

report of all operations under his control during the period reported upon, and from time to time as required by said board, shall make a synopsis of such reports for publication and shall keep said board fully advised as to the needs of the town within the scope of his duties, and shall annually, prior to the expiration of the fiscal year of said town furnish to said board a carefully prepared and detailed estimate in writing of the appropriations required during the next fiscal year for the proper exercise and performance of all said rights and duties. The incumbent of the office of highway surveyor and of the office of tree warden, and each permanent employee of any board or office abolished by this act, and the permanent employees of the cemetery department and the parks department shall be given preference based upon the availability of positions for transfer to the department of public works and become an employee of the department of public works subject to the approval of the board of selectmen and every employee so transferred shall continue to serve and shall retain all rights to holidays, sick leave, vacations and other benefits in effect on the effective date of this act.

**SECTION 4.** This act shall be submitted to the voters of the town of Ware for acceptance at the annual town election to be held in the year nineteen hundred and ninety in the form of the following question, which shall be placed on the official ballot to be used for the election of town officers at said election:-

“Shall an act passed by the General Court in the year nineteen hundred and eighty-nine, entitled ‘An Act Authorizing the Town of Ware to Establish a Department of Public Works,’ be accepted?” If the majority of the votes cast in answer to this question is in the affirmative, this act shall become effective, but not otherwise.

**SECTION 5.** This act shall take effect upon its passage.

Approved January 9, 1990.

**Chapter 671. AN ACT CALLING FOR A MORATORIUM ON THE CONVERSION, ALTERATION, OR DEMOLITION OF SINGLE ROOM OCCUPANCY DWELLING UNITS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is, in part, to alleviate a serious public emergency existing with respect to the housing of a certain number of citizens throughout the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** As used in this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Common facilities", facilities that are to be shared by the occupants of more than one single room occupancy dwelling unit. Facilities shall not be deemed common if they can be reached only by passing through any part of more than one single room occupancy dwelling unit.

(b) "Convert or alter" shall mean:

to convert to or alter for use as apartments containing both bathroom and kitchen facilities, whether such conversion or alteration is effected with or without physical alterations; or

to convert to or alter for use other than as a single room occupancy dwelling unit, whether such conversion or alteration is effected with or without physical alterations; or

to reduce the number of single room occupancy dwelling units in a building by combining two or more units; or

to take action which tends to result in the conversion or alteration of single room occupancy dwelling units including, but not limited to: changing the rental period from one week or longer to daily rental payments; refusing to rent at a monthly or weekly rent when it has been so rented as of the effective date of this act; taking action against tenants for the purpose of forcing or encouraging a move, without offering an opportunity to return and offering equivalent alternative accommodations; provided, however that such action shall not include the following: decrease in services; withdrawal of safety measures; harassment; informing tenants to vacate; lock out; transferring to tenants the costs of utilities; fuel supplies or other services previously borne by the landlord; intentionally failing to rent a vacant unit after thirty or more calendar days of vacancy unless said unit is being repaired or renovated for continued use as a single room occupancy dwelling unit; provided, however, that any dwelling and any single room occupancy dwelling unit that is exempt under paragraph (e) of section one may be converted to any other category of use that is exempt under paragraph (e) of section one.

(c) "Dwelling", every building or shelter used or intended for human habitation including, but not limited to, rooming houses and temporary housing.

(d) "Reside", to occupy with no present intention of definite and early departure, but not necessarily with the intention of remaining permanently, and without another permanent domicile, excluding employees or faculty members of a school or college in a building owned by such institution.

(e) "Single room occupancy dwelling", every dwelling or part thereof, which contains one or more single room occupancy dwelling units.

(f) "Single room occupancy dwelling unit", the room or group of rooms let to an individual or household and which is used by said individual or household to reside in for longer than fifteen consecutive days. A single room occupancy dwelling unit is a dwelling unit which is not equipped with both individual kitchen and individual bathroom facilities, as defined in 105 CMR 410.100, and 105 CMR 410.150 State Sanitary Code Chapter II.

Notwithstanding the foregoing provisions, a single room occupancy dwelling unit shall not include any unit: in any dwelling which had a certificate of occupancy as a college or school dormitory as of the effective date of this Chapter, or any structure newly constructed after the effective date of this Chapter for use as a school or college dormitory; in any dwelling which is owner occupied and which contains three or fewer single room occupancy dwelling units; in any orphanage, jail, prison, hospital or nursing home, created after the effective date of this act by conversion of non-residential space in a building, any dwelling that previously was licensed and used as a dormitory by an educational institution and is owned by a school or college, and that, pursuant to a building permit, is under construction or undergoing rehabilitation or renovation as of the effective date of this act.

(g) "Vacant single room occupancy dwelling", a single room occupancy dwelling in which each and every single room occupancy dwelling unit is vacant as of the effective date of this act.

**SECTION 2.** It shall be unlawful to: convert or alter any single room occupancy dwelling unit, except as provided herein; demolish or structurally gut any single room occupancy dwelling unit; rent any single room occupancy dwelling unit for non-residential use; keep vacant a single room occupancy dwelling unit for thirty or more calendar days, unless said unit is being repaired or renovated for continued use as a single room occupancy dwelling unit; provided, however, that any single room occupancy dwelling which is vacant prior to enactment of this act shall not be subject to this provision.

**SECTION 3.** A tax-exempt nonprofit institution, which currently operates single room occupancy dwelling units, shall be exempt from the provisions of this act, provided that such institution will develop single room occupancy dwelling units in newly constructed buildings or substantially rehabilitated units in existing buildings in furtherance of the purposes as stated herein. Nothing in this chapter shall be construed to require the one-for one replacement of units. Such institution shall, prior to initiating any action which would, except for the exemption granted by this section, be in violation of this chapter, send written notice to the office of general counsel within the executive office of communities and development of its intention to undertake such action and its grounds for asserting that it is entitled to such exemption. Such notice shall be available for public inspection or copying pursuant to chapter sixty-six.

**SECTION 4.** Any affected person, the attorney general, the district attorney, city attorney, or rent control board may bring a civil action for injunctive and other relief to enforce the provisions of this act, including the award of monetary damages. The superior court and the housing court shall have jurisdiction in law and equity over any action arising from any violation of this act or any rules or regulations promulgated hereunder. Venue shall be determined pursuant to section one of chapter two hundred and twenty-three.

Any person who violates the provisions of section two shall be liable to the

person damaged in the amount of five thousand dollars for each such violation, or actual damage, whichever is the greater. A prevailing plaintiff shall be entitled to reasonable attorney's fees and costs.

Any person who violates the provisions of said section two shall be punished for each violation by a fine of five thousand dollars or by imprisonment for not more than three months, or both such fine and imprisonment. Each violation of this act shall constitute a separate offense.

There shall be a fund, to be known as the Single Room Occupancy Preservation Fund, which shall be administered and managed by the secretary of executive office of communities and development on behalf of cities and towns preparing an inventory and plan pursuant to section five. Criminal penalties shall be ordered payable to the Single Room Occupancy Preservation Fund; provided, however, except that where a city or town seeks to enforce the provisions of this act, the court may order any punitive damages or criminal penalties to be awarded directly to such city or town.

**SECTION 5.** Each city and town shall, in conjunction with the executive office of communities and development, develop an inventory of all existing single room occupancy dwelling units within each such city or town, and a plan, in light of said inventory, to preserve the existing stock, including the specification of any legal, financial or other barriers to the implementation of such a plan; provided, however, except that city or town may request said executive office to develop an inventory or plan or both on its behalf if it lacks the technical or financial resources to prepare such inventory or plan or both.

Such inventory shall include, but not be limited to, the following: the number of single room occupancy dwelling units currently existing, whether occupied or vacant and whether licensed or unlicensed, their location, current use, rent level and condition; and a demographic profile of the current residents of such units, including their age, sex, racial or ethnic origin and employment status.

Each city or town which has not previously requested the executive office of communities and development to prepare an inventory or plan on its behalf shall submit to said executive office within nine months of the effective date of this act, a report containing its inventory and plan. Prior to such submission, each city or town must hold a public hearing on its draft report, which shall be available to interested members of the public two weeks prior to the public hearing. At least two weeks prior to its public hearing, each city or town shall cause notice to be given of the free availability of the draft report, of the date, time and place of the public hearing, and of the method for submitting oral or written comments. Such notice shall be advertised in a newspaper of general circulation within the city or town, posted at the local housing authority and at each department of public welfare, Social Security Administration, Veterans' Administration and local veterans' services office which serves residents of the city or town and mailed, by first class mail, to any person or organization who has requested such notice. Further,

each city or town shall also, at least two weeks prior to such public hearing, provide a copy of the notice thereof to the executive office of communities and development, which shall make such notices available for public inspection. The report to said executive office shall include the method(s) used to notify interested persons of the public hearing, the date of such hearing and a summary of oral and written comments received.

**SECTION 6.** Within one year from the effective date of this act, the executive office of communities and development shall submit to the joint committee on housing and urban development the reports of the cities and towns submitted to it and the reports it has prepared on behalf of any city and town pursuant to section five, and a summary thereof, together with a state plan containing proposals for the preservation of single room occupancy units. Prior to such submission, but within a reasonable time thereafter and within sufficient time to give due consideration to comments received, said executive office shall hold one or more public hearings to receive public comment on its draft state plan. Notice of the public hearing shall be given at least twenty-one days prior to such hearing, by advertisement in newspapers of general circulation and in foreign language newspapers where appropriate, by radio and television public service announcements, in foreign languages where appropriate, and by mailing notice by first class mail to persons or organizations which have on file with the agency a written request for notice of agency rule-making pursuant to sections two and three of chapter thirty A. Such notice of public hearing shall contain a brief summary of the purpose of the state plan, the toll-free telephone number or the telephone number of a local public agency that can be called to obtain a free copy of the draft state plan, the address where free copies of the draft state plan can be obtained and the procedures for submitting oral and written comments, including appropriate date, time and place. In addition to oral comments received at the public hearing, said executive office shall give due consideration to written comments received up to one week subsequent to the last public hearing. The state plan submitted by said executive office to the joint committee on housing and urban development shall contain a brief summary of the public comments received.

The secretary of the executive office of communities and development may promulgate rules and regulations in accordance with chapter thirty A, as may be necessary for the proper implementation of this act.

**SECTION 7.** This act shall not be construed to preempt action by cities and towns which possess enabling authority under any special law from regulating evictions, rents, or the removal or conversion of rental housing accommodations, to the extent such cities or towns choose to impose more stringent requirements than are imposed by this act. If a city or town has a by-law, ordinance, or code which regulates, on a permanent basis, consistent with the purposes of this act, the destruction, conversion and alteration of single room occupancy dwelling units, then such law shall govern in such city or town, instead of the provisions of this

chapter.

**SECTION 8.** To the extent that the fair market value of any building or structure containing single room occupancy dwelling units is reduced as a result of restrictions imposed by this act, the owner thereof shall be entitled to compensation in accordance with the provisions of chapter seventy-nine from the single room occupancy preservation fund.

**SECTION 9.** This act shall expire eighteen months from its effective date.

Approved January 9, 1990.

**Chapter 672. AN ACT AUTHORIZING THE TOWN OF NORTH READING TO GRANT A CERTAIN EASEMENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of North Reading acting through its board of selectmen, is hereby authorized to grant to the New England Telephone and Telegraph Company an easement to erect, operate, maintain, and remove communication cables, wires, guys and associated equipment on existing utility poles erected under the provisions of chapter five hundred and thirty-five of the acts of nineteen hundred and eighty-seven on, over and under certain parcels of land, including conservation land, presently owned by the town of North Reading in or near the Swan Pond area as shown on the town of North Reading Assessors Maps as follows:

- Map 72 parcel 3 containing 14,000 sq. ft.
- Map 72 parcel 20 containing 17,500 sq. ft.
- Map 72 parcel 23 containing 45,614 sq. ft.
- Map 72 parcel 33 containing 4.8 acres
- Map 73 parcel 2 containing 12.0 acres
- Map 73 parcel 3 containing 9.2 acres
- Map 73 parcel 4 containing 31.4 acres
- Map 74 parcel 69 containing 38.51 acres
- Map 74 parcel 70 containing 164.5 acres
- Map 80 parcel 3 containing 51.25 acres
- Map 81 parcel 1 containing 1 acre
- Map 81 parcel 4 containing 1.3 acres

**SECTION 2.** This act shall take effect upon its passage.

Approved January 9, 1990.