



State of Minnesota

Construction Codes Advisory Council

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GOVERNMENT AND THE CONSTRUCTION INDUSTRY WORKING TOGETHER

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**CONSTRUCTION
CODES
ADVISORY COUNCIL
2002
Year-end Report**

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EXECUTIVE SUMMARY

The Construction Codes Advisory Council was created by statute to review and advise state agencies on issues relating to building construction in Minnesota. M.S. 16B.76 assigns the Council to review laws, rules, standards, and licensing requirements relating to building construction. The Council is composed of industry representatives and government officials working together on construction matters in Minnesota.

The Construction Codes Advisory Council identified five goals for 2002. The first goal, *to develop a strategy for implementation of a statewide building code in Minnesota*, is well underway with the recommendation and adoption of the Statewide Code Adoption TAG recommendations. The Council determined that 2003 was not the year to initiate this effort in the Minnesota Legislature but in the coming year would spend time and effort building support around the state for the initiative in 2004.

For the second goal, *to review, discuss and select recommendations in the Certification and Licensure TAG report for implementation*, the Council has taken the next step of creating a new Certification and Licensure 2002 TAG to develop specifics for the original TAG's recommendations. The new TAG will focus on the work already under way by the City of Minneapolis and will determine the applicability of moving that effort statewide. The complexity and broad scope of the certification and licensure issue assures that it will be on the CCAC's agenda for implementation in the upcoming year.

The third goal, *to review, discuss and select recommendations from the Healthy Homes TAG report for implementation* and the fifth goal, *to develop a plan and process for implementing a national model Energy Code for Minnesota*, both focus on the energy code and should be viewed together. The passage of S.F. 2680 – Adoption of a new energy code – places a new energy code directly in the path of the Construction Codes Advisory Council with its role as consultant to the Commissioner of Administration in adopting the new code. An Energy Code Advisory Committee has been created but a recommendation from them is not expected until late 2003. The Energy Code and how it impacts a healthy home environment will be a key issue for the Council in 2003 and further into the future.

The final goal of *developing a Website for the CCAC with links to other Websites* has not been enacted. The interest in developing a Website is still high but current State of Minnesota financial concerns have taken away some of the immediacy. To have an interactive Website for all construction codes and issues would be invaluable in the Council's effort for improved communication and effectiveness.

A key ongoing activity of the Council is the coordination and compatibility between the various construction codes in Minnesota. In 2002, state agencies crafted ten new rules in various code areas. The adoption of these rules should take a big step in addressing the coordination and compatibility issue. The final proposed rules should be adopted in the spring of 2003. One code, the National Electrical Code was fully adopted and became effective for Minnesota on September 16, 2002.

Other activities for the Council include tracking legislation that would affect construction in Minnesota and looking at model zoning issues. The CCAC created a TAG to look at ways local government could simplify and reduce the cost of redevelopment in fully developed areas, areas of mixed-use, and compact new development.

For 2003, the Council will review their current goals and identify new goals where appropriate. These goals may focus on the issues of statewide code adoption; the relationship, coordination, and operation of the various codes in Minnesota; the Energy Code and improved indoor air quality; certification and licensure of people in the areas relating to life safety and construction; and, ways local government may simplify and reduce the cost of redevelopment in fully developed areas, including mixed-use and compact new development.

BACKGROUND

The Construction Codes Advisory Council was created by statute to review and advise state agencies on issues relating to building construction in Minnesota. M.S. 16B.76 assigns the Council to review laws, rules, standards, and licensing requirements relating to building construction. It also suggests that the Council may

- recommend ways to eliminate inconsistencies, to streamline construction regulation and construction processes, and to improve procedures within and among jurisdictions;
- review and comment on current and proposed laws and rules to promote coordination and consistency;
- advise agencies on possible changes in rules to make them easier to understand and apply; and
- promote the coordination, within each jurisdiction, of the administration and enforcement of construction codes.

The Council is composed of

- representatives from the four state agencies that administer construction codes – Administration’s Building Codes and Standards Division, Health’s Environmental Health Division, Public Safety’s Fire Marshal Division, and Commerce’s State Energy Office;
- a licensed architect;
- a heating and ventilating contractor;
- a commercial building contractor;
- a plumbing contractor;
- a certified building official;
- a fire service representative;
- a licensed residential building contractor;
- a local government official;
- a member of the construction and building trades unions;
- a building owners and managers representative; and
- a licensed engineer.

The Council is required to report on its activities at the end of each calendar year.

CONSTRUCTION CODES ADVISORY COUNCIL

Name	Representing
Dean Newins, chair <i>(resigned Oct. 2002)</i>	Licensed architect
Thomas Joachim, vice chair	Building Codes and Standards Division, Department of Administration
Janet Streff, secretary	Department of Commerce
Thomas Brace, executive committee member	State Fire Marshal Division Department of Public Safety
Steven Tufenk executive committee member	Construction and Building Trades Union
Bill Barber	Certified building official
Patricia Bloomgren	Department of Health
Ted Ferrara	Heating and ventilating contractor
Katherine Gove	Fire service
Craig Holmen	Commercial building contractor
Duane Javens	Plumbing contractor
Roger Larson <i>(Dean Newins' replacement, Nov. 2002)</i>	Licensed architect
Leonard Pratt	Licensed residential building contractor
Terry Schneider	Local government
Kent Warden	Building Owners and Managers
John Youngstrom	Licensed engineer

2002 CONSTRUCTION CODE ADVISORY COUNCIL ACTIVITIES

CCAC 2002 GOALS

At the April Construction Codes Advisory Council meeting, the following goals for 2002 were identified. They are:

1. Develop a strategy for implementation of a statewide building code in Minnesota;
2. Review, discuss, and select recommendations in the Certification and Licensure TAG report for implementation;
3. Review, discuss, and select recommendations from the Healthy Homes TAG report for implementation;
4. Develop a Website for the CCAC with links to other Websites;
5. Develop a plan and process for implementing a national model energy code for Minnesota.

The Council noted at the time that goals 1. through 3. were attainable this year. Goals 4. and 5. may take longer to fully implement but work on them could be started in 2002.

2002 LEGISLATIVE SESSION

The Construction Codes Advisory Council reviewed and provided input on several pieces of legislation that would affect construction in Minnesota. The Council followed a few pieces of legislation with interest as they passed through the legislative process. Key legislation the CCAC tracked included:

- S.F. 2680 – Adoption of a new energy code.

This legislation was passed and signed by the Governor and is in Chapter 317 of the Minnesota Session Laws 2002.

Several provisions in this legislation were of interest to the Council. The first eliminated certain ventilation system installation requirements under specific energy code sections for new residential construction when relocated to the mechanical code. The second provision authorized the use of local building permit surcharge receipt surpluses for grants for building code education, research, and development.

The third provision required the Commissioner of Administration, in consultation with the Construction Codes Advisory Council, to explore and review the availability and appropriateness of model energy codes for residential construction. Further, the provision requires the adoption of a national model energy code after research and analysis on key areas covered in the code.

- S.F. 819 – Modification in plumbers licensing requirements.

Much of the language contained in S.F. 819 was amended into S.F. 3098 but was later removed during conference committee. Therefore, the law in this area was not changed in 2002.

Dean Newins, in a letter from the Council supporting S.F. 819, wrote, “We believe licensure requirements should be clearly defined for licensees, applicants, and their customers. The Council further believes that criteria should be added to related programs, for example, for building officials and fire officials, to provide consistent inspection procedures and criteria.”

“In the spring of 2001, the Council created the Certification and Licensure Technical Advisory Group (CL TAG) to study issues related to certification, licensure, registration, or other endorsement options for people in the areas relating to life safety and construction. The CL TAG has focused primarily on inspectors, contractors, and installers in the construction area. Also included is a study of the feasibility of creating a comprehensive consolidated resource for all appropriate areas of licensing, certification, or registration. The CL TAG is expected to report its findings, conclusions, and recommendations to the Council in the spring of 2002.”

The CCAC is still supportive of this concept and is expected to support similar efforts in the future.

- Budget issues – During the 2002 Legislative session, \$2 million from the building permit surcharge fund was removed from this fund and placed into the state’s General Fund to address statewide budget shortfall issues.

CODE ADOPTION

Background – Two years ago, the Construction Codes Advisory Council initiated an effort to have coordination and compatibility between the various codes which impact construction in Minnesota. Four state agencies (Administration, Health, Public Safety, and the State Board of Electricity) administer nine major codes (Electrical, Accessibility, Manufactured Housing, Elevators, Fire, Plumbing, Building, Mechanical, and Energy) in Minnesota. Historically, issues have risen on incompatibility between codes and difficulty in administrating the codes because of these inconsistencies.

The Council, in an August 2000 action, identified the International Code as the standard to provide some level of coordination and compatibility between the various codes. The Council encouraged each agency, through an agency advisory committee, to review the International Code. If an agency advisory committee chooses to recommend an alternative code, then the committee needs to justify why the other code(s) should be adopted instead of the International Code. Further, if an alternative code is recommended, the advisory committee needs to identify how the alternative code will be coordinated with all other codes in Minnesota.

Final Proposed Rules – The agency advisory committees met, came to agreement in their various areas and crafted ten new rules in the areas of administration of the Minnesota State Building Code, Building Official Certification, Provision of the Minnesota State Building Code, Adoption of the International Building Code, Special Fire Protection Systems, Adoption of the International Residential Code, Guideline for Rehabilitation of Existing Building, the Minnesota Plumbing Code, Mechanical Code, and amendments to the Minnesota State Fire Code. The final proposed rules have a couple of administrative hurdles to overcome but should be fully adopted in the spring of 2003.

Electrical Code Takes Effect – The National Electrical Code was fully adopted and became effective for Minnesota on September 16, 2002. The code was adopted without amendment.

TECHNICAL ADVISORY GROUP (TAG) ACTIONS

Since 1998, the CCAC has used a collection of subcommittees called Technical Advisory Groups (TAGs) for discussion, research, and advisement on a number of assigned topics. The TAGs consist of individuals or organizations with interest in or insight into specific issues. The TAGs and their members have been a valuable asset and resource for the CCAC.

Certification and Licensure TAG – Toward the end of 2001, the CCAC formed a technical advisory group (TAG) to research, discuss, inform, and recommend to the Council on issues related to certification, licensure, registration, or other endorsement options for people in the areas relating to life safety and construction. The Certification and Licensure TAG focused primarily on inspectors, contractors, and installers in the construction area. Also included in the scope of the study was the feasibility of creating a comprehensive consolidated resource for all appropriate areas of licensing, certification, or registration.

The TAG reached a number of recommendations and presented them to the CCAC in March 2002. They include:

- Construction occupations that are unregulated and affect public safety must come under regulation by the State of Minnesota.
- The State of Minnesota should work toward the goal of regulation being statewide in scope and administered by a statewide agency. A statewide agency should have, at a minimum, the following powers:
 - (1) Establish and enforce minimum standards for credentialing.
 - (2) Establish disciplinary procedure.
 - (3) Establish and maintain a sharable uniform database.
 - (4) Establish and maintain a minimum fee structure.
- Any state regulation of an occupation should regulate three areas:
 - (1) The business aspects of the occupation:
 - (a) Responsibility (accountability) to consumers for actions of workers and/or subcontractors.

- (b) Financial security (insurance, bond, recovery fund, etc.).
- (c) Accountability for compliance with business, tax, and employment law.
- (d) Qualified employees and/or independent contractors.
- (2) The technical supervision of the occupation:
 - (a) Qualified employees and/or independent contractors.
 - (b) Direct and immediate technical supervision of the worker.
 - (c) Greater scope of authority and technical competency than individual worker.
 - (d) "Natural person." (not a corporation)
- (3) The technical competency of the individual worker:
 - (a) "Natural person." (not a corporation)
 - (b) Technical competency.
 - (c) Levels of competency.
- There are a number of methods to demonstrate and maintain competency:
 - (1) Education
 - Mandatory and elective
 - (2) Experience
 - (3) Examination
 - (4) Continuing education
- Construction occupations that are presently regulated by the State of Minnesota may continue their different types of regulation, until a uniform statewide regulation system is enacted.
- Statewide occupation regulation should supplant local occupational regulation.
- All code enforcement occupations should be regulated by the state by requiring licensing, certification, or registration in each area as determined necessary to provide effective enforcement, with national licensing, certification, or registration preferred.
- Any system of regulation should provide an incentive for continuing education and advancement within the occupation area.
- Minnesota construction codes should be adopted statewide.

The Council reviewed and discussed the recommendations of the TAG. It was noted that the City of Minneapolis was presently proposing licensure changes and this, along with developing the next round of more specific recommendations, will be the focus of a new Certification and Licensure TAG for 2002.

Certification and Licensure 2002 TAG – The CCAC, in the late summer of 2002, created the Certification and Licensure 2002 TAG to continue to concentrate on developing credentialing of people for construction skills pertaining to life safety.

The scope of the new TAG is to review and research the background and documents of the City of Minneapolis' effort; collaborate with the work team being called together by the City of Minneapolis; review and make recommendations on incorporating the City of Minneapolis' effort in licensing or credentialing into a statewide endeavor, including areas of agreement or conflict in greater Minnesota; review and make recommendations on the implementation of a statewide credentialing program, including testing and monitoring of people for competency and compliance. It is expected the Certification and Licensure 2002 TAG will present its findings, conclusions, and recommendations to the Council in early 2003.

Model Zoning TAG – The Construction Codes Advisory Council, in the summer of 2002, created the Model Zoning Technical Advisory Group (MZTAG) to recommend ways that local government may simplify and reduce the cost of redevelopment in fully developed areas and of mixed-use and compact new development.

The MZTAG will study issues related to the regulation of residential development and redevelopment and the impact regulation has on the cost of development and redevelopment. The MZTAG will compile examples of regulatory changes that have been implemented that promote compact and mixed-use development and redevelopment or that reduce or avoid costs. Models for voluntary use by local units of government will be developed. The MZTAG will also examine ways that state government can assist local units of government in simplifying and reducing the costs of development and redevelopment and make recommendations to the Council. The MZTAG is expected to detail its findings, conclusions, and recommendations to the Council by early 2003.

Statewide Code Adoption TAG – In 1998, the Statewide Code Adoption Technical Advisory Group (TAG) explored and made recommendations on the need for statewide building code adoption. In 2000, the Construction Codes Advisory Council (CCAC) adopted the TAG's recommendation (among others) that "*the Minnesota State Building Code (MSBC) should be adopted as the construction standard for all new or remodeled construction projects throughout the state.*" In 2002, the Council asked the TAG to reconvene and assist the CCAC in developing strategies for implementing the statewide building code recommendation. The challenge for the TAG would be to: 1) develop various implementation scenarios; 2) identify specific options in the scenarios and how they might work; and, 3) craft responses to the major issues raised relating to statewide code adoption.

Some of the TAG original members plus additional interested parties met to review the Council's challenge and submitted the following recommendations to the CCAC. They include:

1. A minimum building standard be established statewide in Minnesota and that standard should be the Minnesota State Building Code including the provisions on design criteria.

2. The Building Code should be enforced for counties in excess of 10,000 population and for cities with a population of 2,500 people or more. Counties and/or cities under the population limits may enforce the code, if they so determine.
3. The Building Code would be enforced through inspections, and inspections could be done in one of four ways.
4. The inspection and enforcement of the Building Code would be paid for through a fee-for-service process.
5. To provide funds to initiate the enforcement of the Building Code, the local unit of government would be allowed to charge and collect a fee for up to one year prior to the full implementation of the enforcement program.

The Construction Codes Advisory Council approved the Statewide Code Adoption Committee's recommendation for statewide adoption of the building code together with the recommendation for the phase-in for inspection and will develop an implementation strategy in 2003. Any legislation pertaining to this issue would probably not be introduced until the 2004 session.

WORK ON ADOPTION OF MODEL ENERGY CODE

The Building Codes and Standards Division, Department of Administration has reported to the Council on the process being followed for the adoption of an updated state energy code. MS 16B.6175 directs that "the commissioner of administration, in conjunction with the construction codes advisory council, shall explore and review the availability and appropriateness of any model energy codes related to the construction of single one- and two- family residential buildings. In consultation with the council, the commissioner shall take steps to adopt the chosen code with all necessary and appropriate amendments."

The division has formed a technical advisory committee to evaluate the model codes and other relevant data and make a recommendation on an updated energy code with appropriate amendments. The committee has balanced representation from builders, building scientists, building officials, design professionals, agencies, and other interested parties and will be split into two subcommittees, one residential and one commercial. Meetings will be open to the public, with an even larger group of interested parties notified by e-mail of meeting schedules. Background information is being gathered. Grants have been issued for studies on identifying sources of water in walls and on foundation insulation and its relation to vapor movement. The 2003 model energy codes should be available soon for the committee to start work.

ORGANIZATION AND OPERATION of the CONSTRUCTION CODES ADVISORY COUNCIL

Background – Over the past few years, the CCAC has worked on the issues of code operation and administration structure. In 2002, it continued this work by identifying customers for the code and the CCAC that include the owner/user of the facility, design and contract professionals, code officials, and an expectation of quality on the project and of construction quality and safety as a way of life in Minnesota. Further, the Council reviewed strategies focusing on a structure for the administration and operation of codes in Minnesota. The Council then turned its concentration to developing a pathway of communication between the Construction Codes Advisory Council, construction organizations in the state, the Minnesota Legislature, state agencies, and the citizens of the state who ultimately are the key customers as building occupants and users.

Member Connections of Influence List – The Council developed the following list of various groups, association, and organizations that have connection with the CCAC or construction in Minnesota. The Council will use the contact list as a way to develop two-way communication with its constituents and strengthen its influence on key construction issues in Minnesota.

CCAC Member	Key Contacts
Building Owners and Managers	<ul style="list-style-type: none"> ▪ BOMA MN – Building Owners and Managers of Minnesota ▪ NAIOP MN Chapter – National Association of Industrial and Office Properties ▪ MSCA – Minnesota Shopping Centers Association ▪ MMHA – Minnesota Multi-housing Association
Licensed Residential Building Contractor	<ul style="list-style-type: none"> ▪ BAM – Building Association of Minnesota ▪ NAHB – National Association of Home Builders
Commercial Building Contractor	<ul style="list-style-type: none"> ▪ ABC – Associated Builders and Contractors ▪ AGC – Associated General Contractors
Heating and Ventilation Contractor	<ul style="list-style-type: none"> ▪ MN ACCA – Minnesota Air Conditioner Contractors of America ▪ SMARCA – Sheet Metal, Air Conditioning and Roofing Contractors Association of Minnesota, North Dakota and South Dakota, Inc. ▪ MCA – Minnesota Mechanical Contractors Association ▪ ABC – Associated Builders and Contractors
Certified Building Official	<ul style="list-style-type: none"> ▪ AMBO – Association of Minnesota Building Officials ▪ ICBO/ICC – Minnesota chapters – International Conference of Building Officials
Licensed Architect	<ul style="list-style-type: none"> ▪ LA – Licensed Architects ▪ AIA MN – American Institute of Architects, Minnesota ▪ Minnesota State Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design

CCAC Member	Key Contacts
Licensed Engineer	<ul style="list-style-type: none"> ▪ Minnesota State Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ▪ CEC – Consulting Engineers Council, Minnesota ▪ CE – American Society of Civil Engineers, Minnesota Section ▪ CE Nat’l – American Society of Civil Engineers, National ▪ American Consulting Engineers Council
Plumbing Contractor	<ul style="list-style-type: none"> ▪ MN PHCC – Minnesota Association of Plumbing-Heating-Cooling Contractors ▪ MCA – Mechanical Contractors Association ▪ ABC – Associated Builders and Contractors ▪ MNWC – Minnesota Water Contractors (Well-drillers) ▪ Minnesota Water Conditioning Contractors
Fire Service Representative	<ul style="list-style-type: none"> ▪ MSFCA – Minnesota State Fire Chief’s Association ▪ FMAM – Fire Marshal’s Association of Minnesota ▪ NFPA – National Fire Protection Association ▪ ICC – International Codes Council
Labor Unions	<ul style="list-style-type: none"> ▪ Coalition of Trades
Local Government	<ul style="list-style-type: none"> ▪ League of Minnesota Cities; staff and lobbyists ▪ Association of Metropolitan Municipalities ▪ Counties and Townships
State Agencies	<ul style="list-style-type: none"> ▪ Department of Administration, Building Codes and Standards Division ▪ Department of Commerce, State Energy Office ▪ Department of Health, Environmental Health Division ▪ Department of Public Safety, Fire Marshal Division ▪ Board of Electricity (Invited participant)

Technical Advisory Group (TAG) membership selection process – The Council used the new connections list to select the membership for the 2002 TAGs previously mentioned in this report. The steps in the new selection process include:

1. Identification and selection of key viewpoints or organizations which should be represented on the TAG;
2. Identification of which CCAC member(s) would be most appropriate to select a representative to present that viewpoint;
3. Selection of TAG members by identified CCAC member(s) within an appropriate time frame, and;
4. Notifications, including background information on person selected, communicated to convener of initial TAG meeting and ultimately back to the CCAC.

The process for a TAG to communicate its findings, conclusions, and recommendations to the Council has not changed.

UPCOMING ISSUES

The Construction Codes Advisory Council identified five goals early in the year (see page 3 of this report). The first goal, *to develop a strategy for implementation of a statewide building code in Minnesota*, is well underway with the recommendation and adoption of the Statewide Code Adoption TAG recommendations. The Council determined that 2003 was not the year to initiate this effort in the Minnesota Legislature but in the coming year would spend time and effort building support around the state for the initiative in 2004.

For the second goal, *to review, discuss and select recommendations in the Certification and Licensure TAG report for implementation*, the Council has taken the next step of creating a new Certification and Licensure 2002 TAG to develop specifics for the original TAG's recommendations. The new TAG will focus on the work already under way by the City of Minneapolis and will determine the applicability of moving that effort statewide. The complexity and broad scope of the certification and licensure issue assures that it will be on the CCAC's agenda for implementation in the upcoming year.

The third goal, *to review, discuss and select recommendations from the Healthy Homes TAG report for implementation* and the fifth goal, *to develop a plan and process for implementing a national model Energy Code for Minnesota*, both focus on the energy code and should be viewed together. The passage of S.F. 2680 – Adoption of a new energy code – places a new energy code directly in the path of the Construction Codes Advisory Council with its role as consultant to the Commissioner of Administration in adopting the new code. An Energy Code Advisory Committee has been created but a recommendation from them is not expected until late 2003. The Energy Code and how it impacts a healthy home environment will be a key issue for the Council in 2003 and further into the future.

The final goal of *developing a Website for the CCAC with links to other Websites* has not been enacted. The interest in developing a Website is still high but current State of Minnesota financial concerns have taken away some of the immediacy. To have an interactive Website for all construction codes and issues would be invaluable in the Council's effort for improved communication and effectiveness.

The passage of key legislation this year, the work of the advisory committees toward building a system of coordinated construction codes, and the creation and use of the various TAGs have all been important steps in accomplishing the work of the Council and the intent of the original legislation. There is still more work to be done. The Council will review its goals from the past year and identify new goals for 2003. These goals may potentially focus on the issues of statewide code adoption; the relationship, coordination, and operation of the various codes in Minnesota; certification and licensure of people in the areas relating to life safety and construction; ways local government may simplify and reduce the cost of redevelopment in fully developed areas, including mixed-use and compact new development; and the Energy Code and improved indoor air quality.

The Council is interested in working with the Legislature and being a resource on reviewing and addressing issues related to construction in Minnesota.

