

MAINE STATE LEGISLATURE

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N I N E T Y - F O U R T H L E G I S L A T U R E

Legislative Document

No. 1265

S. P. 594

In Senate Chamber, March 4, 1949.

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Allen of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Relating to a Department of Buildings.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 58-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 58-A, to read as follows:

'CHAPTER 58-A.

DEPARTMENT OF BUILDINGS.

Sec. 1. Department of buildings created; commissioner. There is hereby established a department of buildings which shall be under the charge and supervision of the commissioner of buildings, hereinafter in this chapter called the "commissioner".

Sec. 2. Appointment. The commissioner shall be appointed by the governor with the advice and consent of the council in accordance with the provisions of section 5.

Sec. 3. Removal. The commissioner shall not be removed from office except for cause nor until full opportunity has been given him to be heard on specific charges presented before the governor and council.

Sec. 4. Absence or disability. In case of temporary absence or disability of the commissioner, the deputy commissioner, appointed as here-

inafter provided for in section 29, shall act on matters which require prompt official attention and he shall have the same powers and duties as the commissioner during the commissioner's official absence from duty.

Sec. 5. Qualifications. To be eligible for appointment, the commissioner shall be a graduate of a recognized school of architecture, engineering or public administration or engineering administration and shall have had at least 10 years of administrative experience in the field of the design and construction of buildings. As a substitute for the above qualifications he may be eligible for appointment if he has had 15 years of administrative and responsible technical experience in the field of building design and construction. He shall be generally informed on the quality and strength of building materials, on the prevailing methods of building construction, on sound practice in fire prevention, on the accepted requirements for safe exit facilities, and on the proper installation of plumbing, electric wiring, elevators and other installations for the safety of occupants. He shall be in good health, physically capable of directing the necessary inspections.

Sec. 6. Salary. The commissioner shall receive a salary as determined by the governor and council.

Sec. 7. Definition; "commissioner". Where the word "commissioner" appears hereinafter, in this chapter, it shall also mean his "authorized representative," as provided for in section 30.

Sec. 8. Definition; "chapter". Where the words "this chapter" appear hereinafter, it shall include reference to all regulations issued by the commissioner in accord with section 26 and which were in force at the time of any application, permit, license, order or other document concerned with the provisions of this chapter.

Sec. 9. Power. The commissioner shall have full power to enforce and interpret the provisions of this chapter for cities and towns.

Sec. 10. Action. The commissioner may take whatever action, not in violation of state statute or city or town charters, which he deems necessary for the protection and safety of life and limb, after he has made a careful survey of copies of reports, licenses, and documents filed with district supervisors by the local departments and boards, under sections 128 to 135, inclusive.

Sec. 11. To perform duties through local departments. Whenever the commissioner exercises powers under this chapter, he shall operate through the local building department in performing his duties as herein defined.

Sec. 12. Inspection. The commissioner shall have the same privilege to enter and inspect any building or premises as is granted to the local building superintendent, and he may require that any existing building or structure comply with all or any of the provisions of this chapter.

Sec. 13. To stop work. If upon inspection of a proposed structure, for which a permit has been granted, the commissioner should find cause to stop the work due to violation of this chapter, he shall initiate the necessary action to establish responsibility for such violation in the manner prescribed in section 11.

Sec. 14. Reports. The commissioner shall submit biennially a report to the governor and the legislature, covering the work of the department during the preceding period.

Sec. 15. Board of standards. There shall be a board to be called the board of standards, consisting of 5 members and which should always include a registered architect, a registered engineer, a licensed contractor, a representative of the building trades unions and a fire-prevention engineer. The commissioner, or his authorized representative, shall be present at each meeting of the board. He shall cause records to be kept of all sessions of the board.

Sec. 16. Membership of boards. The governor, with the advice and consent of the council, shall appoint 1 member of said board to serve for 1 year, 1 to serve for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years. Thereafter in each year, the governor, with the advice and consent of the council, shall appoint 1 member to replace the 1 whose term expires, and such new member shall be a representative of the same profession as that of the member whose term has expired. The chairman of the board shall be elected annually by the members of said board.

Sec. 17. Vacancies in board. The governor shall likewise, with the advice and consent of the council, fill all vacancies on said board caused by death, resignation, or removal, for any unexpired terms. In all such appointments, the member appointed shall be a member of the same group which will thus be unrepresented.

Sec. 18. Hold office. Members of said board shall hold office until their successors shall qualify and be duly appointed.

Sec. 19. Disqualification of members of board; quorum. No member of said board shall sit on a case in which he may have a commercial or corporate interest, and in case of such disqualification, or of the necessary absence of any member, the chairman shall designate an alternate as pro-

vided for in section 21 who represents the same group as the disqualified or absent member. No action shall be taken by the board unless a quorum of qualified members of the groups as defined in section 15 are present. Four members of the board shall be considered as a quorum.

Sec. 20. Clerk of board. There shall be a clerk for the board of standards, appointed by the commissioner, subject to the provisions of the personnel law.

Sec. 21. Alternates. The governor, with the advice and consent of the council, shall appoint 2 alternates from each group, as defined in section 15, to serve as provided under section 19, and any alternate so serving shall be of the same group as the member or members of the official board who are disqualified or absent.

Sec. 22. Salary and expenses. Each member or alternate of the board of standards shall be paid \$20 per day for actual service but not more than \$500 in any 1 year for members or alternates representing any single group. They shall also receive their reasonable expenses, including such clerical assistance, traveling expenses and office expenses.

Sec. 23. Power of board. The board of standards shall have power to render decisions on all matters pertaining to changes or annulment by the commissioner of a building permit issued by a local building department, a decision of a local board of appeal or a decision by a local licensing board which is in violation of this chapter. It shall also have power to approve or disapprove the use of new materials, methods of construction or matters relating to maintenance.

Sec. 24. Copies of chapter. It shall become the duty of the commissioner to distribute 1 copy of this chapter to each public official in every city and town in the state. Additional copies may be obtained from the commissioner at a charge fixed by the commissioner.

Sec. 25. Regulations. The board of standards shall have the power to promulgate, amend or annul regulations with respect to the design, occupancy and construction of buildings and other structures, materials and standards of acceptance and such other matters as relate to public safety which are not specifically covered by this chapter and which are in accord with generally accepted engineering principals and practice, but only after a public hearing called by it for the specific regulations concerned.

Sec. 26. Issuing of regulations. The commissioner shall prepare and issue regulations promulgated by the board of standards under section 25

and the same shall become effective on the date printed on each such issue of regulations. One copy of such regulations shall be distributed by registered mail to the public officials in each city and town of the state. A receipt shall be requested of the post office and placed on file in the department of buildings. Additional copies may be obtained from the commissioner at a charge fixed by the commissioner.

Sec. 27. Report of board. It shall be the duty of the board of standards to submit to the governor, with a copy to the commissioner, on or before the 1st of December of each year, a report giving a summary of all business of the board together with a copy of all regulations, as promulgated or amended, during the year.

Sec. 28. Rules of conduct of board. The board of standards shall establish its own rules of conduct not inconsistent with law and such rules shall be filed with the commissioner for public information.

Sec. 29. Personnel. The commissioner shall appoint, subject to the provisions of the personnel law, a deputy commissioner, district supervisors and inspectors, who have had at least 10 years of administrative or responsible technical experience as registered architects, registered engineers or superintendents of construction.

Sec. 30. Districts. For the purpose of coordinating the work of the department of buildings with the local authorities, the commissioner shall establish districts in charge of a district supervisor, who shall be the authorized representative of the commissioner. Such districts shall be defined by the commissioner as embracing certain cities and towns.

Sec. 31. Duty of district supervisor. It shall be the duty and the responsibility of each district supervisor to acquaint the proper authorities in every city and town in his district with all original and amended regulations issued by the commissioner. He shall interpret the regulations and shall advise members of the local building department, board of appeal and any other local authority having supervision of the construction and occupancy of buildings, or responsible for public safety and assure himself that each such member is properly informed on all matters pertaining to the inspection of buildings, issuing of permits and other matters pertaining to public safety, specifically provided for by such regulations.

Sec. 32. District supervisor to be present at board meetings. It shall be the duty of the district supervisor to be present at all sessions of the board of standards on matters pertaining to his district, or when otherwise requested.

Sec. 33. Inspectors under charge of district supervisor. The district supervisor shall have charge of all inspectors assigned to his district by the commissioner and shall issue such orders as are compatible with the efficient operation of his district.

Sec. 34. Report of district supervisor. Each district supervisor shall prepare an annual report to the commissioner, including all actions taken by him together with summaries of reports received under sections 128 to 135, inclusive. These reports shall give a full account of conditions found and recommendations with respect to the regulations which will aid in clarifying, amending or otherwise revising those found deficient or incorrect. He shall append to his report all documents and reports received by him under the aforesaid sections.

Sec. 35. Restrictions on officers and employees. No officer, employee or clerk connected with the department of buildings shall engage in or have interest directly or indirectly in the making of plans, writing of specifications, construction of buildings, the sale or manufacture of any material, process or device pertinent to the building industry, except as an owner of real estate.

Sec. 36. Exception. Members, or their alternates, of the board of standards shall be exempt from the provisions of section 35 above, except as previously provided for in section 19.

Sec. 37. Town building department. There shall be in each city and town of 15,000 or more population, in the state a department to be called the building department, which shall be under the charge and supervision of a superintendent of buildings, hereinafter in this chapter called the "superintendent".

Sec. 38. Cities under 15,000. In cities and towns where the population is less than 15,000, there shall be a full-time or part-time superintendent of buildings. Two or more contiguous cities and towns whose populations is less than 15,000 may cooperate to meet the provisions of this section. Such arrangements shall be local but in accord with law. Wherever the word superintendent appears in this chapter the above alternate shall be intended, where they so function.

Sec. 39. Superintendent. The superintendent, where such person is other than the alternate in section 38, shall be appointed by the municipal officers or selectmen, as the case may be, after proper examination. He shall receive such salary as shall be fixed by local ordinance or by-law.

Sec. 40. Qualifications of superintendent. The superintendent shall be

either a graduate of a recognized school of architecture, or a school of architectural, structural or civil engineering with at least 6 years of responsible experience as an architect, architectural, structural or civil engineer or superintendent of construction or any person who has had at least 10 years' experience as an architect, architectural, structural or civil engineer, superintendent of construction or building inspector in the department. He shall be in good health, physically capable of performing his duties in the department.

Sec. 41. Superintendent's powers. The superintendent shall have the power to appoint a member of his department as deputy superintendent who shall exercise all of the duties of the superintendent, during the absence or disability of the superintendent, for a period not to exceed 1 year at any one time. Any member so appointed shall have the qualifications imposed by section 40. Wherever the word superintendent is used herein it shall mean his deputy superintendent or his authorized representative.

Sec. 42. Employees. The superintendent may request the appointment of clerks, building, wiring, plumbing, gas-fitting and elevator inspectors, a structural engineer or any such assistants that may be required for the proper administration of his department. No person shall be appointed an inspector or structural engineer who has not had at least 5 years' experience as a general contractor, architect, engineer, superintendent of construction or foreman in building construction. All inspectors, who have held a master license in their respective trades for a period of at least 5 years immediately prior to being appointed, may qualify as inspectors in their respective fields.

Sec. 43. Tenure. The officers and employees of any building department at the time of the effective date of this law, shall hold their several offices and positions during their term of appointment or until removed or discharged.

Sec. 44. Licenses. The municipal officers or selectmen may require the licensing of builders, superintendents of construction or any other tradesmen who are employed in the construction, removal or demolition of buildings.

Sec. 45. Duties of superintendent. The superintendent shall enforce the provisions of this chapter, and may be assigned additional duties by the cities and towns either by ordinance or resolution.

Sec. 46. Legal entry. The superintendent shall have the power of legal entry to any building or premises in the city or town to perform any duty imposed upon him by this chapter.

Sec. 47. Stoppage of work on buildings. The superintendent, upon finding that work on any building or structure is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner, shall notify the owner or his agent in writing of his intention to stop such work and stating the conditions under which work may be resumed.

Sec. 48. Penalty for hindrance of entry. Whoever hinders or prevents, or attempts to hinder or prevent, the superintendent from entering a building, structure or enclosure, or part thereof, in the performance of his duty in the enforcement of this chapter shall be punished by a fine of not less than \$50 and not more than \$100. Each day during any portion of which such hindering continues shall be considered a separate offense.

Sec. 49. Dangerous buildings. The superintendent, immediately upon being informed by report, complaint or otherwise that a building or other structure or anything attached to or connected therewith is dangerous to life or limb, shall inspect the same. If it appears to him to be dangerous, he shall forthwith in writing notify the owner, agent or any person having an interest therein to remove it or make it safe. If it appears that such structure would be unsafe in case of fire, it shall be deemed dangerous within the meaning hereof, and the superintendent may affix in a conspicuous place upon its exterior walls a notice of its dangerous condition, which shall not be removed or defaced without authority from him.

Sec. 50. Removal. Any person so notified shall begin to remove such structure or make it safe, within the time limit set by the superintendent.

Sec. 51. Neglect or refusal to remove; survey. If an owner, agent or person interested in such unsafe structure refuses or neglects to comply with the requirements of such notice within the time limit set by the superintendent, and such structure is not made safe or taken down as therein ordered, a careful survey of the premises shall be made by a special board consisting of 3 persons, 1 of which shall be appointed by the superintendent to represent the building department, 1 of whom shall be the chief of the fire department or his authorized representative and 1 of whom shall be an architect, engineer or builder appointed by the municipal officers or selectmen of the city or town. Members of such special board shall be paid \$10 per day but not more than \$500 in any 1 year. A written report of such survey shall be made, and a copy thereof served on such owner, agent or interested person.

Sec. 52. Lien for removal of dangerous building; penalty. If such report declares such structure to be dangerous and if the owner, agent or

person interested continues such refusal or neglect, the superintendent shall cause it to be made safe, closed up or taken down, and the costs and charges incurred shall constitute a lien upon the land upon which the building is located, which shall be enforced within the time and in the manner provided for the collection of taxes on land; and such owner or interested person shall, for every day's continuance of such refusal or neglect after being so notified, forfeit to the city or town in which the structure is located not less than \$10 nor more than \$50.

Sec. 53. Appeal. An owner or interested person aggrieved by such order may seek relief through appeal to the board of appeal under the provisions of section 115, but this section shall not prevent the city or town from recovering the forfeiture provided in the preceding section from the date of the service of the original notice, unless the order is annulled by said special board.

Sec. 54. Service on non-residents. If the owner or interested person lives out of the state, the notice required may be served upon him by a notary public whose certificate of service under his notarial seal shall be sufficient evidence of legal services.

Sec. 55. To make structures safe. If the public safety so requires, the legislative body or board of the city or town may order the superintendent to enter immediately upon the premises with the necessary workmen and equipment to make such structure safe, erect a fence for the protection of the public and fill any excavated area. All expenses incurred under this section shall be paid by the owner as provided in section 52.

Sec. 56. Limitations on superintendent and employees. The superintendent, or any of the employees connected with the department shall not be engaged in the making of plans, writing of specifications, construction of buildings or be interested in any other business pertinent to the building industry, except as an owner of real estate.

Sec. 57. Exception. The provisions of section 56 shall not apply to the superintendent for a city or town of less than 15,000 population, if he is a part-time employee, and is not serving several such cities or towns as provided in section 38.

Sec. 58. Application of chapter. The provisions of this chapter shall apply to the construction, alteration, additions, removal, equipment, occupation, height, area, location and maintenance of all buildings and structures, in the state except insofar as such matters are otherwise provided for in a city or town charter, or apply to buildings or land ceded to the United States.

Sec. 59. Minimum requirements; limitation of provisions of chapter. The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the safety and welfare of the public. This chapter shall not repeal, abrogate, annul or in any way impair or interfere with any existing provision of the law or ordinances other than such ordinances, by-laws and codes pertaining to the erection, alteration, inspection and use of buildings which are less restrictive, which are hereby repealed. This chapter shall not abrogate or annul any easements or agreements between parties which have been granted or issued prior to the date of adoption of this chapter.

Sec. 60. Further application of chapter. The provisions of this chapter apply to buildings or structures on land not devoted or appropriated for streets, and to structures or construction, such as vaults, areas on street encroachments, however placed, that are appurtenant to such buildings or structures.

Sec. 61. Further application of chapter. The provisions of this chapter shall apply with equal force to municipal, county or state buildings, as they do to private buildings.

Sec. 62. Structures within chapter. Structures or construction as above used shall include all shelters, platforms and other units used for the housing or accommodation of persons for whatever purpose, except when such are normally mobile.

Sec. 63. Public assembly. Except as provided for in sections 67 and 68 and after action taken by the commissioner under section 12, it shall be unlawful to maintain, occupy or continue the use of any building or part thereof for public assembly which is in violation of this chapter upon their adoption. Places of public assembly shall be construed to mean all buildings or parts of buildings used for the accommodation of 50 or more persons for the purpose of entertainment, eating, religious or social occupancy.

Sec. 64. Capacity for places of assembly. The superintendent shall order the owner of each place of assembly to post in a conspicuous place near each entrance of the building or room a placard indicating, on a small plan, the location of every exit and indicating the total occupant capacity of the room or building. Such placard shall be approved and signed by the commissioner and the local fire chief. Any person in excess of this stated capacity shall not be provided for, through the introduction of additional seats or chairs.

Sec. 65. Duty of local fire department. It shall be the duty of the local fire department, as stated under section 132, to inspect the premises where the placards are posted and take whatever action necessary, including police action, to assure compliance with these provisions.

Sec. 66. Application of future regulations. Any building or part of a building which is in accord with this chapter and regulations, in existence at the time of the issuance of a certificate of occupancy or license shall not be construed to be in violation of future regulations, except as provided for under section 12.

Sec. 67. Repairs to existing buildings. An existing building which is altered or repaired under permits issued during any period of 12 months from the date of the initial issue of permit where said alterations or repairs cost in excess of 50% of its assessed value, shall be made to conform to the requirements of this chapter for new buildings. An existing building damaged by fire or otherwise in excess of 50% of its assessed value before such damage shall be made to conform to such requirements, if repaired. If the cost of such alterations or repairs or the amount of such damage is more than 25 but not more than 50% of the assessed value of the building, it shall be made to conform to such requirements in the portions so altered or repaired to such extent as the superintendent may determine, providing the repairs are substantially a replacement of the damaged parts.

Sec. 68. Portions of buildings to conform. A building now existing, for which the occupancy is entirely changed so that the building does not conform to the requirements of this chapter for such occupancy shall be made to conform, provided that if the occupancy of only a portion of an existing building is so changed and that portion is separated from the remainder, then only such portion need be made so to conform.

Sec. 69. Change of floor area or stories of buildings. A building now existing which is changed as to floor area or number of stories shall be made to conform throughout to the requirements of this chapter.

Sec. 70. Buildings moved. A building now existing when moved to another location shall conform to the requirements of this chapter and to the requirements of the local zoning ordinance, if such exists.

Sec. 71. Certain repairs and alterations. A building now existing to which repairs and alterations are made which are not covered by sections 58 to 71, inclusive, may be repaired or altered with the same kind of materials as those of which the building is constructed, providing such alterations or repairs will not increase an existing non-conformity or hazard.

Sec. 72. Permits. A permit, issued by the superintendent, shall be required before any work is started on the construction, alteration, repairs, removal, installation of or repairs to, equipment, electrical wiring, plumbing and gas fittings of buildings; before occupancy is changed; and before the erection or installation of signs and billboards, mechanical refrigeration, sprinkler systems, elevators or heat producing apparatus and equipment.

Sec. 73. Changes during construction. No change shall be made during construction from the drawings upon which the permit was granted until such suggested changes are approved by the superintendent and a revised plan filed and attached to the original application.

Sec. 74. Local ordinances and zoning. Prior to the issuance of the permits required by the building department, it will be necessary to insure compliance with all ordinances or regulations of the city or town with regard to zoning, fire and health, not specifically provided for in the regulations issued by the commissioner under section 26 and permits shall be obtained from the local board of health for all establishments for which such health permits are from time to time required.

Sec. 75. Permits for minor alterations. Permits for minor alterations involving structural changes, and for small buildings, may be issued upon presentation of an application on a special form, to be furnished by the superintendent, after payment of the required fee.

Sec. 76. Applications for permits. All applications for permits under the provisions of this chapter shall be in writing on forms furnished by the superintendent. Such application shall state the name and address of the owner or owners and the contractor, and shall be signed by the builder, who will have charge of the work. Each application that is approved by the superintendent shall bear his signature and the date of issuance.

Sec. 77. Information of applications. Each application shall indicate the proposed occupancy of all parts of the building, the distances from the lot lines to the proposed structure and shall provide such other information as may be required by the superintendent.

Sec. 78. Certification of facts. The superintendent may require the material facts contained in each such application to be certified by the applicant under oath, or he may require a performance bond.

Sec. 79. Issuance of permit. If the superintendent is satisfied that the work described in an application for permit conforms to the requirements of this chapter, and if the person designated by signature on the applica-

tion as the person who will perform or take charge of the work is duly licensed, the superintendent shall issue a permit therefor.

Sec. 80. Application of permit. The superintendent shall act upon an application for a permit with plans as filed, or as amended, without unreasonable or unnecessary delay. A permit issued shall be construed as permission to proceed with the work and shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this chapter, nor shall such issuance of a permit prevent the superintendent from thereafter requiring correction of errors in plans or in construction or order such changes as are later found to be in violation of this chapter.

Sec. 81. Plans. When the superintendent issues a permit, he shall endorse two sets of plans "Approved." One such set of plans shall be retained by him, and the other set shall be signed by him, dated, returned to the applicant and shall be kept at the site of work, and shall be open to inspection at all reasonable times by the superintendent.

Sec. 82. Non-issuance of permits. If the application for a permit and the plans filed therewith describe work which does not conform to the requirements of this chapter and other pertinent laws or ordinances, the superintendent shall not issue a permit but shall return the plans to the applicant with his refusal to issue such permit. Such refusal when requested shall be in writing and shall contain the reasons therefor.

Sec. 83. Notification to assessors of permits granted. The superintendent shall give written notice to the assessors of the city or town of permits granted by him, which notice shall state the name of the person to whom the permit was granted, the name of the owner of the building or structure, the location of the building or structure and the estimated cost as given on the application.

Sec. 84. Certain conditions under which permits granted. The superintendent may, before complete inspection of plans and specifications to verify their compliance with this chapter is possible, grant a permit after the architect, engineer or builder signs an affidavit stating that such plans and specifications are in accord with this chapter and that any violation of same found at any time during the progress of the work will be remedied by such changes as are ordered by the superintendent.

Sec. 85. Orders of superintendent to be complied with. In the event of failure to comply with any orders of the superintendent for changes required under section 84, on the part of the person signing the affidavit,

the superintendent shall immediately order all work stopped until his orders are complied with.

Sec. 86. Duplicate sets of plans. All applications for permit must be accompanied by duplicate sets of plans and specifications drawn with sufficient clarity and detail so as to indicate the nature and character of the work. Such plans shall contain information, in the form of notes or otherwise, as to the quality of materials where quality is essential to conformity with this chapter. Such information shall be specific, and this chapter shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information.

Sec. 87. Data required by superintendent. The superintendent may require details, computations, stress diagrams and other data necessary to describe the construction and basis of calculations signed by the registered architect or registered engineer who prepared them. A plot plan shall be filed with the plans unless deemed unnecessary by the superintendent.

Sec. 88. Card with permit. With each and every permit issued for buildings or other structures, the superintendent shall issue to the owner or his agent a card properly filled out and it shall be the owner's or agent's duty to place and maintain such card in a conspicuous place on the premises.

Sec. 89. Lapsing of permits. Permits for buildings or structures upon which work is not started within 6 months of date of issue, and permits for buildings or structures, work upon which has been abandoned for 6 months, shall lapse and cease to be in effect. The superintendent may within 6 months of the date of the lapse of such permits, reinstate them. Such reinstatement shall not be obligatory, but at his discretion. Permits which have lapsed for more than 6 months shall be void.

Sec. 90. Revocation of permits. Whenever it shall be found that a permit has been issued in violation of this chapter or any other ordinance or state law or in consequence of a false statement of facts, or misrepresentation of conditions, the superintendent shall notify the person holding such permit to appear before him at a stated time and show cause why such a permit should not be revoked or to require such changes as will eliminate the violation of this chapter. If, after such a hearing, or in case the holder of the permit does not appear, after the time set for the hearing has elapsed, it still appears that such a permit was improperly issued, or that the person holding such a permit refuses to make the changes to eliminate the violations of this chapter, the superintendent shall issue a written order revoking same and shall then proceed as if no per-

mit had been issued. The fee paid for a permit so revoked shall not be returned.

Sec. 91. Fees. Any person desiring a building permit may be required at the time of filing an application therefor, and as provided in sections 72 to 90, inclusive, to pay to the superintendent a fee as required in sections 91 to 95, inclusive. The superintendent shall post the fees established for his department in a public place.

Sec. 92. Fees paid by owner or agent. In all cases fees for permits when required shall be paid by the owner or his agent.

Sec. 93. Estimated cost filed. The owner, agent or contractor shall submit with the application for permit an estimated cost of the work to be done and shall deposit required fees. The superintendent shall determine the cost to be used in fixing the fee and for reports to the assessors.

Sec. 94. Work started prior to permit. Where work for which a permit is required by this chapter is started prior to obtaining said permit, the superintendent shall issue orders to stop work and the chief of police upon notification shall enforce such order until the required fee for such work has been paid. Payment of fees of any kind shall not relieve any person from the duty of complying with the requirements of this chapter in the execution of the work nor from any other provisions prescribed herein.

Sec. 95. Accounting for fees and moneys by superintendent. The superintendent shall keep a permanent, accurate account of all fees and other moneys collected and received under this chapter, the names of the persons upon whose account the same were paid, and the date and amount thereof. Such fees and moneys shall be transferred to the office of the city or town treasurer at the end of each day of business.

Sec. 96. Certificate of occupancy. It shall be unlawful to use or permit the use of any building or premises or part thereof hereinafter erected, changed or converted wholly or partly in its use or structure, except single and 2-family dwellings, until the superintendent shall have issued a certificate of occupancy to the effect that such building or premises and the proposed use thereof conform to the provisions of this chapter. The superintendent shall issue a certificate of occupancy within 10 days after filing of a request for the same, provided said building conforms with all the requirements herein set forth. Upon written request from the owner, the superintendent shall issue a certificate of occupancy for any building or premises existing at the time of the passage of this chapter the use

whereof conforms to the provisions of this chapter. Certificates of occupancy shall remain in force until revoked, altered or voided as hereinafter provided.

Sec. 97. Temporary certificate of occupancy. During the completion of alterations required by him in accordance with the provisions of this chapter, or during partial occupancy of a building pending its completion, a temporary certificate of occupancy may be issued under such restrictions and provisions as the superintendent may order for the safety of the occupants and for a period not to exceed 6 months.

Sec. 98. New certificates. If the conditions of use or occupancy of any building or part thereof are substantially changed, or so changed as not to be in conformity with the conditions required by a certificate of occupancy issued therefor, said certificate shall be void and the owner shall notify the superintendent who shall order an inspection of the building. The owner shall make the building conform to the requirements of this chapter for such new use or occupancy as directed by the superintendent and a new certificate shall thereupon be issued as herein provided.

Sec. 99. Failure of building to conform. If, on any inspection, the conditions of a building or its use or occupancy are found not to conform to the requirements of this chapter or to the conditions of an existing certificate therefor, the superintendent shall at once issue written notice to the owner, specifying the manner in which the building fails so to conform, and the owner shall at once take steps to make it so conform, as directed by the superintendent; and if the superintendent deems it necessary for the proper protection of the occupants, he may order the use or the occupancy of the building modified or the building vacated until its condition is made to conform to this chapter, at which time a certificate shall be issued as herein provided.

Sec. 100. Evidence of compliance. A certificate of occupancy issued as herein provided shall not be conclusive evidence of compliance with the provisions of this chapter. All certificates are subject to review by the superintendent, but may be revoked only after a public hearing.

Sec. 101. Inspection. The superintendent shall inspect at frequent and appropriate intervals the erection, construction, enlarging, alteration, repairing, moving, demolition, conversion and underpinning of buildings or structures referred to in this chapter. He shall inspect the installation, alteration, repairs, or additions to all plumbing, gas-fitting, drainage, heating, ventilating or power equipment, cooling or refrigerating systems, electrical light and power wiring, elevators and escalators.

Sec. 102. Permit of approval. No wall or ceiling of any building shall be lathed or otherwise covered until the superintendent has been notified that the building is ready for such work and he has issued a permit of approval thereof. Such permit of approval shall imply that all other inspections, prior to this phase of construction, as outlined in sections 101 to 105, inclusive, have been completed and approved. The superintendent shall act upon such a lathing permit within 2 days after notification by the owner.

Sec. 103. Inspection before issuance of certificate of occupancy. No certificate of occupancy, as required under sections 96 to 100, inclusive, shall be issued prior to the completion of all inspections under sections 101 and 102.

Sec. 104. Installation of signs. The superintendent shall make an inspection of each installation of signs to ascertain if such installations are in compliance with the provisions of this chapter.

Sec. 105. Inspection. The superintendent shall from time to time, as he deems proper, inspect existing buildings as required under sections 101, 103 and 104.

Sec. 106. Board of appeals. The municipal officers and selectmen in cities and towns shall appoint a board of appeals consisting of at least 3 members for terms of such length and so arranged that the term of 1 appointee will expire each year. Such board shall elect annually a chairman from its members.

Sec. 107. Membership on board. There shall always be on the board at least 1 registered architect and 1 licensed builder, where such license is required, for a 3-member board; 1 registered architect, 1 registered engineer, 1 licensed builder, where such license is required, and 1 representative of labor for a 5-member board. The superintendent shall be present at each meeting of the board of appeal.

Sec. 108. Present boards of appeal. Where a board of appeal now exists the present members shall hold their positions during their respective terms of office unless removed according to law.

Sec. 109. Vacancies. The municipal officers or selectmen shall likewise, subject to confirmation, as aforesaid, fill all vacancies in said board caused by death, resignation or removal, for any unexpired term.

Sec. 110. Tenure of office. Members of said board shall hold office until their successors shall have been appointed and shall have qualified.

Sec. 111. Disqualification of members. No member of said board shall sit on a case in which he is interested, and in case of such disqualification, or of the necessary absence of any member, the chairman shall designate an alternate of like qualifications. If two or more members are so disqualified or absent, the municipal officers or selectmen shall designate qualified substitutes to act during disqualification or absence.

Sec. 112. Alternative members. The municipal officers or selectmen may appoint 3 alternate members for a 3-member board of appeal, or 5 alternate members for a 5-member board of appeal, who may be designated by the chairman of the board, to act in case of disqualification of any member or in cases involving personal interest or necessary absence on the part of any member. Any alternate designated by the chairman shall be of the same group as the disqualified or absent member of the board.

Sec. 113. Clerk of board. A clerk of the building department or of the governing board or officer where a building department does not exist shall act as clerk of said board without additional compensation.

Sec. 114. Cooperation. Each member or alternate member of said board may be paid not to exceed \$10 per day for actual service but not more than \$500 in any 1 year.

Sec. 115. Appeal. An applicant for a permit whose application has been refused by the superintendent or any owner, agent or person interested in the decision of a special board appointed under section 51 may appeal therefrom within 30 days of the date of refusal. A person may appeal from any other decision of the superintendent within 10 days after being notified of such decision by giving the superintendent notice in writing of his appeal. Said notice or a certified copy thereof shall be at once transmitted by the superintendent to the board of appeal.

Sec. 116. Notice of appeal. Such written notice of appeal shall be accompanied by the sum of \$15 payable to the city or town.

Sec. 117. Hearing. After notice to the appellant, to the superintendent and to such other interested parties as the board shall order, and after publication in 2 issues of the local paper, a hearing shall be held, and said board shall affirm, annul or modify said refusal or decision. When the board of appeal allows a variation from the provisions of this chapter, no permit may be granted until action approving such variation with or without amending provisions has been taken by the commissioner with the approval of the board of standards as provided under section 23.

Sec. 118. Decisions of board. Every decision of said board shall be in writing, shall require the assent of all members of the board in cases involving violations of this chapter, and shall be filed in the office of the superintendent within 10 days after the hearing. If such decision is not in violation of this chapter, a certified copy shall be sent by registered mail with receipt requested or otherwise to the applicant, and a copy publicly posted in the office of the superintendent for 2 weeks thereafter. If the order or refusal of the superintendent is affirmed, and conforms to section 117, such order or refusal shall have full force and effect.

Sec. 119. Tests for substitute materials. Whoever desires to substitute for the materials or methods covered by this chapter, materials or methods of construction or maintenance not covered thereby, shall present to the superintendent, or directly to the commissioner, plans, methods of analysis of the system or qualities of the material and shall make such additional tests or present satisfactory evidence of such tests as the superintendent or the commissioner may require. The costs of any tests required to determine acceptability of substitute materials or methods shall be paid by the applicant.

Sec. 120. Review of superintendent's findings. If a superintendent finds there is merit in any proposed substitution he shall submit all of the data and information to the commissioner who shall review the matter in question and then obtain a decision of acceptance or rejection from the board of standards.

Sec. 121. Board of standard. The action of the boards of standards shall be considered as final and if such action is favorable it shall become a regulation under this chapter and shall be transmitted to all of the superintendents of the cities and towns of the state.

Sec. 122. New petitions after appeal. When an appeal is made to the board of appeal and a decision rendered, no further petition relative to the same building, structure or land shall be considered for a period of at least 1 year, unless in the opinion of the superintendent or selectmen the new petition is substantially different in character from the one previously submitted.

Sec. 123. Duty of board of appeal; reports. It shall be the duty of the board of appeal to submit to the municipal officers or selectmen on or before the 1st of January of each year a report giving a summary of all decisions of the board, together with such recommendations of revisions of regulations which seem desirable. Copies of such annual reports shall be filed with the commissioner.

Sec. 124. Certain duties of superintendents. The superintendent shall retain 1 copy of all applications for permit, together with the plans, specifications and other documents filed in connection therewith, reports of inspection, certificate of occupancy, decisions of the board of appeal and other reports and orders issued or received by the building department.

Sec. 125. Permanent records. All applications, plans and specifications shall be consecutively numbered, indexed and filed as a permanent record. Applications that have been refused shall also be suitably indexed and filed as a permanent record.

Sec. 126. Copies of letters retained. Copies of all letters and other correspondence of the department shall be suitably filed and retained for at least 6 years.

Sec. 127. Public records. All records of the department, except plans and specifications, shall be public records. Plans and specifications shall not be subject to inspection by persons other than the persons filing them, and the owner of the premises affected, or the architect or engineer who prepared such plans and specifications, except by order of the superintendent or of a court.

Sec. 128. Copies of permits, etc., filed with district supervisor. The superintendent shall file with the district supervisor 1 copy of every building permit or certificate of occupancy granted for new work, demolition, removal, alteration and change of occupancy.

Sec. 129. Inspections. There shall be inspections, at least 1 every year, of all buildings or portions of buildings used for public assembly, institutional buildings and hotels. All other buildings and structures shall be inspected whenever the superintendent has reason to believe there is danger to life and limb. One copy of every report on all such inspections shall be filed with the district supervisor.

Sec. 130. Decisions filed with supervisors. One copy of each favorable decision granted by the board of appeal, of every city and town together with plans and other pertinent information, shall be filed with the district supervisor.

Sec. 131. Duties of fire department heads. The administrative head of the fire department of each city and town shall grant permits governing the use, storage, manufacture and sale of hazardous merchandise such as gasoline, dry-cleaning fluids, fuel oil, explosives and fireworks. One copy of every permit granted shall be filed with the district supervisor. The commissioner shall determine, with the approval of the board of standards, which materials shall be considered as hazardous.

Sec. 132. Further duties. The administrative head of the fire department of each city and town shall inspect, or cause to be inspected, each place of assembly and each place where hazardous merchandise, as described above, is used, stored, manufactured or sold, except that for single and 2-family houses the fire chief may determine to what extent such inspection shall be made. Such inspection shall be at least bi-monthly and at such times, including time of occupancy and use, as to assure compliance with regulations issued by the commissioner under section 26. One copy of the report on each such inspection shall be signed by the responsible administrative head and filed with the district supervisor.

Sec. 133. Duties of license boards. The license board of each city and town shall file with the district supervisor 1 copy of each license in force at the time of passage of this chapter. Such board shall also submit 1 copy of all licenses issued and all reports of inspections made subsequent to the passage of this chapter. Each such document shall be signed by the responsible administrative head of the department.

Sec. 134. Duties of police departments. The police department of every city and town shall file with the district supervisor 1 copy of all inspections made relative to buildings and structures. The report shall be signed by the responsible administrative head of the department.

Sec. 135. Duties of boards of health. The board of health of every city and town shall file with the district supervisor 1 copy of each license, report and decision issued or granted. Each such document shall be properly signed by the responsible administrative head of the department.

Sec. 136. Report of superintendent. The superintendent shall annually submit a report to the municipal officers and selectmen. He shall incorporate in said report a summary of all permits, certificates of occupancy, inspections, decisions of the board of appeal, proceedings before the boards of standards and may submit recommendations of desirable amendments of regulations issued under this chapter. Copies of such reports shall be filed with the commissioner.

Sec. 137. Duties of city and town officers. In all cities and towns in the state where either one or more departments such as fire department, police department, licensing board and board of health do not exist, it shall be the duty of the municipal officers and selectmen to appoint such part-time or full-time inspectors or provide other means to render the reports and documents required under sections 128 to 135, inclusive.

Sec. 138. Abatement or removal of buildings. If any building or struc-

ture is erected or maintained in violation of any provision of this chapter, the superintendent or municipal officers or selectmen as provided for under section 137 may abate and remove it subject to the penalty provided in section 139.

Sec. 139. Penalties. Except as otherwise provided in this chapter, whoever violates any provision thereof or whoever builds, alters or maintains a structure or part thereof in violation of any provision thereof, after notification by the superintendent or municipal officers or selectmen shall be punished by a fine of not exceeding \$100. Each day during any portion of which such violation is allowed to continue, or is permitted by the owner, shall be considered a separate offense.

Sec. 140. Appeal to courts. Any person or persons aggrieved by the action or decision of any officer or board under this chapter may apply to a justice of the superior court for a review of such action. The justice within 10 days of such application, shall appoint a board of review consisting of 3 members, 1 of which is a registered architect, 1 a registered engineer and 1 a licensed builder. This board shall hold a hearing under its own rules of procedure and thereafter shall render a decision within 30 days to the appointing justice, which decision shall be binding on all parties. Where such decision reverses the action or decision taken by the officer or board involved, such officer or board shall immediately grant relief to the applicant, in accord with the recommendations of the board of review. No such decision shall be a precedent, but shall apply to the particular application only.

Sec. 141. Repeal. The codes or ordinances pertaining to the construction and inspection of buildings in cities and towns, existing at the time of the effective date of this code, which are in violation of or less restrictive than the provisions of this chapter, are hereby repealed.'