registered professional engineer (mechanical), one regis-  
7 tered professional engineer (electrical), one licensed general contractor,  
8 one representative of the building trades, one homebuilder, one build-  
9 ing code enforcement officer from local government, one mobile home manu-  
10 facturer, and one building manufacturer.

11 (b) Members of the [Council], except the [chief executive officer of the  
12 administrative agency], shall be appointed by the Governor for four-year  
13 terms of office and serve until qualified successors are appointed, except  
14 that the Governor, for the first appointments to the [Council], shall ap-  
15 point three members for terms of four years, three members for terms of  
16 three years, three members for terms of two years, and two members for  
17 terms of one year. Three or more consecutive failures by a member to  
18 attend meetings of the [Council], without reasonable cause, constitute  
19 cause for removal of the member from the [Council] by the Governor, or  
20 by the chairman with concurrence by a majority of the [Council]. The  
21 Governor shall appoint a new member when a vacancy occurs. When a  
22 vacancy occurs, a majority of the remaining members of the [Council]  
23 may appoint an interim member to fill the vacancy for the remainder of  
24 the term or until the Governor appoints a permanent member.

25 (c) Members of the [Council] shall receive an allowance of \$[ ]  
26 per day or part of a day actually spent attending to the business of the  
27 [Council] and be compensated for traveling expenses as provided in  
28 [appropriate statutory reference].

29 (d) The [Council] shall meet at the written request of the [chief exec-

## Building Code Act

31 tive officer of the administrative agency] or of three or more members of  
32 the [Council]; but the [Council] shall meet no fewer than [ ] times  
33 per year.

34 (e) The [Council] shall establish rules and regulations and bylaws for its  
35 internal operation.

36 (f) The [Council] shall be part of the [administrative agency] and ex-  
37 ercise its powers, duties, and functions independently of the  
38 [administrative agency], except that all budgeting, procurement, and re-  
39 lated functions shall be under the direction and supervision of the [chief  
40 executive officer of the administrative agency].

41 (g) No member may act as a member of the [Council] or vote as such in  
42 connection with any matter in which he has a private interest.

43 (h) The [Council] may employ an executive secretary. The  
44 [administrative agency] shall assign personnel to assist the [Council] in the  
45 performance of its functions.

### Section 5. [Powers of Council and Administrative Agency.]

1 (a) The [administrative agency] shall and any other interested party may  
2 propose rules and regulations and amendments thereto. The [Council]  
3 shall adopt and may amend or repeal rules and regulations. After  
4 adoption by the [Council], the [administrative agency] shall publish, ad-  
5 minister, and enforce the rules and regulations. The rules and regulations  
6 shall cover the following:

7 (1) the construction of all buildings and inspection thereof for com-  
8 pliance with the [State] Building Code;

9 (2) the issuance and revocation of permits or licenses for buildings;

10 (3) the use or occupancy of buildings;

11 (4) the standards and requirements for materials and equipment to be  
12 used in buildings including, but not limited to, standards and re-  
13 quirements for safety, noise insulation and abatement, energy conser-  
14 vation, ingress and egress, and sanitary conditions;

15 (5) fees for functions performed pursuant to this Act;

16 (6) the establishment of classifications of fire zones pursuant to Sec-  
17 tion 11 of this Act; and,

18 (7) the administration and enforcement of this Act.

19 (b) The [administrative agency] shall propose and the [Council] shall  
20 [may] adopt the codes, standards, and requirements which apply to build-  
21 ings and are promulgated by such organizations as the Building Officials  
22 and Code Administrators International, Inc., International Conference of  
23 Building Officials, Southern Building Code Congress, Council of Ameri-  
24 can Building Officials, and other nationally recognized organizations in-  
25 cluding governmental agencies (hereinafter referred to as "model codes"),  
26 if the [Council] determines that each such code meets the following re-  
27 quirements:

28 (1) that its adoption will not substantially reduce regional uniformity  
29 of building regulations;

30 (2) that such code does not discriminate against particular tech-

## Building Code Act

nologies, techniques, and materials;  
(3) that such code does not unnecessarily increase the cost of construction in the State;

(4) that such code will protect the public health, safety, and welfare within the State; and

(5) that the State will be adequately represented in the code modification proceedings of the model code group whose code is proposed to be adopted. If the [Council] determines that all of the codes fail to meet one or more of the requirements, the [Council] shall adopt a code which is comprised of one or more of the model codes, or which is amended to the extent necessary to meet the requirements.

(c) The [Council] shall endeavor to maintain the rules and regulations current with the state of the art. The [Council] shall be deemed to have done so, if it adopts, without change, such improvements, amendments, and research findings as may be issued by the national model code organization within one year of their issuance. Any other amendments adopted by the [Council] shall meet the criteria set forth in subsection (b) above and be supported by written findings of fact. Such amendments and findings of fact in support thereof shall be submitted to the appropriate code writing organization for possible amendment of that code.

(d) The [Council] shall also:

(1) hold a public hearing prior to adopting any rule or regulation or amendment thereto, following adequate public notice;

(2) make a continual study of the operation of the [State] Building Code and other laws relating to the construction of buildings to ascertain their effect upon the cost of building construction and determine the effectiveness of their provisions;

(3) hear appeals pursuant to Section 13 hereof;

(4) decide, upon application by a private party or a local enforcement agency, that new technologies, techniques, and materials which have been tested, where necessary, and found to meet the objectives of the [State] Building Code, shall be deemed to meet that code. These determinations are binding upon all local enforcement agencies throughout the State.

(e) The [Council] or the [administrative agency] may also:

(1) require or provide for the testing of materials, devices, and methods of construction; and

(2) appoint experts, consultants, technical advisers, and advisory committees for assistance and recommendations relative to the formulation of the [State] Building Code.

## Section 6. [State] Building Code.]

(a) The rules and regulations published pursuant to Section 5 hereof shall comprise and collectively be known as the [State] Building Code.

(b) The [State] Building Code shall be designed to achieve the following specific objectives:

(1) provide uniform standards and requirements for construction and construction materials;

## Building Code Act

(2) to the extent practicable, set forth the standards, specifications, and requirements in terms of performance objectives, so as to, inter alia, facilitate the use of new technologies, techniques, and materials; preference shall be given to standards reasonably consistent with those of other States.

(c) Subject to the provisions of Section 7 hereof, until [ ] days after adoption of the [State] Building Code, building regulations adopted by a local government shall continue in effect unless repealed. Thereafter, building regulations adopted by a local government shall be void and of no effect, except as reserved to local government in Section 11 of this Act.

A building permit validly issued pursuant to local building regulations within [ ] days after adoption of the [State] Building Code is valid thereafter and the construction of a building may be completed pursuant to and in accordance with the permit. In areas of the State having no building regulations, or not requiring building permits, the construction of a building started before adoption of the [State] Building Code may be completed without a building permit.

(d) Until [ ] days after adoption of the [State] Building Code, building regulations promulgated by any state board, department, commission, or agency shall continue in effect unless repealed. Thereafter, such building regulations shall be void and of no effect, except that rules and regulations adopted pursuant to the [State Manufactured Building Act] or the [State Mobile Home Act] shall continue in effect.

## Section 7. [Local Exemptions.]

(a) A local government which, prior to the adoption of this Act, has adopted and is enforcing a nationally recognized model building code as its building ordinance, may apply to the [Council] to be allowed to continue to enforce its building ordinance and to be exempted from the provisions of the [State] Building Code. After approval by the [Council], or by final decision by the [court of competent jurisdiction] after appeal of a decision by the [Council], the ordinance shall be so exempted. The [Council] shall support its decisions on such applications with written findings in accordance with the provisions of subsection (b) of this section.

(b) The [Council] shall grant such an application for exemption if it can be established to the satisfaction of the [Council] that:

(1) the ordinance is sufficiently consistent with the [State] Building Code so that its application will not substantially reduce statewide or regional uniformity of building regulations;

(2) the ordinance does not discriminate against particular technologies, techniques or materials;

(3) the ordinance does not unnecessarily increase the cost of construction in the jurisdiction;

(4) the ordinance is the current edition of a nationally recognized model building code; and

(5) enforcement of the ordinance, as it may differ from the [State] Building Code, is necessary to protect the public health, safety, and well-

## Building Code Act

24 fare within the applicable jurisdiction. In determining whether the ordi-  
 25 nance meets the above requirements, the [Council] shall obtain the advice  
 26 and counsel of the [administrative agency].

27 (c) Any decision of the [Council] approving or disapproving such an  
 28 application, or failure of the [Council] to act within a reasonable time,  
 29 may be appealed in the [court(s) of competent jurisdiction].

30 (d) If such application is approved, the local government shall thereafter  
 31 maintain its building ordinance up to date. The local government may do  
 32 so by adopting, without change, such improvements, amendments, and  
 33 research findings as may be issued by the national model code or-  
 34 ganization within one year of the issuance thereof. If the local government  
 35 wishes to amend the nationally recognized model code in any other man-  
 36 ner, it shall submit the proposed amendment, and findings of fact in sup-  
 37 port thereof, to the [Council]. The [Council] shall approve the amendment  
 38 if the local government establishes to the [Council's] satisfaction that it  
 39 meets the five criteria set forth above and is necessary to account for con-  
 40 ditions peculiar to the jurisdiction. Should an exempted local government  
 41 fail to maintain its code up to date or amend its code in violation of this  
 42 section, and fail to remedy the situation within a reasonable time after due  
 43 notice, the [Council] shall revoke the local government's exemption and  
 44 the [State] Building Code shall be enforced in that jurisdiction. Any de-  
 45 cision of the [Council] approving or disapproving such an amendment or  
 46 revoking a local government's exemption shall be final.

47 (e) A local government which has been exempted under this section may  
 48 upon [ ] days' public notice repeal its building ordinance and will  
 49 thereafter be covered by the [State] Building Code.

1 Section 8. [Local Variations.] A local enforcement agency may propose  
 2 to the [Council] variation(s) in the State Building Code, for application  
 3 within its jurisdiction, to cover special local conditions requiring special or  
 4 different building standards. The [Council] shall adopt such variation(s) if  
 5 it is established to the [Council's] satisfaction that:

6 (1) the proposed variation is sufficiently consistent with the [State]  
 7 Building Code so that its application will not substantially reduce state-  
 8 wide uniformity of building regulations;

9 (2) the proposed variation does not discriminate against particular  
 10 technologies, techniques, or materials;

11 (3) the proposed variation does not unnecessarily increase the cost of  
 12 construction in the jurisdiction; and

13 (4) the proposed variation is necessary to protect the public health,  
 14 safety, and welfare within the jurisdiction.

1 Section 9. [Administration.]

2 (a) In areas where local enforcement agencies have jurisdiction, the  
 3 [administrative agency] shall not enforce the [State] Building Code. In  
 4 such areas, the local enforcement agencies are responsible for the exam-  
 5 ination and approval or disapproval of plans and specifications, the is-

## Building Code Act

6 sunce and revocation of building permits, licenses, certificates and similar  
 7 documents, and the inspection of buildings pursuant to the provisions of  
 8 the [State] Building Code.

9 (b) Local governments shall create, where necessary, within [ ]  
 10 days after the adoption of the [State] Building Code, a local enforcement  
 11 agency and shall employ and designate a [registered] building official as  
 12 well as [registered] code enforcement officers deemed necessary to assist  
 13 the enforcement agency in carrying out its functions under Section 9(a)  
 14 hereof. The administrative chief of the local enforcement agency shall be  
 15 called the building official, and any additional local inspectors shall be  
 16 called code enforcement officers.

17 (c) If a local government is not carrying out the provisions of Section 9  
 18 of this Act, the [administrative agency] shall perform those functions in  
 19 that jurisdiction until the local government has appointed the necessary  
 20 personnel.

21 (d) Local governments shall appoint local appeals boards to hear ap-  
 22 peals brought in accordance with Section 13(b) of this Act. Until the  
 23 boards are established, appeals shall be heard by the [Council]. A suf-  
 24 ficient number shall be appointed to allow appeals to be heard promptly  
 25 by panels of three members, all of whom shall be free of conflicts of inter-  
 26 est in the cases before them. A local government shall be relieved of the  
 27 duty to appoint local appeals boards if it establishes to the satisfaction of  
 28 the [Council] that a sufficient number of qualified people cannot be found  
 29 in the jurisdiction or through cooperation with neighboring jurisdictions.

30 (e) Two or more local governments may establish a local enforcement  
 31 agency or a local appeals board to serve their jurisdictions, and in this  
 32 event they shall share the expenses incurred.

33 (f) The [administrative agency] may, upon request, assist a local en-  
 34 forcement agency in such matters as technical assistance, code inter-  
 35 pretation, education, training, personnel, and information collection and  
 36 dissemination.

37 (g) Except as otherwise provided in the [State] Building Code, the con-  
 38 struction of a building shall not begin until a building permit is issued.  
 39 Upon submission of an application to a local enforcement agency, if the  
 40 building proposed to be erected will comply with this Act and the [State]  
 41 Building Code, a permit shall be issued. A local enforcement agency may  
 42 suspend or revoke a building permit if the building under construction  
 43 pursuant thereto does not comply with this Act or the [State] Building  
 44 Code.

45 (h) A local enforcement agency shall periodically inspect all con-  
 46 struction undertaken pursuant to building permits issued by that agency  
 47 to assure compliance with this Act and the [State] Building Code. The  
 48 applicant for a building permit of a building under construction is deemed  
 49 to have consented to inspection by a local enforcement agency by the act  
 50 of applying for a building permit. In addition to other inspections provid-  
 51 ed for in this Act, an inspection may be made of any building at any time  
 52 if a local enforcement agency has probable cause to believe that a con-

# Building Code Act

dition hazardous to life or property exists. If a building is found not to comply with the [State] Building Code, the local enforcement agency shall notify the permittee in writing to bring the building into compliance with the [State] Building Code, or to secure it from entry, or both; if the permittee fails to comply with the notification, the local enforcement agency shall revoke the permit.

(i) No building constructed after the effective date of the [State] Building Code shall be used or occupied until a certificate of occupancy has been issued. Upon submission of an application for a certificate of occupancy to a local enforcement agency, a certificate of occupancy shall be issued, if the building to which the application pertains has been constructed in accordance with the building permit, the [State] Building Code, and other applicable laws and ordinances.

## Section 10. [Training Programs.]

(a) The [administrative agency] may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, local, regional, state, or national building officials' organizations, and any other appropriate organization.

(b) The [administrative agency] may reimburse code enforcement officers and other employees of the State and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the [administrative agency].

(c) In the establishment and administration of education and training programs, the [administrative agency] shall consult and cooperate with the [State] code enforcement officers registration board, or appropriate agency charged with such registration in order to facilitate the acceptance of these programs as meeting requirements for registration as a code enforcement officer.

## Section 11. [Reservation of Local Zoning and Related Powers.]

(a) Except as provided by or pursuant to this Act, land use zone requirements, building setback requirements, side and rear yard requirements, site development, and property line requirements are specifically and entirely reserved to local government.

(b) The [Council] shall establish classifications of fire zones. Local governments shall establish precise boundaries for fire zones within their jurisdictions.

## Section 12. [Fees.]

(a) The [Council] shall establish a schedule of fees for the functions performed by the [Council] and the [administrative agency] in connection with the administration and enforcement of this Act and publish it in the [State] Building Code. The amount of the fees shall be based, to the extent reasonable, on the cost of performing functions undertaken pursuant to this Act.

# Building Code Act

(b) Each local government may establish a schedule of fees for the functions performed by the local enforcement agency in connection with the enforcement of this Act.

## Section 13. [Appeals.]

(a) The [Council] shall promptly hear and decide appeals brought by any person or party in an individual capacity, or on behalf of a class of persons or parties, affected by any rule, regulation, or decision pursuant to this Act. Final decisions by the [Council] are reviewable on appeal (or on successive appeals) in the [courts of competent jurisdiction].

(b) Prior to appeal to the [Council], appeals of decisions or rulings of a local enforcement agency shall be heard by the appropriate local appeals board. If there is no local appeals board for the jurisdiction, appeals shall be taken directly to the [Council].

Section 14. [Injunctive Relief.] The [administrative agency] may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, sale, delivery, use, occupancy, erection, alteration, or installation of any building covered by this Act, upon an affidavit of the [administrative agency] specifying the manner in which the building does not conform to the requirements of this Act or the [State] Building Code.

Section 15. [Statutory Civil Action.] Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this Act or the [State] Building Code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorneys' fees. [The cause of action created by this section is subject to the same limitations period applicable in this State for causes of action of similar nature.]

## Section 16. [Criminal Penalties.]

(a) Any person who violates any provision of this Act or the [State] Building Code is guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$[ ] or imprisoned for not more than [ ] for each offense, or both.

(b) A separate violation is deemed to have occurred with respect to each building not in compliance with the Act or the [State] Building Code. Each day the violation continues constitutes a separate violation.

Section 17. [Severability.] If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 18. [Effective Date.] This Act shall take effect.

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THE ADVISABILITY AND MERITS OF ADOPTING  
STATEWIDE BUILDING REGULATIONS IN KANSAS

by

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B.S., Kansas State University, 1972

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AN ABSTRACT OF A MASTER'S REPORT

submitted in partial fulfillment of the

requirements for the degree

MASTER OF REGIONAL AND COMMUNITY PLANNING

Department of Regional and Community Planning

KANSAS STATE UNIVERSITY  
Manhattan, Kansas

1975

In Kansas the option of adopting building regulations is a power granted to local municipalities by the state. Using this power the various municipalities throughout the state have adopted hundreds of different building codes. With this great number of different requirements it is easy to see that no one person could even be vaguely familiar with all of the various code requirements adopted throughout the state. This multiplicity of requirements has several obvious disadvantages, it may cause numerous difficulties in the planning, design and construction of structures; it could introduce bias in code enforcement; it may reduce competition in the construction of housing; and it may increase the cost of housing and thereby reduce the supply of housing.

The problem of multiple code requirements is commonly recognized throughout the United States. It is a particularly pertinent problem since it directly effects one of the country's major concerns, the supply and cost of adequate housing. Several states, federal commissions and national organizations are or have studied the problem of building codes and their effects on housing.

In Kansas the problem has been discussed and studied on the state level since the mid 1960's. The office of the State Architect and several reports prepared for the Kansas Department of Economic Development generated enough interest that the 1972 session of the Kansas legislature authorized the study of the

problem of building codes, regulations and standards. The legislature established an advisory committee, to be appointed by the governor, to make recommendations concerning the feasibility of adopting a statewide building code and the administrative structure necessary to enforce such a code.

In order to document the legitimacy of the use of building regulations the historical and legal background of such regulations has been developed. This investigation explains the need for and use of building regulations as a form of land use control. Historical literature from the ancient to the present describes numerous disasters and catastrophes which illustrate the need and use of building codes. From the legal point of view the court has held that building regulations are a valid form of the police power when used to protect the public safety and the general welfare. Several early precedent setting court cases will be examined to illustrate the validity of this method of land use control.

To explore the Kansas situation, surveys of incorporated areas, counties and departments of the State were completed. These surveys revealed the multiplicity of codes in use, conflicts in the jurisdiction of State requirements, and extensive problems in the enforcement and administration of building codes. It also showed that the Uniform Building Code and the National Building Code are the model codes most commonly used in Kansas.

The conclusions of this report recognize the magnitude and complexity of the problem and the need to resolve the code conflict issue. Recommendations are made to expand the study to determine if a feasible enforcement program and administrative structure can be developed on a statewide level.