

The Code Word is SMART growth

Building codes
are reflecting
the demand
for revamping
older structures

By John Van Gieson

The historic city of Newark, New Jersey's largest, had fallen on hard times. Racked by a deadly riot in 1967, Newark spiraled downward into decay, poverty and crime. Its population plummeted from a peak of 473,000 in 1950 to about 273,000 currently.

But today, Newark is going through a remarkable renaissance assisted in large part by a New Jersey building code facilitating renovation of older buildings. Known as the "Rehabilitation Subcode," the new code in Jersey was designed to remove the barriers that made revitalization of vacant and underutilized older buildings prohibitively expensive and ridiculously complicated.

In the Garden State, a densely populated state where half the housing stock was built before 1959, that's a very good idea.

"The Rehabilitation Subcode has led to a 'rehabilitation renaissance' in New Jersey," said Susan Bass Levin, commissioner of the state's Department of Community Affairs. "Because the Rehabilitation Subcode eliminates unnecessary regulatory barriers to the reuse of existing older buildings, projects throughout the state that were once overlooked by developers are finding new life and expanding housing and job opportunities for New Jersey residents."

Smart building codes promoting rehabilitation of older buildings have become a valuable Smart Growth tool. Maryland adopted a smart building code based largely on the New Jersey experience, followed by Rhode Island, New York and other states. Cities that have adopted smart buildings codes include Wilmington, Delaware; Wichita, Kansas; and Kansas City, Missouri.

Existing building codes typically impose requirements that make sense in new buildings but may impede reuse of older buildings.

"Local codes and regulations often act as impediments to Smart Growth, urban revitalization and livable communities," said Ed

McMahon, a senior resident fellow at the Urban Land Institute. "Developers who would protect the environment or restore a historic building are often stymied by inflexible regulations."

"While these laws differ in their specifics, they all share a recognition that while older buildings need to meet standards for safety and accessibility (just as new buildings do), they can be evaluated and regulated differently," McMahon said.

Smart Growth advocates, building code organizations, historic preservationists and home builders all extol the virtues of smart building codes promoting revitalization of older buildings, but the movement has been relatively slow to catch on.

Concerns that rehabilitation codes may compromise the safety of older buildings is also a factor, but smart building code advocates say it shouldn't be.

"All of the rehabilitation codes that I know of have very high standards as far as safety requirements go," Hopkins said.

Given the slow pace at which rehab codes are being adopted, it will take years before other states catch up to New Jersey.

Toward the end of the last century, Newark appeared headed for a place on the scrap heap of wasted cities. To its advantage, however, Newark had a large supply of fundamentally sound old buildings that with the right tools could be convert-

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The best available information on the number of jurisdictions using smart building codes comes from the International Code Council (ICC), which adopted its model International Existing Building Code in 2003.

Shortly after New Jersey adopted its new code in 1997, the U.S. Department of Housing and Urban Development developed its model code, the Nationally Applicable Recommended Rehabilitation Provisions (NARRP) for use by other jurisdictions. The ICC drew heavily on HUD's model code in developing its code for rehabilitation of existing buildings. The National Fire Protection Association has also developed a model rehabilitation code.

"With the endorsement of the two national groups at the core of code writing, we'll hopefully see more state and local jurisdictions adopting rehabilitation codes," said Johns Hopkins, executive director of Baltimore Heritage, a historic preservation organization.

The ICC reported that four states have adopted its existing building code: Michigan, Montana, New Mexico and West Virginia. Local governments have adopted the ICC code in 12 other states.

HUD spokesman Brian E. Sullivan said it comes as no surprise that local officials have been slow to adopt new building codes promoting rehabilitation of existing buildings. "Adoption of a new code format takes many years to be fully accepted in the thousands of local jurisdictions that adopt codes," he said. "Also many communities have not adopted an existing building code but rely on their regular building code."



ed into the centerpieces of a dynamic, revitalized city. The New Jersey Rehabilitation Subcode helped to provide those tools, along with the opening of the \$187 million New Jersey Performing Arts Center in downtown Newark in 1997. For the first time in years, New Jersey residents had a reason to reconsider Newark.

Many existing homes have been or are being rehabilitated in the city's residential areas, and several major redevelopment projects are planned for downtown Newark, including:

- Clinton Street Lofts, a 10-story Beaux Arts office building constructed in 1906 that is being converted into apartments renting for \$800 to \$1,375 a month.
- Hahne-Griffith, an old department store and next-door office building that are being converted into 266 apartments.
- National Newark Building, the city's tallest at 465 feet, an Art Deco office building that opened in 1931, that was converted into a high-tech office tower where cheaper rents are luring tenants across the Hudson River from New York.



- 1180 Raymond Boulevard, a vacant 448-foot Art Deco office building being converted into 195 market-rate apartments and 315 apartments for Seton Hall University Law School students.

The National Newark and 1180 Raymond Boulevard renovations are projects of Cogswell Realty Group, which is spending \$180 million to renovate the historic skyscrapers in the heart of Newark. Cogswell has taken the lead in investing in the new downtown Newark.

The Rehabilitation Subcode was an important factor in redeveloping Newark, Jersey City and other New Jersey cities, said William M. Connolly, director of the New Jersey Division of Codes and Standards. In the first year after the code was

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adopted, rehabilitation spending in the state's five largest cities increased by 60 percent, compared to 1.6 percent the previous year.

"The (1180 Raymond Boulevard) project architect told us that without the new code it would not have been feasible," he said.

The New Jersey code was specifically designed to remove barriers, such as requiring renovators to widen hallways, that were discouraging renovation of old buildings. It creates four distinct categories, repair, alteration, addition and change of occupancy, with separate rules for each.

New Jersey, along with many other jurisdictions, used to apply the "25/50 Rule" to rehabilitation projects. If the estimated cost of the rehabilitation work was less than 25 percent of the building's value, building officials had flexibility to determine

the extent to which the project had to comply with building codes. If the value was between 25 and 50 percent, all of the rehabilitation work had to conform to the building codes. If it was greater than 50 percent, the entire building had to be brought up to code.

The old New Jersey code went even farther, requiring full compliance with light, ventilation, egress and fire safety provisions if the rehabilitation involved more than 5 percent of the building's floor space.

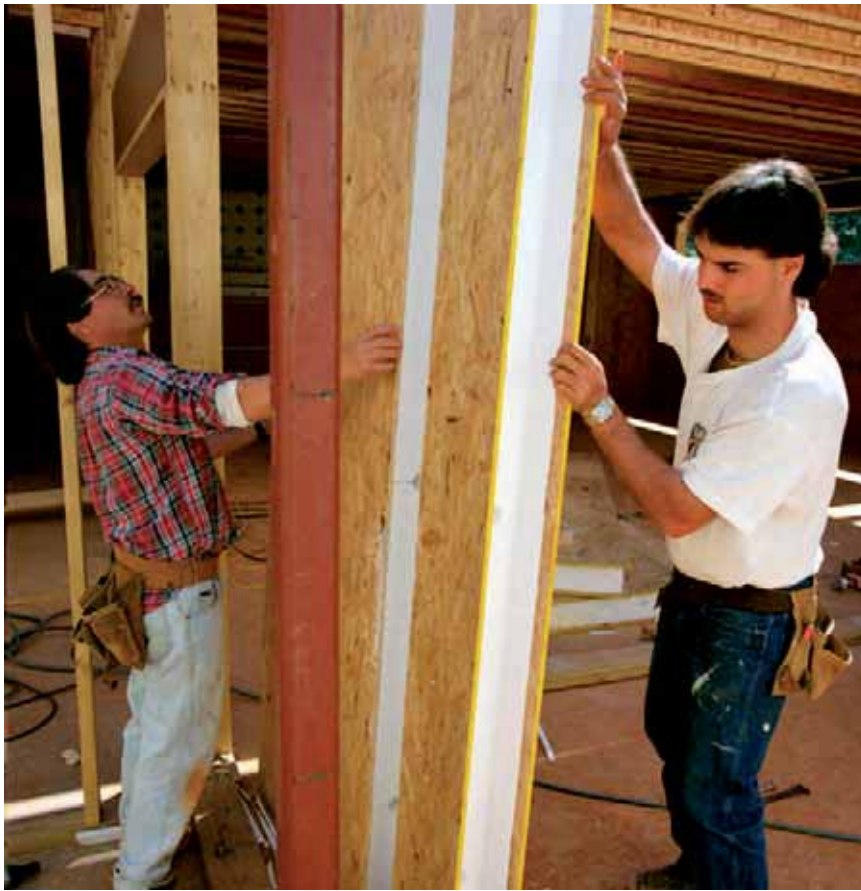
There was a certain amount of flexibility in the old code, but flexibility is frequently incompatible with bureaucracy.

"Codes are ultimately enforced by human beings and some peoples' interpretations vary and that's what it is," Hopkins said. "That aspect of it has not



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changed with Smart Codes; it's still enforced and interpreted by human beings, but what we said we were setting out to do (in Maryland) was codify common sense."

Maryland built on the New Jersey experience in 2000 when it adopted a building rehabilitation code known as Smart Codes. Local governments that embrace the code are rewarded with financial incentives.

The Maryland incentives include priority for participating in state funding programs, historic preservation tax credits, and refunding up to 20 percent of the cost of rehabilitation.

"It made huge numbers of projects feasible that were not feasible before the refunds when into effect," said Harriett Tregoning, chair of the Smart Growth Leadership Institute. She is the former director of the Maryland Office of Smart Growth.

Even political groups are endorsing smart building codes. In an article on its Web site, the New Democrats Online concluded, "In order to save our stock of historic housing, state and local



governments need to make it possible for builders to convert old buildings to new uses. Ultimately, Smart Growth cannot work if you cannot build, if people cannot reuse, and if people cannot redevelop."

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