

# HOUSE . . . . No. 117

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## The Commonwealth of Massachusetts

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STATE PLANNING BOARD,  
11 BEACON STREET, BOSTON 8, November 3, 1948.

*To the Honorable Senate and House of Representatives.*

In compliance with General Laws, chapter 30, section 33, as amended, I have the honor to submit herewith, on behalf of the State Planning Board, and by its direction, the portions of its annual report which involve recommendations for legislative action, together with drafts of bills embodying the legislation recommended. These drafts have been seasonably submitted to the Counsel of the House of Representatives for advice and assistance as to form thereof.

ELISABETH M. HERLIHY,  
*Chairman, State Planning Board.*

## RECOMMENDATIONS.

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### 1. UTILIZATION OF PARKING METER REVENUES.

The constant increase in the use of motor vehicles has brought about a serious problem to all cities and large towns, — the problem of parking.

Many cities have availed themselves of the advantages of the parking meter in regulating short-time curb parking, but for the long-time parker the meter cannot be, nor does it pretend to offer, the final solution.

Off-street parking areas are seriously needed in most of the larger municipalities, but the cost of such areas has been in many cases prohibitive.

Parking meters are found to produce annually from \$80 to \$120 per meter, and are thus a source of revenue which may be available for the regulation of parking and other traffic activities incident thereto within a reasonable interpretation of the 1937 opinion of the justices of the Supreme Judicial Court. In the belief that such revenues should be available for the acquisition of municipal off-street parking areas, the State Planning Board recommends legislation to provide for such use of those funds.

### 2. OCEAN BEACHES.

One of the greatest assets of the Commonwealth of Massachusetts from the standpoint of recreation as its ocean frontage. Although there are 900 miles of ocean beaches, only about 16 miles have been developed as public beaches for the benefit of the people of Massachusetts, as well as for the enjoyment of the vast number of vacationists from all sections of the country. Of these 16 miles, 12½ miles are under the jurisdiction of the Metropolitan District Commission, and only the 3½ miles long Salisbury Beach is state owned and developed.

The State Planning Board has for some years recommended the acquisition by the Department of Conservation of several beaches before they become prohibitive in cost and it becomes too late to save these recreational advantages for the people of Massachusetts.

Therefore the Board again recommends the acquisition by the Department of Conservation of four beaches to be purchased and developed within the next few years. These are —

Wingaersheek Beach at Gloucester.

Duxbury Beach at Duxbury.

Horseneck Beach at Westport.

Scusset Beach in Sandwich.

### 3. REGULATING THE REMOVAL OF SOIL, LOAM, SAND OR GRAVEL.

Of the 133 zoning ordinances and by-laws in the State, approximately one third have included regulations with regard to the removal of soil, loam, sand or gravel, and in several instances the provision has been sustained by the court. On the other hand, in the absence of a zoning by-law, attempts made by local communities to provide for such regulation by means of a special by-law have been held invalid, the court at the same time pointing out that section 21 of chapter 40 of the General Laws provides that "from time to time the legislature has seen fit specifically to add to the purposes for which ordinances or by-laws may be adopted." As it now stands this relates to such matters as snow and ice removal, regulations for sewer and water facilities, and so forth. In order that removal of earth products may be subject to similar regulation by a local community in the absence of a comprehensive zoning by-law, the State Planning Board recommends legislation to regulate the removal of soil, loam, sand or gravel.

### 4. PLANNING BOARD APPROVAL OF SUBDIVISION PLANS.

Section 810 of chapter 41 of the General Laws, constituting part of the general revision of the planning law



enacted in 1947, includes a provision that a Register of Deeds shall not record a plan of proposed ways in a subdivision unless the plan has been approved by the Planning Board, provided the ways are situated in a town which has adopted the 1947 Municipal Planning Enabling Act.

Complaint has been made that this provision is difficult of enforcement for the reason that there is no way that the Register of Deeds can tell whether the ways shown on the plan were existing ways laid out by the public authorities or proposed ways to be constructed by the person making the subdivision.

In order to meet this problem, therefore, the State Planning Board recommends legislation providing that no rights can be established in proposed ways expressly or impliedly unless the ways are shown on a plan approved by the planning board.

#### 5. RESCISSION OF APPROVAL OF PLANS.

One of the new provisions in the 1947 revision of the planning law authorizes the modification, amendment and rescission of the approval of plans previously approved. This provision was inserted because of the existence of a number of plans, some of them obsolete, which prevented or hampered the development of the land covered by the plan. The enactment of the legislation, however, has given rise to the fear that after land had been sold or mortgaged, a rescission of the approval of the plan might render it impossible to use.

In order to avoid the possibility of upsetting land titles, therefore, the State Planning Board recommends that the provisions as to modification, amendment and rescission of an approval be maintained, but that a further provision be added, to the effect that no titles or mortgages acquired in good faith for valuable consideration under the approval shall be affected by a subsequent amendment, modification or rescission.