

미래지향적인 법제를 위한 건축법 정비 방향과 과제

Directions for Revising the Building Act
Toward a Future-Oriented Legal System

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Summary

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Introduction

The 「Architecture Act」, enacted in 1962, has been amended multiple times to respond to social changes such as urbanization, industrialization, and technological advancement. However, its accumulated provisions and complex structure have deepened administrative confusion and uncertainty in legal application. Delays in architectural administrative procedures are intensifying public and corporate inconvenience and increasing economic burdens, necessitating measures to enhance the transparency of complex and diverse architectural regulations and administration.

Although the Building Act has been amended a total of 155 times, most revisions have been merely formal adjustments following amendments to other laws or partial clause revisions. Each time construction-related accidents occur or new demands arise, additional regulations or patchwork amendments are added, leading to a chaotic hierarchy and complex relationships with other laws, often resulting in conflicts. It has limitations in responding to the demands of the times, such as changes in the socio-economic environment and technological advancements, and is criticized for its short-sighted approach to legal revision. Consequently, there have been persistent calls for a comprehensive overhaul of the Building Act to resolve issues related to building administration and to improve its pre-

modern legislative format. However, progress has been stalled due to the highly complex and ambiguous nature and content of the Building Act, coupled with its vast system of related statutes and subordinate regulations.

Therefore, this study was conducted to review the major issues raised in previous discussions concerning the Building Act, identify problems in its nature and structure, analyze key issues for architectural administration in novation and regulatory reform, and propose practical legislative alternatives for the efficient revision of the Building Act. Through this process, it aimed to provide foundational data for the legislative work required to revise the Building Act.

Key Issues in Revising the Statutory Framework of the 「Architecture Act」

The current 「Architecture Act」 (Act No. 20424, partially amended on March 26, 2024) consists of 12 chapters, 147 articles, and supplementary provisions. It is supplemented by the 「Architecture Act Enforcement Decree」, the “Enforcement Rules of the Building Act,” as well as numerous subsidiary regulations such as the “Rules on the Entry and Management of Building Registers,” and administrative rules like the “Building Structural Standards” and “Landscape Standards.” The Building Act specifies minimum standards of public interest to preserve the public nature inherent in architecture as a fundamental element of cities. It has established minimum standards to secure spaces where performance aspects like safety, health, efficiency, and comfort are maintained, representing a compromise between reality and ideal standards.

While the 「Architecture Act」 has undergone two full revisions, the 2008 revision focused on simplifying the law for easier understanding; the only substantive full revision was in 1991. However, the 1991 revision, while strengthening content through expanded provisions for delegating authority to local governments, introducing a pre-determination system, and

establishing a public open space system, and formally reorganizing and deleting clauses, falls short of being considered a full revision. Since its enactment, the scope of the Building Act has expanded to respond to changes in urban and industrial structures. However, regulations of differing natures—such as administrative procedures, technical standards, and land use classifications—coexist within a single law. This has led to reduced systematic coherence between statutes, increased ambiguity in clause interpretation, and raised questions about the Act's ability to adequately respond to changing social and policy conditions. Consequently, the need for continuous revision has been consistently raised.

Accordingly, based on the results of a task force (TF) operation initiated in 2022 following a request from the National Architecture Policy Committee to review the necessity of a full revision of the Building Act, key issues for revising the Building Act were identified. These included uncertainties in building administration, the complexity of the building use classification system and its inconsistency with other statutes, the rigid operation of specification-centered building standards, and the ambiguity of individual provisions. Structural problems within the building law system. The current status and issues for each of these key issues were analyzed through prior research.

Implications from Overseas Building Law Systems

Chapter 3 compares and analyzes the building law systems and operational methods of major countries such as the United States, the United Kingdom, and Japan. While direct comparisons are difficult because overseas building laws are tailored to each country's characteristics, this analysis examines them from the perspectives of legal frameworks, use classifications, and administrative procedures.

The United States operates an autonomous adoption system at the state level, not the federal level, using the International Building Code (IBC)

established by the International Code Council (ICC) as the standard. This enables legal operation tailored to regional characteristics and industrial structures, particularly institutionally accommodating a performance-based approach.

The UK uses the Building Act 1984 as its fundamental building administration law, establishing a basic two-tier structure of Act- Regulations. In practical operation, it functions as a three-tier system through non-mandatory technical guidance, which includes examples and design guidelines. This allows for frequent updates, creating a system that ensures regulatory flexibility and innovation.

Japan's system is structured as follows: the Building Standards Act (Act), the Building Standards Act Enforcement Order (Cabinet Order), the Building Standards Act Enforcement Rules (Ministerial Order), and Ministry of Land, Infrastructure, Transport and Tourism Notifications (Notification). It is supplemented by ordinances (enacted by local assembly) and rules (enacted by local government heads) established by local governments.

Analysis reveals that all three countries set the purpose of their building laws as “ensuring public safety and enhancing the predictability of building administration.” To achieve this, they are establishing simplified legal frameworks, separating administration from technical aspects, and building flexible regulatory systems centered on performance standards.

Direction for Revising the Building Law System

Chapter 4 presents the direction for revising the building law system. To gather insights on challenges and improvement demands felt in the field, in-depth interviews were conducted to collect opinions by topic. The in-depth investigation targeted experts in related fields and public officials, continuously identifying formal and substantive issues within the 「Building Act」 and discussing improvement alternatives. Furthermore, to gather broader opinions, a survey was conducted targeting architects to identify

problems related to the building laws and regulations. The survey was administered to registered architects through the Korean Institute of Registered Architects. The results of the in-depth investigation and expert survey confirmed that overall, the following issues were recognized as requiring improvement: the lack of clarity in permit administration, the complexity of the land use classification system, the rigid operation of building standards, and confusion within the legal framework.

Based on this, four major directions for revising the 「Architecture Act」 were proposed. First, the law should be supplemented to improve building permit administration by distinguishing between discretionary and mandatory actions of the permitting authority, thereby enhancing predictability for citizens. Clarifying permit-related laws and regulations and integrating the management of review, evaluation, certification, and consultation procedures is necessary to reduce unnecessary duplication and delays.

Second, the land use classification system, currently consisting of 29 major categories and dozens of subcategories, is inconsistent with other laws and regulations. The ambiguous interpretation of multiple or composite uses causes confusion. Therefore, unreasonable items should be revised, and the system should be restructured into a rational and flexible classification capable of accommodating new building types.

Third, expanding the application of performance-based building standards. The current specification-based approach restricts creative design and the adoption of new technologies. Groundwork must be laid to simultaneously ensure the safety and innovation of large-scale and special buildings by expanding the application of performance-based design. This allows for diverse interpretations and alternatives, provided the performance targets are met.

Fourth, reorganizing the framework of building laws and regulations. Building standards currently dispersed across numerous laws, guidelines, and notices should be managed centrally. The intermingling of general provisions, substantive provisions, and supplementary provisions should be streamlined

into a simplified system easily understandable by the public and practitioners. A comprehensive overhaul of the entire building law framework, from a legislative drafting perspective, should be pursued to reduce conflicts between laws and ensure consistency across all building regulations.

Conclusion and Future Tasks

Revising the 「Architecture Act」 requires more than simple legal amendments; it demands comprehensive restructuring encompassing subordinate regulations—enforcement decrees, enforcement rules, and administrative rules—and ensuring systematic coherence and consistency with related statutes. This study analyzed the structural limitations and operational issues of the current building law system from multiple angles to explore systematic revision plans for the future-oriented operation of the Building Act. As a result, it proposed key revision directions: clarifying building administration, rationally reorganizing the use classification system, expanding performance-based building standards, and restructuring the legal framework.

The original plan for this study was to derive specific improvement proposals for key issues requiring reform. However, an examination of the findings from prior research and awareness surveys revealed significant differences in perceptions regarding individual issues. This made it difficult to conduct discussions and gather consensus within the limited timeframe. Therefore, the study proposes the need for follow-up tasks and suggests the following four major tasks for the successful implementation of the Building Act reform: ① Establishing an expert group and a permanent review system, ② Conducting a comprehensive analysis of laws, regulations, and operational cases, ③ Strengthening public discourse and stakeholder participation, ④ Systematically restructuring the framework according to legislative techniques).

Keywords

Building Act, Legal System, Use Classification, Performance-Based Criteria, Building Administration, Revising the Building Act