

HOUSE No. 48

Accompanying the first recommendation of the State Board of Housing (House, No. 47). Mercantile Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Six.

AN ACT RELATING TO THE CONSTRUCTION, MAINTENANCE AND USE OF PLACES FOR HUMAN HABITATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter one hundred and forty-three of the
2 General Laws is hereby amended by adding at the
3 end thereof the following eight new sections:—

4 *Section 62.* The commissioner of public safety,
5 with the approval of the chairman of the state
6 planning board, the commissioner of public health,
7 the state fire marshal and the chairman of the state
8 board of housing sitting jointly, shall make and may
9 thereafter amend and revoke rules and regulations
10 not inconsistent with law relating to the location,
11 design, construction and maintenance of buildings
12 designed or used for human habitation. Such rules
13 and regulations shall establish minimum standards
14 for such buildings of fitness for human habitation,
15 with reasonable regard to the health, safety, com-
16 fort and welfare of the occupants, the prevention

17 of fire and the spread of disease, and to the pro-
18 tection of purchasers and tenants from latent defects
19 and deficiencies. The commissioner of public safety
20 shall within ten days after adoption thereof deposit
21 a copy of said rules and regulations with the state
22 secretary, and shall forthwith cause three copies
23 of said rules and regulations to be forwarded by
24 registered mail to the officer or board in each city
25 or town charged with the duty of issuing permits
26 for the construction of buildings, if there is such
27 board, or to the mayor of each city or the selectmen
28 of each town in which there is no such officer or
29 board. One of the copies of such rules and regulations
30 shall be available to the public at all reasonable
31 hours in the office of the clerk of each city and town.
32 Such rules and regulations shall become effective
33 throughout the commonwealth thirty days after
34 the adoption thereof.

35 *Section 63.* Such rules and regulations shall be
36 applicable to buildings constructed after the adoption
37 thereof, or altered after the adoption thereof when
38 such alteration would amount to reconstruction,
39 extension or structural change; or to buildings
40 used for human habitation which had not been so
41 used at the time of the adoption of said rules and
42 regulations. Rules and regulations may be made in
43 like manner which shall apply to the maintenance
44 of buildings used for human habitation in existence
45 at the time of the adoption thereof, as well as to
46 those thereafter constructed or altered. Special
47 rules and regulations may be adopted for buildings
48 designed for temporary or seasonal use; but no such
49 building shall be devoted to other than temporary
50 or seasonal use unless it complies with the rules and

51 regulations applicable to places of human habitation
52 designed for permanent and continuous use. Special
53 rules and regulations may also be adopted for
54 buildings located in sparsely settled or rural areas.
55 *Section 64.* Rules and regulations adopted under
56 section sixty-two shall require that no building shall
57 be constructed as a dwelling for human habitation,
58 or altered so as to be used for such purpose when
59 such alteration would amount to reconstruction,
60 extension or structural change, until a copy of the
61 plans and specifications, including those for plumb-
62 ing, heating, ventilation and sanitation, in as simple
63 a form as is consistent with the purpose of section
64 sixty-two, has been deposited, by or on behalf of the
65 owner of the land upon which such building is to be
66 constructed or stands, with the inspector of buildings,
67 or board or officer having the powers and duties of
68 the inspector of buildings, in the city or town in
69 which such land is located, and a permit has been
70 granted by him for such construction or alteration.
71 *Section 65.* The provisions of sections sixty-two
72 to sixty-nine, inclusive, shall be enforced by the
73 commissioner of public safety as hereinafter provided.
74 In every city or town in which there is a board or
75 officer performing the duties of an inspector of
76 buildings, such board or officer shall enforce the
77 provisions of sections sixty-two to sixty-nine, inclu-
78 sive, as representative of the commissioner of public
79 safety. In every other city the mayor, and in every
80 other town the board of selectmen, shall appoint an
81 inspector of buildings, and such city or town shall
82 provide a suitable office for him and reasonable
83 compensation for his services. Such inspector shall
84 enforce the provisions of said sections as representa-

85 tive of said commissioner. Any town of not more
86 than five thousand inhabitants may join with one
87 or more other such towns in the same part of the
88 commonwealth in the appointment of an inspector
89 of buildings, whose powers and duties shall extend
90 to all of such towns. Such towns shall determine
91 by agreement the manner of appointment and the
92 compensation of such inspector, the location of his
93 office and the apportionment of the expense thereby
94 incurred. If any city or town neglects or refuses to
95 appoint an inspector of buildings, or to join in the
96 appointment of such an inspector, the commissioner
97 of public safety shall appoint an inspector of build-
98 ings for such city or town, who shall have all of the
99 powers and duties of an inspector of buildings ap-
100 pointed by the mayor of such city or the selectmen
101 of such town. The commissioner of public safety
102 shall certify to the state treasurer the cost to the
103 commonwealth thereby incurred, and the state
104 treasurer shall issue his warrant requiring the asses-
105 sors of such city or town to assess a tax to said
106 amount, and said amount shall be collected and
107 paid to the state treasurer in the same manner and
108 subject to the same penalties as state taxes.

109 *Section 66.* Any person aggrieved by the refusal
110 of an inspector of buildings, or of a board or officer
111 having the powers of an inspector of buildings, in
112 any city or town, to grant a permit under section
113 sixty-four may within ten days after such refusal
114 appeal in writing to the commissioner of public
115 safety, and if said commissioner determines that,
116 under the applicable rules and regulations adopted
117 under section sixty-two, the appellant was entitled
118 to a permit, he shall direct the board or officer from

119 whose refusal an appeal was taken to grant such
120 permit. If the appellant was not entitled to such
121 permit under said rules and regulations, said com-
122 missioner may, with the approval of the four public
123 officers given power by section sixty-two to make such
124 rules and regulations, grant a variance from the
125 requirements of the rules and regulations when,
126 owing to conditions especially affecting a particular
127 building, but not generally affecting the city or town
128 or the area in which it is, or is to be, located, a literal
129 enforcement of the provisions of the rules and regula-
130 tions would involve substantial hardship to the
131 applicant; and when desirable relief can be granted
132 without substantial detriment to the public and
133 without substantially derogating from the intent
134 and purpose of the regulations. If a variance is so
135 granted, said commissioner shall notify the mayor
136 of the city or the selectmen of the town in which the
137 building to which the variance relates is, or is to be,
138 located of his decision by registered mail, and shall
139 direct a permit to be issued in accordance with his
140 decision.

141 *Section 67.* If such a variance is granted, the
142 mayor of the city or the selectmen of the town in
143 which the building to which the variance relates is,
144 or is to be, located, or any person adversely affected
145 by such grant of a variance may appeal to the superior
146 court sitting in equity for the county in which the
147 city or town in which the application was made is
148 situated; provided, such appeal is filed in said court
149 within thirty days after notice of such decision was
150 mailed as provided in section sixty-six. Said court
151 shall hear all pertinent evidence and determine the
152 facts, and upon the facts as so determined annul

153 such decision if found to exceed the authority of the
154 commissioner, or make such other decree as justice
155 and equity may require. The foregoing remedy shall
156 be exclusive, but the parties shall have all rights of
157 appeal and exceptions as in other equity cases.

158 *Section 68.* The supreme judicial court or superior
159 court may, upon the petition in equity of the com-
160 missioner of public safety or his representative,
161 restrain the construction, alteration, use, occupation,
162 sale or advertising for sale, or rental or advertising
163 for rental, of a building in violation of sections sixty-
164 two to sixty-nine, inclusive, or of rules and regulations
165 adopted thereunder.

166 *Section 69.* Nothing in sections sixty-two to sixty-
167 eight, inclusive, shall affect the validity and effect of
168 any general or special law or of any ordinance or
169 by-law relating to buildings or to any of the fixtures
170 or equipment used therein, or impair the power of
171 any city or town to adopt an ordinance or by-law
172 under section three or any other pertinent provision
173 of law. If any provision of statute, ordinance, by-
174 law, rule or regulation at any time in force is incon-
175 sistent with the rules and regulations adopted under
176 sections sixty-two to sixty-eight, inclusive, the more
177 restrictive provisions shall prevail.

