

City of Portland, Maine – Building or Use Permit Application 389 Congress Street, 04101, Tel: (207) 874-8703, FAX: 874-8716

Location of Construction: 80 Four Winds Rd		Owner: Richard Fischer		Phone:	Permit No: 980890
Owner Address:		Lessee/Buyer's Name:		Phone:	BusinessName:
Contractor Name: R.L. Barter & Sons		Address: 180 Mast Rd Falmouth, ME 04105		Phone: 878-5132	
Past Use: 1-fam		Proposed Use:		COST OF WORK: \$ 222000.00	PERMIT FEE: \$ 130.00
				FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied	INSPECTION: Use Group: Type:
Proposed Project Description: Lift Garage to install frostwall foundation Build family room on back of garage Bedroom between house & garage		Signature:		Signature:	
Permit Taken By: SP		Date Applied For: 05 August 1998			

PERMIT ISSUED
 Permit Issued:
 AUG 14 1998
CITY OF PORTLAND

Zone: CBL: 286-A-034
 Zoning Approval:
Special Zone or Reviews:
 Shoreland
 Wetland
 Flood Zone
 Subdivision
 Site Plan maj minor mm

Zoning Appeal
 Variance
 Miscellaneous
 Conditional Use
 Interpretation
 Approved
 Denied

Historic Preservation
 Not in District or Landmark
 Does Not Require Review
 Requires Review

Action:
 Approved
 Approved with Conditions
 Denied
 Date:

**PERMIT ISSUED
 WITH REQUIREMENTS**

#3

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit

SIGNATURE OF APPLICANT	ADDRESS:	DATE: 05 August 1998	PHONE:
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE			PHONE:

White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector

CEO DISTRICT 3
 MLIMW

COMMENTS

8-21-98 Checked out footings. This garage was just lifted up & put back on the same spot.

8/25/98 Checked foundation ^{under} garage up on cribbing 8" wall OK to backfill masonry

8-27-98 Checked setbacks for addition off the rear of property. OK masonry (wall framed setting up)

Checked addition framing & headers. & 10/7/98 told contractor to submit an amendment to permit for engineered joists in ceiling & went over fire rating now

Inspection Record

Type	Date
Foundation: _____	_____
Framing: _____	_____
Plumbing: _____	_____
Final: _____	_____
Other: _____	_____

BUILDING PERMIT REPORT

DATE: 8/13/98 ADDRESS: 80 Fourwinds Road
REASON FOR PERMIT: lift existing garage & put frost wall - Add Family Room to
BUILDING OWNER: Richard Fischer back of GARAGE, Attach mud room to GARAGE
CONTRACTOR: R.L. Barter & Sons & house
PERMIT APPLICANT: contractor

USE GROUP _____ BOCA 1996 CONSTRUCTION TYPE _____

CONDITION(S) OF APPROVAL

This Permit is being issued with the understanding that the following conditions are met:

Approved with the following conditions: #2, #2.5, #2.6, #4, #5, #8, #9, #10, #11, #16,
#25, #28, #29, #30

1. This permit does not excuse the applicant from meeting applicable State and Federal rules and laws.
2. Before concrete for foundation is placed, approvals from the Development Review Coordinator and Inspection Services must be obtained. (A 24 hour notice is required prior to inspection)
- 2.5. Foundation drain shall be placed around the perimeter of a foundation that consists of gravel or crushed stone containing not more than 10 percent material that passes through a No. 4 sieve. The drain shall extend a minimum of 12 inches beyond the outside edge of the footing. The thickness shall be such that the bottom of the drain is not higher than the bottom of the base under the floor, and that the top of the drain is not less than 6 inches above the top of the footing. The top of the drain shall be covered with an approved filter membrane material. Where a drain tile or perforated pipe is used, the invert of the pipe or tile shall not be higher than the floor elevation. The top of joints or top of perforations shall be protected with an approved filter membrane material. The pipe or tile shall be placed on not less than 2" of gravel or crushed stone, and shall be covered with not less than 6" of the same material.
- 2.6. Foundations anchors shall be a minimum of 1 1/2" in diameter, 7" into the foundation wall, minimum of 12" from corners of From corners of foundation and a maximum 6'o.c. between bolts. (Section 2305.17)
3. Precaution must be taken to protect concrete from freezing.
4. It is strongly recommended that a registered land surveyor check all foundation forms before concrete is placed. This is done to verify that the proper setbacks are maintained.
5. Private garages located beneath habitable rooms in occupancies in Use Group R-1, R-2, R-3 or I-1 shall be separated from adjacent interior spaces by fire partitions and floor/ceiling assembly which are constructed with not less than 1-hour fire resisting rating. (Private garages attached side-by-side to rooms in the above occupancies shall be completely separated from the interior spaces and the attic area by means of 1/2 inch gypsum board or the equivalent applied to the garage means of 1/2 inch gypsum board or the equivalent applied to the garage side. (Chapter 4 Section 407.0 of the BOCA/1996)
6. All chimneys and vents shall be installed and maintained as per Chapter 12 of the City's Mechanical Code. (The BOCA National Mechanical Code/1993).
7. Sound transmission control in residential building shall be done in accordance with Chapter 12 section 1214.0 of the city's building code.
8. Guardrails & Handrails: A guardrail system is a system of building components located near the open sides of elevated walking surfaces for the purpose of minimizing the possibility of an accidental fall from the walking surface to the lower level. Minimum height all Use Groups 42", except Use Group R which is 36". In occupancies in Use Group A, B, H-4, I-1, I-2 M and R and public garages and open parking structures, open guards shall have balusters or be of solid material such that a sphere with a diameter of 4" cannot pass through any opening. Guards shall not have an ornamental pattern that would provide a ladder effect. (Handrails shall be a minimum of 34" but not more than 38". Use Group R-3 shall not be less than 30", but not more than 38".) Handrail grip size shall have a circular cross section with an outside diameter of at least 1 1/4" and not greater than 2". (Sections 1021 & 1022.0)
9. Headroom in habitable space is a minimum of 7'6". (Section 1204.0)
10. Stair construction in Use Group R-3 & R-4 is a minimum of 10" tread and 7 3/4" maximum rise. All other Use group minimum 11" tread, 7" maximum rise. (Section 1014.0)
11. The minimum headroom in all parts of a stairway shall not be less than 80 inches. (6' 8")
12. Every sleeping room below the fourth story in buildings of use Groups R and I-1 shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside without the use of special knowledge or separate tools. Where windows are provided as means of egress or rescue they shall have a sill height

o v e r

not more than 44 inches (1118mm) above the floor. All egress or rescue windows from sleeping rooms shall have a minimum net clear opening height dimension of 24 inches (610mm). The minimum net clear opening width dimension shall be 20 inches (508mm), and a minimum net clear opening of 5.7 sq. ft. (Section 1018.6)

- 13. Each apartment shall have access to two (2) separate, remote and approved means of egress. A single exit is acceptable when it exits directly from the apartment to the building exterior with no communications to other apartment units.
- 14. All vertical openings shall be enclosed with construction having a fire rating of at least one (1) hour, including fire doors with self closer's. (Over 3 stories in height requirements for fire rating is two (2) hours.)
- 15. The boiler shall be protected by enclosing with (1) hour fire-rated construction including fire doors and ceiling, or by providing automatic extinguishment.

16. All single and multiple station smoke detectors shall be of an approved type and shall be installed in accordance with the provisions of the City's Building Code Chapter 9, Section 19, 920.3.2 (BOCA National Building Code/1996), and NFPA 101 Chapter 18 & 19. (Smoke detectors shall be installed and maintained at the following locations):


- In the immediate vicinity of bedrooms
- In all bedrooms
- In each story within a dwelling unit, including basements

In addition to the required AC primary power source, required smoke detectors in occupancies in Use Groups R-2, R-3 and I-1 shall receive power from a battery when the AC primary power source is interrupted. (Interconnection is required)

- 17. A portable fire extinguisher shall be located as per NFPA #10. They shall bear the label of an approved agency and be of an approved type.
- 18. The Fire Alarm System shall be maintained to NFPA #72 Standard.
- 19. The Sprinkler System shall maintained to NFPA #13 Standard.
- 20. All exit signs, lights, and means of egress lighting shall be done in accordance with Chapter 10 Section & Subsections 1023. & 1024. Of the City's building code. (The BOCA National Building Code/1996)
- 21. Section 25-135 of the Municipal Code for the City of Portland states, "No person or utility shall be granted a permit to excavate or open any street or sidewalk from the time of November 15 of each year to April 15 of the following year".
- 22. The builder of a facility to which Section 4594-C of the Maine State Human Rights Act Title 5 MRSA refers, shall obtain a certification from a design professional that the plans commencing construction of the facility, the builder shall submit the certification to the Division of Inspection Services.
- 23. Ventilation shall meet the requirements of Chapter 12 Sections 1210. Of the City's Building Code. (crawl spaces & attics)
- 24. All electrical, plumbing and HVAC permits must be obtained by a Master Licensed holders of their trade.
- 25. All requirements must be met before a final Certificate of Occupancy is issued.
- 26. All building elements shall meet the fastening schedule as per Table 2305.2 of the City's Building Code. (The BOCA National Building Code/1996).
- 27. Ventilation of spaces within a building shall be done in accordance with the City's Mechanical Code (The BOCA National Mechanical Code/1993). (Chapter M-16)

28. Please read and implement the attached Land Use-Zoning report requirements.
29. The sills of all door openings between private garages & adjacent interior spaces shall be raised not less than 4 inches above the garage floor.
30. The door opening protectives shall comply with one of the following:
A) 1 3/4 inch solid core wood door B) 1 3/4 inch solid or honey comb core steel door

- 31. _____
- 32. _____

P. Samuel Hoffses, Building Inspector 

cc: Lt. McDougall, PFD
Marge Schmuckal

LAND USE - ZONING REPORT

ADDRESS: 80 Fourwinds Rd DATE: 8/7/98
 REASON FOR PERMIT: EXISTING GARAGE put in frost wall - Add family room to back of garage, attach mud room between garage & house
 BUILDING OWNER: Richard Fischer C-B-L: 206-A-34
 PERMIT APPLICANT: R.L. Batten & Sons
 APPROVED: conditions DENIED: _____
 # 4

CONDITION(S) OF APPROVAL

1. During its existence, all aspects of the Home Occupation criteria, Section 14-410, shall be maintained.
2. The footprint of the existing _____ shall not be increased during maintenance reconstruction.
3. All the conditions placed on the original, previously approved, permit issued on _____ are still in effect for this amendment.
4. Your present structure is legally nonconforming as to ~~rear~~ side setbacks. If you were to ~~remove~~ remove the building on your own volition, you will not be able to maintain these same setbacks. Instead you would need to meet the zoning setbacks set forth in today's ordinances. In order to preserve these legally non-conforming setbacks, you may only rebuild the garage in place and in phases. You may lift up the garage as proposed then set back. However, if you move it away, out at the Sunset streets.
5. This property shall remain a single family dwelling. Any change of use shall require a separate permit application for review and approval. lose your grand
6. Our records indicate that this property has a legal use of _____ units. Any change fathered in this approved use shall require a separate permit application for review and approval. set back,
7. Separate permits shall be required for any signage.
8. Separate permits shall be required for future decks and/or garage.
9. Other requirements of condition _____

Marge Schmuckal

Marge Schmuckal, Zoning Administrator,
 Asst. Chief of Code Enforcement

THIS IS NOT A PERMIT/CONSTRUCTION CANNOT COMMENCE UNTIL THE PERMIT IS ISSUED

**Building or Use Permit Pre-Application
Attached Single Family Dwellings/Two-Family Dwelling
Multi-Family or Commercial Structures and Additions Thereto**

In the interest of processing your application in the quickest possible manner, please complete the Information below for a Building or Use Permit.

NOTEIf you or the property owner owes real estate or personal property taxes or user charges on ANY PROPERTY within the City, payment arrangements must be made before permits of any kind are accepted.**

Location/Address of Construction (include Portion of Building): 80 FOUR WINDS ROAD		
Total Square Footage of Proposed Structure	Square Footage of Lot	
Tax Assessor's Chart, Block & Lot Number Chart# 286 Block# A Lot# 034	Owner: RICHARD FISCHER	Telephone#:
Owner's Address: 80 FOUR WINDS ROAD	Lessee/Buyer's Name (If Applicable)	Cost Of Work: \$ 22,000.00 Fee \$ 130
Proposed Project Description:(Please be as specific as possible) LIFT GARAGE TO INSTALL FROST WALL FOUNDATION BUILD FAMILY ROOM ON BACK OF GARAGE - MUD ROOM BETWEEN HOUSE & GARAGE		
Contractor's Name Address & Telephone F.R.L. BARTER + SONS 180 MIST ROAD FALMOUTH, ME. 04105		Rec'd By 878-5132
Current Use: 1-family	Proposed Use: Same w/ Add.	

Separate permits are required for Internal & External Plumbing, HVAC and Electrical installation.

- All construction must be conducted in compliance with the 1996 B.O.C.A. Building Code as amended by Section 6-Art II.
- All plumbing must be conducted in compliance with the State of Maine Plumbing Code.
- All Electrical Installation must comply with the 1996 National Electrical Code as amended by Section 6-Art III.
- HVAC (Heating, Ventilation and Air Conditioning) installation must comply with the 1993 BOCA Mechanical Code.

You must Include the following with you application:

- 1) A Copy of Your Deed or Purchase and Sale Agreement
- 2) A Copy of your Construction Contract, if available
- 3) A Plot Plan/Site Plan

Minor or Major site plan review will be required for the above proposed projects. The attached checklist outlines the minimum standards for a site plan.

4) Building Plans

Unless exempted by State Law, construction documents must be designed by a registered design professional.

A complete set of construction drawings showing all of the following elements of construction:

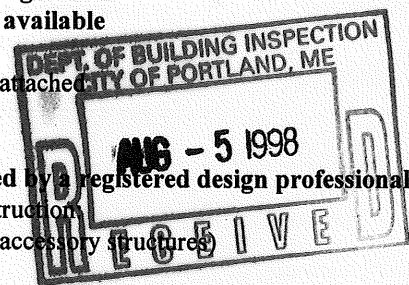
- Cross Sections w/Framing details (including porches, decks w/ railings, and accessory structures)
- Floor Plans & Elevations
- Window and door schedules
- Foundation plans with required drainage and dampproofing
- Electrical and plumbing layout. Mechanical drawings for any specialized equipment such as furnaces, chimneys, gas equipment, HVAC equipment (air handling) or other types of work that may require special review must be included.

Certification

I hereby certify that I am the Owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant: Ronald A. Barter	Date: 8/5/98
---	---------------------

Building Permit Fee: \$25.00 for the 1st \$1000.cost plus \$5.00 per \$1,000.00 construction cost thereafter.
Additional Site review and related fees are attached on a separate addendum



Applicant: R.L. Barta & Sons

Date: 8/7/98

Address: 80 Four Winds Rd

C-B-L: 206-A-3A

CHECK-LIST AGAINST ZONING ORDINANCE

Date - Existing 1965

Zone Location - R-3

Interior or corner lot - cor. Sarnet Lane 24-34

Proposed Use/Work - lift existing GARAGE, put frost wall - Add family room to back of garage, ATTACH mud room to garage & house

Sewage Disposal -

Lot Street Frontage -

Front Yard - N/A

Rear Yard - 25' req - $\approx 95'$ shown

Side Yard - 20' outside lot \rightarrow 14' existing - may keep if garage is lifted \rightarrow see req.

Projections -

Width of Lot -

Height -

Lot Area - 10,843^{sq} ft

Lot Coverage/ Impervious Surface -

Area per Family -

Off-street Parking -

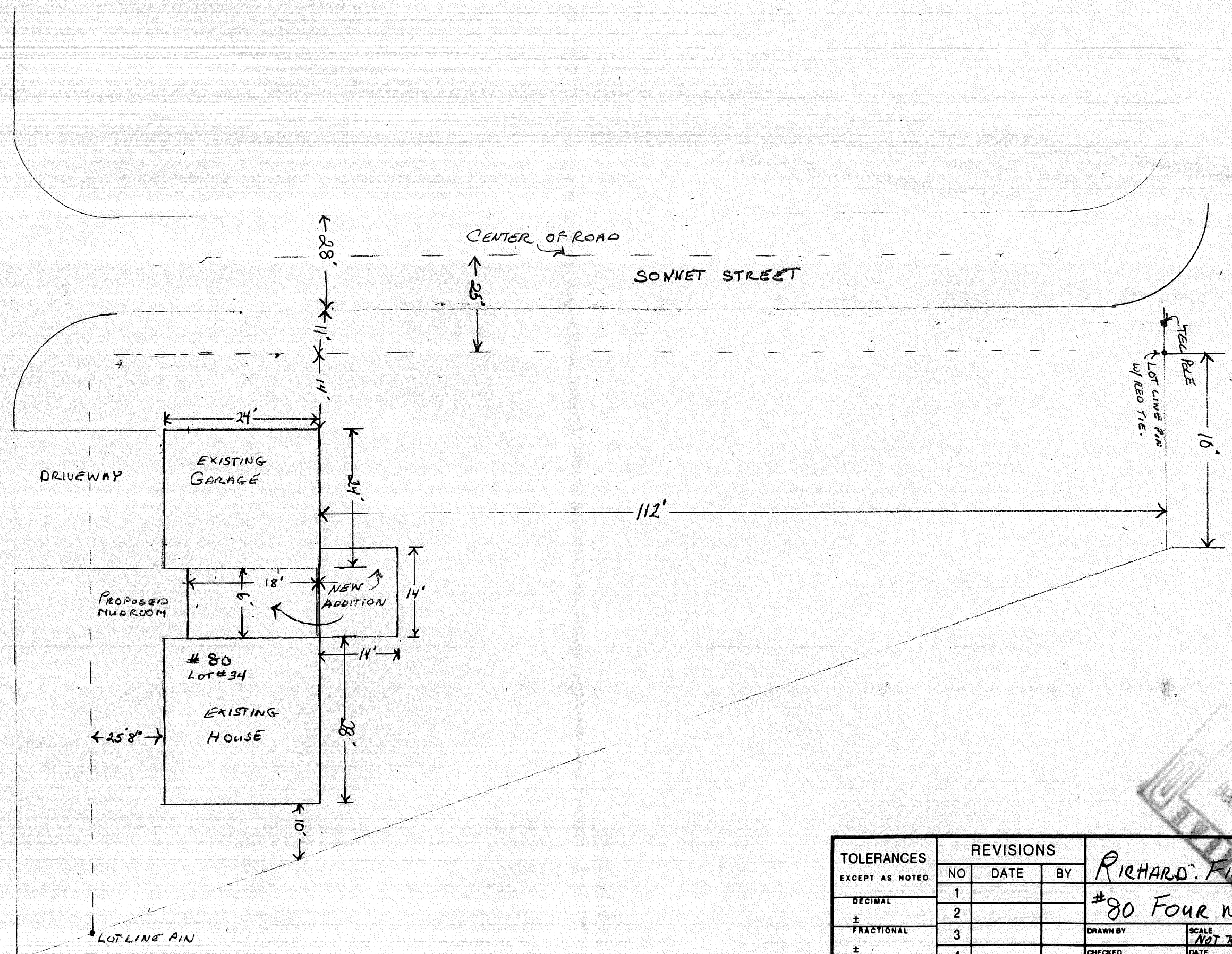
Loading Bays -

Site Plan -

Shoreland Zoning/ Stream Protection - N/A

Flood Plains - Zone C

FOUR WINDS ROAD



TOLERANCES EXCEPT AS NOTED	REVISIONS			DRAWN BY RICHARD FISCHER	SCALE NOT TO SCALE	MATERIAL
	NO	DATE	BY			
DECIMAL	1			#80 FOUR WINDS ROAD	DATE	DRAWING NO
±	2					
FRACTIONAL	3					
±	4					
ANGULAR	5					
±				TRACED	APPROVED	



EXISTING GARAGE TO BE LIFTED TO INSTALL
 NEW FOUNDATION. GARAGE NOW SITS ON
 A 6" CEMENT PAD THAT IS SINKING INTO
 THE GROUND.



EXISTING GARAGE

PROPOSED
 NEW ADDITION

EXISTING HOUSE

TOLERANCES EXCEPT AS NOTED	REVISIONS			FRONT ELEVATION
	NO	DATE	BY	
DECIMAL	1			DRAWN BY _____ SCALE 1/4" = 1' CHECKED _____ DATE _____ TRACED _____ APPROVED _____ MATERIAL _____ DRAWING NO _____
±	2			
FRACTIONAL	3			
±	4			
ANGULAR	5			



5/12 PITCH

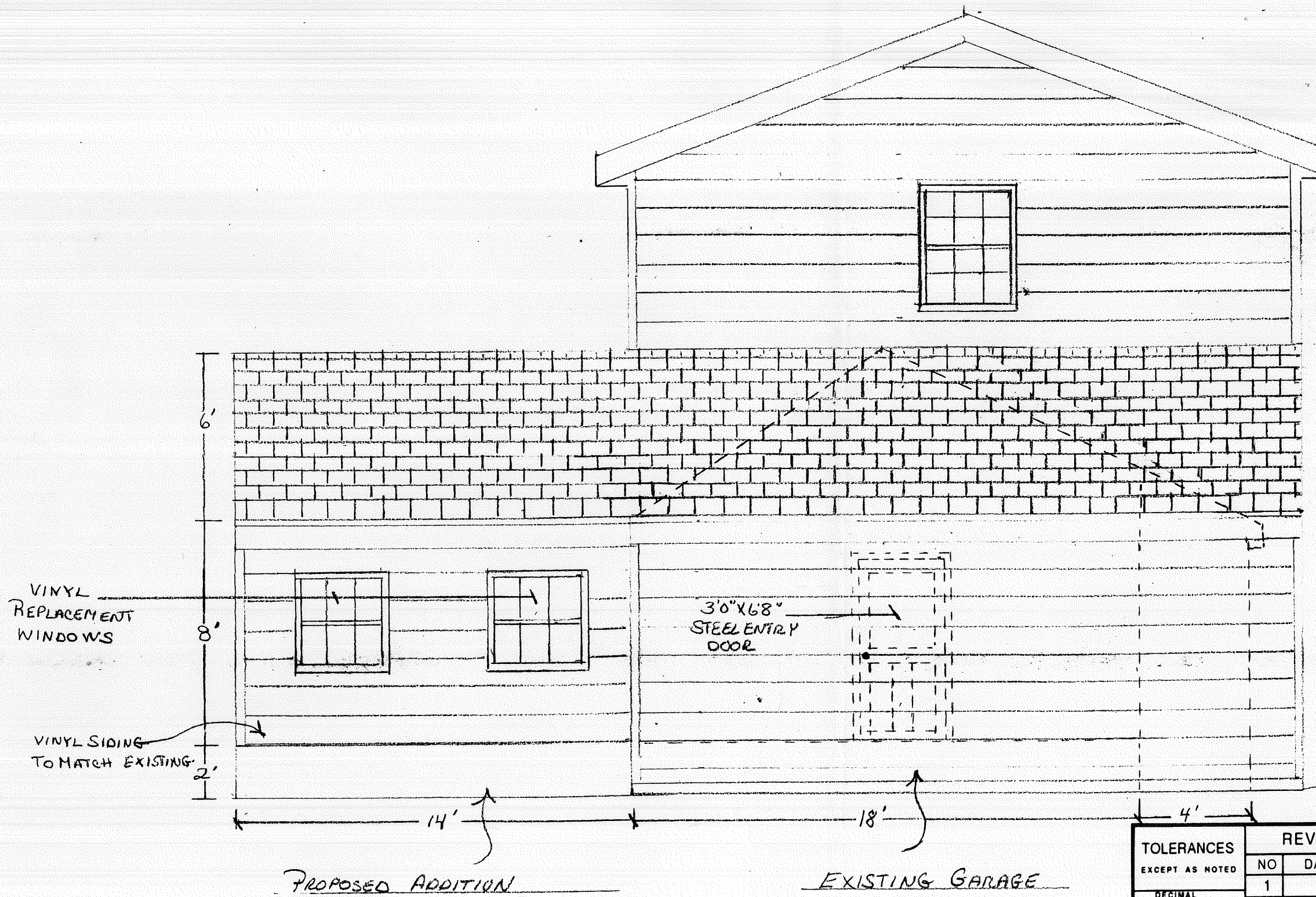
EXISTING GARAGE

EXISTING HOUSE

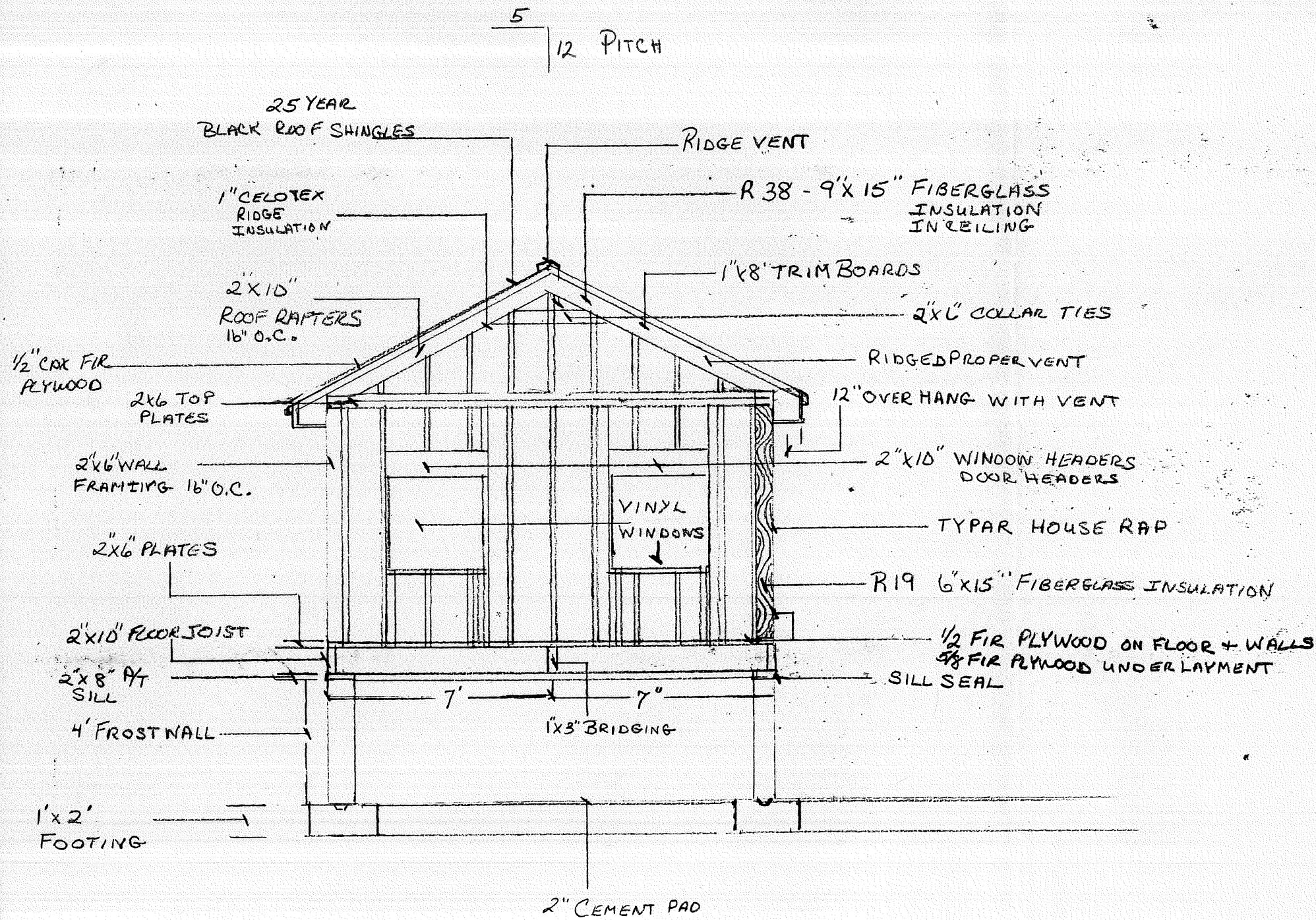
NEW DECK
6'x8' P4

PROPOSED NEW ADDITION

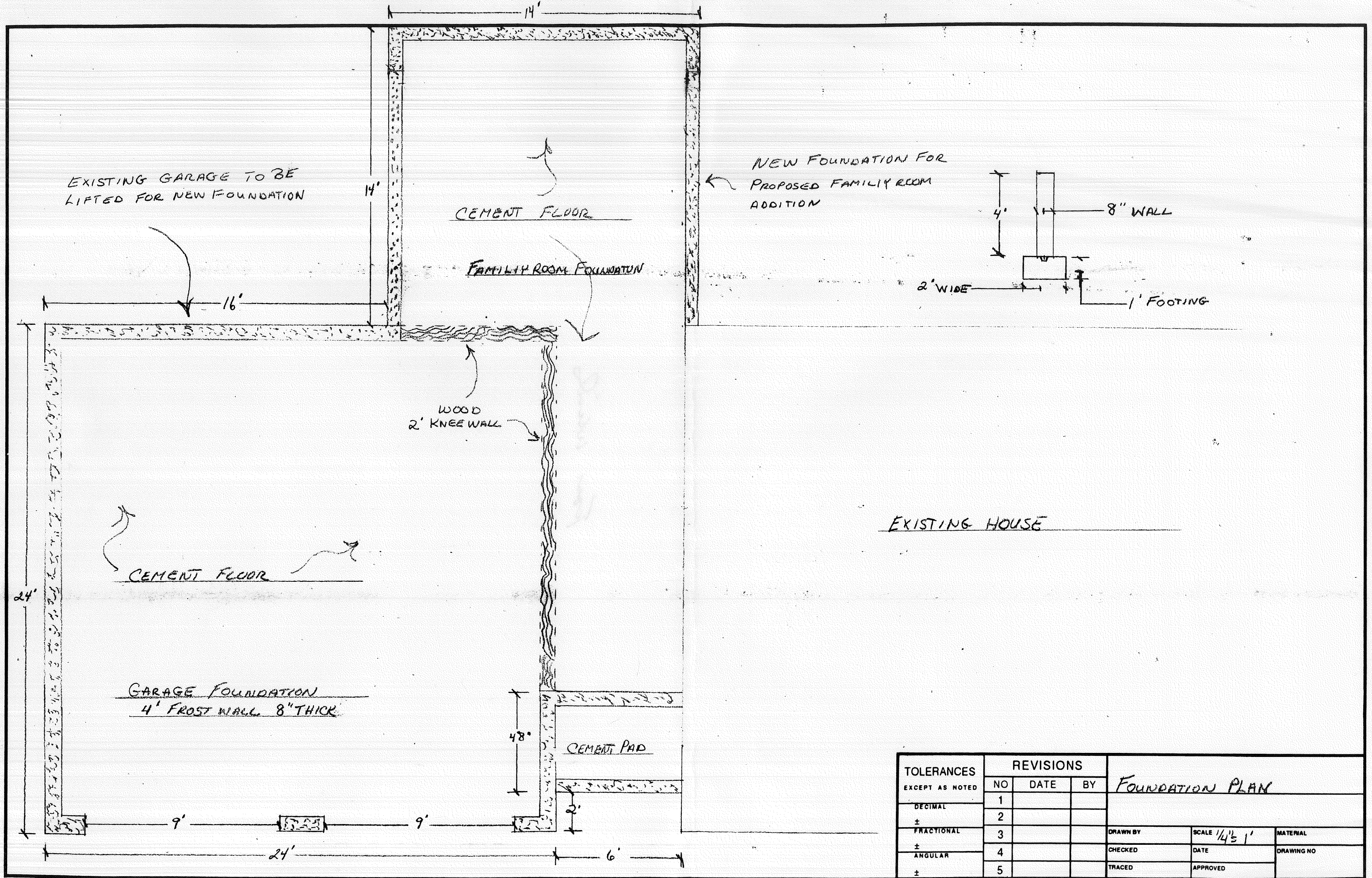
TOLERANCES EXCEPT AS NOTED	REVISIONS			REAR ELEVATION		
	NO	DATE	BY			
DECIMAL	1			DRAWN BY	SCALE	MATERIAL
±	2					
FRACTIONAL	3			CHECKED	DATE	DRAWING NO
±	4					
ANGULAR	5			TRACED	APPROVED	
±						



TOLERANCES EXCEPT AS NOTED	REVISIONS			LEFT ELEVATION		
	NO	DATE	BY			
DECIMAL	1					
±	2					
FRACTIONAL	3			DRAWN BY	SCALE	MATERIAL
±	4			CHECKED	DATE	DRAWING NO
ANGULAR	5			TRACED	APPROVED	
±						



TOLERANCES EXCEPT AS NOTED	REVISIONS			FRAMING DETAIL		
	NO	DATE	BY			
DECIMAL	1					
±	2					
FRACTIONAL	3			DRAWN BY	SCALE	MATERIAL
±	4			CHECKED	DATE	DRAWING NO
ANGULAR	5			TRACED	APPROVED	
±						



TOLERANCES EXCEPT AS NOTED	REVISIONS			FOUNDATION PLAN		
	NO	DATE	BY			
DECIMAL	1			DRAWN BY	SCALE 1/4" = 1'	MATERIAL
±	2					
FRACTIONAL	3			CHECKED	DATE	DRAWING NO
±	4					
ANGULAR	5			TRACED	APPROVED	
±						

CHAPTER 313

MUNICIPAL INSPECTION OF BUILDINGS

Section

- 2351. Inspector; compensation; jurisdiction; deputy.
- 2352. Right to enter buildings.
- 2353. Duty to inspect buildings under construction.
- 2354. Inspection of buildings being repaired.
- 2355. Repealed.
- 2356. Appeals.
- 2357. No occupancy without certificate; appeal.
- 2358. Failure to comply with order of inspector.
- 2359. Refusing admission to inspector.
- 2360. Authority to enter buildings; remedy of conditions; appeals.
- 2361. Proceedings by municipality.

Cross References

Action for damages, common law remedy preserved, see § 2439 of this title.
District court jurisdiction in land use proceedings, see title 4, § 152.
Enforcement of land use laws and ordinances, see title 30-A, § 4506.
Fire prevention and inspection laws, municipal enforcement, see § 2361 of this title.
Hospital licensing, building inspection requirements, see title 22, § 1816.
Plantations and unorganized places, ordinances relating to buildings and equipment, see title 30-A § 7060.

§ 2351. Inspector; compensation; jurisdiction; deputy

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town shall so vote at a town meeting, and in each village corporation, if such corporation shall so vote at the annual meeting thereof, the municipal officers shall annually in the month of April appoint an inspector of buildings, who shall be a man skilled in the construction of buildings, and shall determine his compensation. The municipal officers shall define the limits within which the inspector of buildings shall have jurisdiction, which shall include the thickly settled portion of each such city or of each village in each such city or town. Whenever the inspector of buildings shall become incapacitated, the municipal officers may appoint or authorize the inspector of buildings to appoint a deputy inspector of buildings who shall serve until removed by the municipal officers, but in no event beyond the term for which the inspector of buildings was appointed. Such deputy inspector shall perform such duties as may be required of him by the inspector. His compensation shall be determined by the municipal officers.

R.S.1954, c. 97, § 10.

Library References

Municipal Corporations ⇐192.
Towns ⇐15.

C.J.S. Municipal Corporations § 672 et seq.
C.J.S. Towns § 34 et seq.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

Scope of authority 1

1. Scope of authority

R.S.1954, c. 97, §§ 21 to 23, did not charge an inspector of buildings with responsibility for action upon a "burnt, dilapidated or dangerous building" under R.S.1954, c. 141, §§ 25 to 28. *Michaud v. City of Bangor* (1963) 159 Me. 491, 196 A.2d 106, appeal after remand, 160 Me. 285, 203 A.2d 687.

Where an allegedly dangerous building was demolished, without legal notice to the owner, by

authority of a city council order directing that the building be "demolished," by a "letter" order from the building inspector to the chief of the fire department and a verbal order from the chief of the fire department to fire department employees, the participation by the building inspector and members of the fire department was not within the scope of their duties as public officers in their respective capacities. *Michaud v. City of Bangor* (1963) 159 Me. 491, 196 A.2d 106, appeal after remand, 160 Me. 285, 203 A.2d 687.

§ 2352. Right to enter buildings

An inspector of buildings in the performance of his official duty may enter any building for the purpose of making the inspection required by chapters 313 to 321.

R.S.1954, c. 97, § 11; 1975, c. 623, § 34, eff. July 1, 1975.

Historical Note

Laws 1975, c. 623, substituted "313" for "311".

Library References

Health and Environment ⇐32.

C.J.S. Health and Environment § 28 et seq.

§ 2353. Duty to inspect buildings under construction

The inspector of buildings shall inspect each new building during the process of construction, so far as may be necessary, to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor, as he deems necessary, concerning the construction of such building so as to render the same safe from the catching and spreading of fire.

R.S.1954, c. 97, § 12.

Cross References

Nuisances generally, see title 17, § 2701 et seq.

Library References

Health and Environment ⇐32.

C.J.S. Health and Environment § 28 et seq.

§ 2354. Inspection of buildings being repaired

The inspector of buildings shall inspect all buildings while in process of being repaired, and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. He may

give such directions in writing to the owner as he deems necessary concerning such repairs, so as to render such building safe from the catching and spreading of fire.

R.S.1954, c. 97, § 13.

Library References

Health and Environment ⇨32.

C.J.S. Health and Environment § 28 et seq.

Notes of Decisions

Scope of authority 1

1. Scope of authority

Rev.St. c. 30, § 27, relating to the inspection of buildings being repaired to prevent fires, was

broad enough to authorize fire commissioners to pass an ordinance requiring that an owner of a building, before repairing, submit a plan. *Inhabitants of Town of Skowhegan v. Heselton* (1917) 117 Me. 17, 102 A. 772.

§ 2355. Repealed. Laws 1987, c. 35, § 1

Historical Note

The repealed section, derived from R.S.1954, c. 97, § 14, related to the inspection of chimneys, furnaces and heating apparatus.

See § 2360 of this title.

§ 2356. Appeals

An appeal in writing may be taken from any order or direction of the inspector of buildings to the municipal officers, whose order thereon shall be final. R.S.1954, c. 97, § 15.

§ 2357. No occupancy without certificate; appeal

No new building may be occupied until the inspector of buildings has given a certificate that the same has been built in accordance with section 2353, and so as to be safe from fire. If the owner permits it to be so occupied without such certificate, he shall be penalized in accordance with Title 30, section 4966. In case the inspector of buildings for any cause declines to give his certificate and the builder has in his own judgment complied with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it shall be decided by them that said section has been complied with, the owner of said building shall not be liable to a fine for want of the certificate of the inspector.

R.S.1954, c. 97, § 16; 1987, c. 192, § 4.

Historical Note

Laws 1987, c. 192, in the first sentence, substituted "may" for "shall", and in the second sentence, substituted "penalized in accordance with Title 30, section 4966" for "liable to a fine of \$10

for each week he permits such building to be so occupied, to be recovered by complaint or indictment".

Cross References

Construction permits for public buildings, see § 2448 of this title.

Library References

Municipal Corporations ⇐192.
Towns ⇐15.

C.J.S. Municipal Corporations § 672 et seq.
C.J.S. Towns § 34 et seq.

§ 2358. Failure to comply with order of inspector

If the owner of any building neglects or refuses for more than 30 days to comply with any direction of the inspector of buildings concerning the repairs on any building as provided in section 2354, or to make such changes in the construction or situation of chimneys, flues, funnels, stoves, furnaces, boilers, boiler connections and heating apparatus, as may be required by such inspector of buildings under section 2355, or as may be confirmed by the municipal officers on appeal, he shall be penalized in accordance with Title 30, section 4966. R.S.1954, c. 97, § 17; 1987, c. 192, § 4.

Historical Note

Laws 1987, c. 192, substituted "penalized in accordance with Title 30, section 4966" for "punished by a fine of \$10 for each week he so neglects or refuses, to be recovered by complaint or indictment".

Library References

Municipal Corporations ⇐633(1).
C.J.S. Municipal Corporations § 316 et seq.

§ 2359. Refusing admission to inspector

Text of section as amended by Laws 1987, c. 35, § 2

Any owner or occupant of a building, who refuses to permit an inspector of buildings to enter his buildings or willfully obstructs him in the inspection of such building as required by chapters 313 to 321,¹ shall be punished by a fine of not less than \$50 nor more than \$250, to be recovered by complaint or indictment.

R.S.1954, c. 97, § 18; 1975, c. 623, § 35, eff. July 1, 1975; 1987, c. 35, § 2.

¹ Section 2351 et seq. of this title.

For text of section as amended by Laws 1987, c. 192, § 5, see § 2359, post

§ 2359. Refusing admission to inspector

Text of section as amended by Laws 1987, c. 192, § 5

Any owner or occupant of a building, who refuses to permit an inspector of buildings to enter his buildings or willfully obstructs him in the inspection of such building as required by chapters 313 to 321,¹ shall be penalized in accordance with Title 30, section 4966.

R.S.1954, c. 97, § 18; 1975, c. 623, § 35, eff. July 1, 1975; 1987, c. 192, § 5.

¹ Section 2351 et seq. of this title.

For text of section as amended by Laws 1987, c. 35, § 2, see § 2359, ante

Historical Note

Laws 1975, c. 623, substituted "313" for "311" with Title 30, section 4966" for "punished by a fine of not less than \$1 nor more than \$20, to be recovered by complaint or indictment".

Laws 1987, c. 35, substituted "\$50" for "\$1" and "\$250" for "\$20".

Laws 1987, c. 192, without reference to Laws 1987, c. 35, substituted "penalized in accordance

§ 2360. Authority to enter buildings; remedy of conditions; appeals

The inspector of buildings, the fire inspector and the municipal officers of any city or town may at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within their jurisdiction. Whenever any of said officers shall find in any building or upon any premises combustible material, inflammable conditions or heating fixtures or apparatus so situated or constructed as to be dangerous to the safety of such buildings or premises, they shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said buildings or premises. If the said owner or occupant shall deem himself aggrieved by such order when made by the inspector of buildings or the fire inspector, he may within 24 hours appeal to the municipal officers, and the cause of the complaint shall be at once investigated by the direction of the latter and, unless by their authority the order above named is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. The inspector of buildings, the fire inspector or the municipal officers shall make, or cause to be made, an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction, upon complaint of any person having an interest in said buildings or premises or property adjacent thereto. Any owner or occupant of buildings or premises, failing to comply with the orders of the authorities above specified, shall be punished by a fine of not less than \$5 for each day's neglect.

R.S.1954, c. 97, § 19; 1987, c. 35, § 3.

Historical Note

Laws 1987, c. 35, inserted "or heating fixtures or apparatus so situated or construct as to be" in the second sentence.

Cross References

Adult day care program, fire safety, see title 22, § 8605.
Boarding care facilities, licenses, fire safety inspections, see title 22, § 7904-A.
Home day care, fire inspection, see title 22, § 8305.

Library References

Municipal Corporations ⇨192.
Towns ⇨15.

C.J.S. Municipal Corporations § 672 et seq.
C.J.S. Towns § 34 et seq.

§ 2361. Proceedings by municipality

1. **Municipal enforcement.** Duly appointed fire chiefs or their designees, municipal building inspectors and code enforcement officers may bring a civil

BUILDING INSPECTION

25 § 2361

Ch. 313

action in the name of the municipality to enforce any of the state laws, duly promulgated state rules or local ordinances enacted pursuant to chapters 313 to 321;¹ and

2. **Notice.** In any proceeding brought by or against the State which involves the validity of a municipal ordinance, the municipality shall be given notice of the proceeding and shall be entitled to be made a party to the proceeding and to be heard. In any proceeding brought by or against the municipality which involves the validity of statute, ordinance or regulation, the Attorney General shall be served and shall be made a party to the proceeding and be entitled to be heard. This section shall apply to enforcement of statutes, rules or ordinances enacted pursuant to chapters 313 to 321.

1985, c. 101, eff. April 18, 1985.

¹ Section 2351 et seq. of this title.

Library References

Municipal Corporations \Leftrightarrow 121.

C.J.S. Municipal Corporations § 428 et seq.

PART 6

FIRE PREVENTION AND FIRE PROTECTION

CHAPTER 313

MUNICIPAL INSPECTION OF BUILDINGS

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 2354. Inspection of buildings being repaired

Subject to Title 32, chapter 33,¹ the inspector of buildings shall inspect all buildings while in process of being repaired and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. The inspector may give directions in writing to the owner as necessary concerning such repairs to render the building safe from the catching and spreading of fire.

1991, c. 198, § 1; 1991, c. 714, § 6, eff. March 23, 1992.

¹ Section 2301 et seq. of title 32.

Historical and Statutory Notes

Amendments

1991 Amendments. Laws 1991, c. 198, § 1, inserted reference to chapter 125 of title 32, and made technical and gender-neutral language changes.

Laws 1991, c. 714, § 6, substituted reference to Title 32, chapter 33 for reference to Title 32, chapter 125.

§ 2357. No occupancy without certificate; appeal

No new building may be occupied until the inspector of buildings has given a certificate that the same has been built in accordance with section 2353, and so as to be safe from fire. If the owner permits it to be so occupied without such certificate, the owner shall be penalized in accordance with Title 30-A, section 4452. In case the inspector of buildings for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it shall be decided by them that said section has been complied with, the owner of said building shall not be liable to a fine for want of the certificate of the inspector.

1989, c. 502, § A, 101, eff. June 30, 1989.

Historical and Statutory Notes

Amendments

1989 Amendment. Laws 1989, c. 502, § A, 101, substituted reference to § 4452 of title 30-A for

reference to § 4966 of title 30 and rendered references to owner, inspector of buildings and builder gender-neutral.

§ 2358. Failure to comply with order of inspector

If the owner of any building neglects or refuses for more than 30 days to comply with any direction of the inspector of buildings concerning the repairs on any building as provided in section 2354, the owner shall be penalized in accordance with Title 30-A, section 4452.

1989, c. 502, § A, 102, eff. June 30, 1989.

INVESTIGATION—FIRE HAZARDS, ETC.
Ch. 315

25 § 2399

Historical and Statutory Notes

Amendments

1989 Amendment. Laws 1989, c. 502, § A, 102, deleted provisions relating to failure to comply with directions to make changes in construction or situation of chimneys, flues, funnels, stoves, furnaces, boilers, boiler connections and heating appa-

ratus, as may be required by the inspector of buildings under § 2355 of this title, or as may be confirmed by municipal officers on appeal, rendered reference to owner gender-neutral, and substituted reference to § 4452 of title 30-A for reference to § 4966 of title 30.

CHAPTER 317
PREVENTIVE MEASURES AND RESTRICTIONS

- Section**
- 2431. Repealed.
 - 2432. Removal or repair of defective chimneys, stoves, boilers and the like.
 - 2433. Smoking restrictions.
 - 2434. Repealed.
 - 2435. Kindling fire with intent to injure another.
 - 2436 to 2438. Repealed.
 - 2439. Common law remedy preserved.
 - 2440. Penalties; recovery and appropriation.
 - 2441. Explosives or inflammables; regulations.
 - 2442. Recovery of damages for explosion.
 - 2443. Search for explosives.
 - 2444. Transportation of explosives.
 - 2445. Standards for installing gas appliances.
 - 2446. Approval of certain appliances.
 - 2447. Approval of certain compounds.
 - 2447-A. Cellulose fiber insulation standards.
 - 2447-B. Foam plastic insulation standards.
 - 2448. Construction permit; when required.
 - 2449. Penalty.
 - 2450. Examinations by State Fire Marshal.
 - 2451. Repealed.
 - 2452. Exits.
 - 2452-A. Use of candles.
 - 2453. Fire escapes; appeals.
 - 2454 to 2461. Repealed.
 - 2462. Plundering at fires as larceny.
 - 2463. Installation of sprinkler systems and smoke, heat or fire detection systems.
 - 2464. Smoke detectors.
 - 2465. Adoption of regulations.

Cross References

- Fire prevention and inspection laws, municipal enforcement, see § 2361 of this title.
- Hospital licensing, building inspection requirements, see title 22, § 1816.
- Refusing admission to inspector, penalties, see § 2359 of this title.
- Right to outer buildings, inspections required by this chapter, see § 2352 of this title.

§ 2431. Repealed. Laws 1977, c. 177

Historical Note

The repealed section, derived from R.S.1954, c. 97, § 32, restricted certain occupancies in maritime towns.

§ 2432. Removal or repair of defective chimneys, stoves, boilers and the like

On complaint of any citizen that a chimney, stove, stovepipe, oven, furnace, boiler or appurtenance is defective, out of repair or so placed in any building as to endanger it or any other building, the Commissioner of Public Safety or

municipal officers of any town of not more than 2,000 inhabitants, if satisfied that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if he unnecessarily neglects for 3 days to remove or repair the same effectually, he forfeits not less than \$10 nor more than \$100. R.S.1954, c. 97, § 33; 1971, c. 592, § 35.

Historical Note

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Cross References

Licenses required for certain internal combustion and steam boilers and engines, see title 17, § 2795.

Library References

Municipal Corporations ⇐603.
C.J.S. Municipal Corporations § 254 et seq.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 2433. Smoking restrictions

No person shall enter any mill, millyard, passenger bus or portion thereof, factory, machine shop, shipyard, covered bridge, stable or other building with a lighted pipe, cigarette or cigar, or shall light or smoke any pipe, cigarette or cigar therein under a penalty of \$5, if a notice in plain legible characters that no smoking is allowed therein is kept in a conspicuous position over or near each principal entrance to such building or place. Whoever defaces, removes or destroys such notice forfeits \$10. This section shall not apply to passenger buses, except when operated upon routes authorized by a certificate issued by the Public Utilities Commission.

R.S.1954, c. 97, § 34.

Library References

Municipal Corporations ⇐603.
C.J.S. Municipal Corporations § 254 et seq.

§ 2434. Repealed. Laws 1979, c. 545, § 16**Historical Note**

See, now, §§ 9324 and 9701 of title 12.

§ 2435. Kindling fire with intent to injure another

Whoever with intent to injure another causes a fire to be kindled on his own or another's land, whereby the property of any other person is injured or destroyed, shall be punished by a fine of not less than \$20 nor more than \$1,000, or by imprisonment for not less than 3 months nor more than 3 years.

R.S.1954, c. 97, § 37.

Cross References

Fire insurance policy, see title 24-A, § 3002.

Library References

Fires ⇐1.
C.J.S. Fires § 1 et seq.

§ 2436. Repealed. Laws 1979, c. 545, § 17

Historical Note

See, now, § 9324 of title 12.

§ 2436-A. Repealed. Laws 1983, c. 504, § 5

Historical Note

The repealed section, relating to burning debris, was derived from:

Laws 1965, c. 365, § 5.
Laws 1979, c. 663, § 152.
Laws 1981, c. 115.

For provisions relating to burning domestic trash, see § 9324 of title 12.

§ 2437. Repealed. Laws 1971, c. 97, § 8

Historical Note

The repealed section, derived from R.S.1954, c. 97, § 39, permitted lumber drivers to kindle fires when necessary.

§ 2438. Repealed. Laws 1979, c. 545, § 18

Historical Note

See, now, §§ 9324 and 9701 of title 12.

§ 2439. Common law remedy preserved

The common law right to an action for damages done by fires is not taken away or diminished and it may be pursued notwithstanding the penalties set forth in chapters 313 to 321.¹

R.S.1954, c. 97, § 41; 1961, c. 317, § 289; 1971, c. 622, § 83, eff. March 15, 1972; 1979, c. 541, § A, 166, eff. June 22, 1979; 1979, c. 545, § 4; 1979, c. 663, § 153, eff. March 28, 1980.

¹ Section 2351 et seq. of this title.

Historical Note

Laws 1971, c. 622, repealed the last sentence which read: "No action shall be brought at common law for kindling fires in the manner described in section 2437; but if such fire spreads and does damage, the person who kindled it and any persons present and concerned in driving the lumber, by whose act or neglect such fire is suffered to do damage, are liable in a civil action for such damage."

Laws 1979, c. 541, a corrections bill, substituted "313" for "311".

Laws 1979, c. 545, without reference to Laws 1979, c. 541, the end of the section, deleted "but any person availing himself of section 2436 is barred by his action at common law for the damage so sued for".

Laws 1979, c. 663, repealed and replaced this section to consolidate the effect of amendments by Laws 1979, cc. 541 and 545.

Library References

Fires ☞7.
C.J.S. Fires § 9 et seq.

§ 2440. Penalties; recovery and appropriation

Penalties provided in sections 2432, 2433, 2436-A and 2439 may be recovered by complaint, indictment or civil action, ½ to the municipality where the offense is committed and ½ to the State.

R.S.1954, c. 97, § 42; 1961, c. 317, § 290; 1971, c. 622, § 84, eff. March 15, 1972; 1975, c. 43, § 2; 1975, c. 533; 1975, c. 770, § 111, eff. April 16, 1976; 1979, c. 127, § 157, eff. April 23, 1979; 1979, c. 545, § 5; 1979, c. 556, § 7; 1979, c. 663, § 154, eff. March 28, 1980.

Historical Note

Laws 1971, c. 622, substituted "section 2436" for "section 2437".

Laws 1975, c. 43, substituted "municipality" for "town" and "State" for "prosecutor".

Laws 1975, c. 533, without reference to Laws 1975, c. 43, substituted "section 2436-A" for "section 2436", "municipality" for "town", and "State" for "prosecutor".

Laws 1975, c. 770, repealed and replaced this section to consolidate the effect of amendments by Laws 1975, cc. 43 and 553.

Laws 1979, c. 127, substituted "section 2432" for "section 2431".

Laws 1979, c. 545, without reference to Laws 1979, c. 127, repealed and replaced this section.

Laws 1979, c. 556, without reference to Laws 1979, c. 127 or Laws 1979, c. 545, substituted "section 2436" for "section 2436-A".

Laws 1979, c. 663, repealed and replaced this section to consolidate the effect of amendments by Laws 1979, cc. 127, 545 and 556 which in effect adopted the text as amended by Laws 1979, c. 545.

Cross References

Out-of-door fires, prohibited acts, recovery of penalties, see title 12, § 9705.

Library References

Fires ☞4, 7.
C.J.S. Fires §§ 6, 9 et seq.

§ 2441. Explosives or inflammables; regulations

The Commissioner of Public Safety shall make, amend or rescind, after public hearing thereon, notice of which has been duly advertised in the state paper, reasonable rules and regulations for the keeping, possession, storage, handling, dispensing or transporting from place to place in the State of all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine and all other explosives and illuminating substances which such commissioner believes dangerous to the lives or safety of citizens.

This section shall not apply to the storage in underground tanks of petroleum, coal oils, burning fluids, naphtha, benzines and other hazardous substances, materials or waste which are regulated by the Department of Environmental Protection under Title 38.

This section shall not apply to the purchase, sale, transportation or storage of smokeless powder in amounts not in excess of 15 pounds, or primers not in excess of 1,000 in number.

Such rules and regulations shall become effective when reviewed by the Attorney General for form and legality and approved in writing by the Commissioner of Public Safety and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the Commissioner of Public Safety in enforcing any such rule or regulation, may appeal to the Superior Court by filing a complaint therefor and the court shall fix a time and place of hearing and cause notice thereof to be given to the commissioner and, after the hearing, the court may affirm or reverse the rule, regulation, act or order of the commissioner and the decision of the court shall be final.

Said commissioner may waive the requirements of any such rules or regulations to cover any special circumstances, conditions or localities.

The following schedule of fees shall apply to all inspections and permits required by rule and regulation under this section:

1. **Inspection of explosive magazines.** Inspection of explosive magazines: \$10 to include any permit issued;
2. **Inspection of vehicle used to transport explosives.** Inspection of vehicle used to transport explosives: \$10 to include any permit issued; and
3. **Inspection of flammable liquid storage facility.** Inspection of flammable liquid storage facility: \$10 to include any permit issued.

No person shall keep or transport any such article in any quantity or manner, except as prescribed in such regulations, unless waived by the commissioner as provided, under a penalty of not less than \$20 nor more than \$100, for each offense. All such articles may be seized by any peace officer and forfeited, and within 20 days after such seizure may be libeled according to law. Cities and towns may make and enforce reasonable ordinances or bylaws, not inconsistent with said rules and regulations.

R.S.1954, c. 97, § 43; 1961, c. 250; 1961, c. 317, § 291; 1963, c. 292; 1967, c. 316; 1971, c. 592, § 35; 1973, c. 725, § 2; 1975, c. 771, § 265, eff. Jan. 4, 1977; 1979, c. 107; 1983, c. 174, § 2; 1983, c. 785, § 7, eff. March 1, 1985.

Historical Note

Laws 1967, c. 316, in the first paragraph, inserted "possession, storage, handling".

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Laws 1973, c. 725, inserted the fifth paragraph.

Laws 1975, c. 771, in the first sentence of the fourth paragraph, deleted "and Council" following "the Governor".

Laws 1979, c. 107, in the first sentence of the fourth paragraph, substituted "reviewed by the Attorney General for form and legality and approved in writing by the Commission of Public Safety" for "approved in writing by the Governor".

Laws 1983, c. 174, substituted "\$10" for "\$5" throughout.

Laws 1983, c. 785, inserted the second paragraph.

Cross References

Circus tents, see title 8, § 51.

Manufacture of gunpowder, see title 17, § 2796.

State paper, see title 1, §§ 72, 551.

Library References

Explosives ⇨3.
C.J.S. Explosives § 3.

Notes of Decisions

Local legislation 2
State regulations 1

1. State regulations

Rules of Insurance Commissioner prohibiting storage in frame buildings of certain inflammable liquids and requiring that portable containers of such liquids should be painted red and be conspicuously lettered with certain warning notice were not unreasonable or unintelligible. *Apanovich v. Wright* (C.A.Me.1955) 226 F.2d 656.

As regards state regulations governing the storage and handling of liquefied petroleum gas, the term "multicontainer installation" applied to facts, involving a fire caused by a liquefied petroleum gas leak in 500-gallon tank, where 120 and 500-gallon tanks had been installed next to one another in front of plaintiff's buildings, where both the district manager of a gas company competing with defendant and a state fire inspector clearly implied that the two tanks were part of a multicontainer installation, and where an unreasonable or absurd result would be avoided by construing the case to involve a multicontainer installation; accordingly, under the

regulations, 500-gallon tank should have been a minimum of 25 feet from the buildings. *Walters v. Petrolane-Northeast Gas Service, Inc.* (1981) Me., 425 A.2d 968.

2. Local legislation

An ordinance prohibiting the keeping of explosives, including gasoline, for sale within 300 feet of a schoolhouse where a school was regularly maintained and excepting from its provisions owners of filling stations legally established and in operation at time of enactment of the ordinance was void because it arbitrarily discriminated in favor of previously-established filling stations, and vested them with a "monopoly" in the business in designated territory. *Boothby v. City of Westbrook* (1941) 138 Me. 117, 23 A.2d 316.

Municipal laws prohibiting the carrying on of a certain business in a designated locality but providing that the legislation shall not apply to a similar business already established are void because they foster "monopoly" and classify for the purpose of regulation without any reasonable relation to the end in view. *Id.*

§ 2442. Recovery of damages for explosion

A person injured by the explosion of such articles in the possession of any person contrary to such regulations has an action for damages against such possessor, or against the owner, if cognizant of such neglect. R.S.1954, c. 97, § 44.

Library References

Explosives ⇨7.
C.J.S. Explosives § 4 et seq.

Notes of Decisions

Persons entitled to sue 1

1. Persons entitled to sue

R.S.1944, c. 85, § 43, providing that "a person injured" by explosion of certain articles in pos-

session of any person contrary to regulations had action for damages against such possessor, imposed duty to gratuitous licensee, even if duty did not extend to trespassers. *Apanovich v. Wright* (C.A.Me.1955) 226 F.2d 656.

§ 2443. Search for explosives

Any municipal officer, with a lawful search warrant, may enter any building or other place in his town to search for such articles supposed to be unlawfully concealed there.

R.S.1954, c. 97, § 45.

Cross References

Search warrants generally, see title 15, § 55.

Library References

Searches and Seizures ⇨102, 142.
C.J.S. Searches and Seizures § 63 et seq.

§ 2444. Transportation of explosives

As a condition to the granting of a permit or license to transport explosives, the Commissioner of Public Safety may require that the vehicle used in transportation of explosives may be accompanied by a representative of the commissioner, who shall be paid mileage by the person to whom the license is issued at the rate allowed to fire inspectors by the State for the use of his car. This condition is not applicable to loads of 4,000 pounds or less. Explosives referred to herein shall not include petroleum products.

1957, c. 397, § 48; 1971, c. 592, § 35.

Historical Note

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Derivation:

R.S.1954, c. 97, § 45-A.

Library References

Explosives ⇨2.
C.J.S. Explosives § 1 et seq.

§ 2445. Standards for installing gas appliances

No artificial, liquefied petroleum, manufactured or natural gas burning appliances of whatever type shall hereafter be installed unless such installation complies with regulations issued by the Commissioner of Public Safety. Such regulations shall be the applicable standards of National Fire Protection Association as amended from time to time and shall be issued in accordance with the procedure set forth in section 2441. Such regulations may be amended or rescinded in accordance with said procedure and any person aggrieved thereby shall have all the rights granted to such a person by section 2441.

This section shall not apply to those types of heating units such as Bunsen burners, torches, flares, urn burners, etc., which are not an integral part of the appliance.

Any violation of the regulations issued by the Commissioner of Public Safety hereunder shall be punishable by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.

1957, c. 429, § 83; 1971, c. 592, § 35.

Historical Note

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Derivation:

R.S.1954, c. 97, § 45-B.

Historical Note

Laws 1985, c. 11, in the first paragraph, substituted "may" for "shall" and "any nationally recognized laboratory that meets the standards of the National Bureau of Standards, United

States Department of Commerce" for "the Underwriters' Laboratories, Inc. or the Department of Industrial Cooperation at the University of Maine".

Library References

Explosives Ⓢ2, 4.

C.J.S. Explosives §§ 1 et seq., 4 et seq.

§ 2447-A. Cellulose fiber insulation standards

1. **Prohibition.** No individual, partnership or corporation may sell or offer for sale in this State, in person, by mail or otherwise, any type of cellulose fiber insulation unless that product is either:

A. Certified by a nationally recognized testing laboratory as meeting ASTM E-84, Class I requirements; or

B. Certified by the Department of Industrial Cooperation, University of Maine System, as meeting requirements comparable to ASTM E-84, Class I requirements.

No individual, partnership or corporation may sell or offer for sale in this State, in person, by mail or otherwise, any cellulose fiber insulation which does not conform to any rule established by the State Fire Marshal under subsection 2. The Department of Industrial Cooperation of the University of Maine System shall not be liable as a result of any damage or injury caused by or arising out of the installation or use of insulation certified by the department.

2. **Rules.** The State Fire Marshal shall, in accordance with the Maine Administrative Procedure Act, establish rules setting forth standards for cellulose fibre insulation which may be sold in this State. These rules shall be no less stringent than current federal specifications for Insulation Thermal: Cellulosic or Wood Fibre, and may exceed the federal standards if, in the judgment of the State Fire Marshal, the action is deemed necessary to protect the health and safety of the public. The State Fire Marshal may incorporate in those rules provisions for testing procedures different from those established by federal specifications where, in his judgment, these federal tests cannot conveniently be conducted in Maine or are not appropriate for Maine use.

3. **Penalty.** Any violation of this section shall be a Class E crime. 1977, c. 639, § 1, eff. March 14, 1978; 1985, c. 779, § 68.

Historical Note

Laws 1985, c. 779, in subsec. 1 substituted "may" for "shall", and inserted "System" following "the University of Maine".

Library References

Health and Environment Ⓢ31.

C.J.S. Health and Environment § 37 et seq.

§ 2447-B. Foam plastic insulation standards

1. **Prohibition.** No individual, partnership or corporation shall install in this State any type of foam plastic insulation unless that product complies with and is installed in accordance with the following requirements.

A. Unless otherwise excepted in the following subparagraphs, all foam plastic or foam plastic cores of manufactured assemblies shall have a flame-spread rating of not more than 75 and a smoke-developed rating of not more than 450 when tested in the maximum thickness intended for use in accordance with ASTM E-84. For all such installations, the foam plastic shall be separated from habitable or occupiable spaces by an approved thermal barrier of ½ inch gypsum wallboard or equivalent thermal barrier material which will limit the average temperature rise of the unexposed surface to not more than 250° F. after 15 minutes of fire exposure complying with the ASTM E-119 standard time-temperature curve. Thermal barriers shall be installed in a manner that assures they will stay in place for a minimum of 15 minutes under the same test exposure conditions.

(1) Foam plastics may be used without the thermal barrier described in paragraph A when the foam plastic is protected by a minimum of one inch thickness of masonry or concrete.

(2) Foam plastics when tested in a thickness of 4 inches may be used in a thickness up to 10 inches when the building is equipped with an approved automatic fire suppression system.

For use in rooms within buildings, this requirement shall apply to both the room and that part of the building in which the room is located.

(3) Foam plastics having a maximum flame-spread rating of 75 may be used in thicknesses up to 4 inches in free-standing walk-in coolers or freezer units less than 400 square feet in floor area without a thermal barrier and without an automatic fire suppression system when the foam plastic is covered by a metal facing not less than 0.032 inch thick aluminum or No. 26 gauge steel. When protected by a thermal barrier, the foam plastic may be used in thicknesses up to 10 inches.

(4) Foam plastic insulation having a flame spread of 25 or less may be used in a thickness of not more than 4 inches without the thermal barrier when the foam plastic is covered by a metal facing not less than 0.032 inch thick aluminum or No. 26 gauge steel and the building is provided with an automatic fire suppression system.

(5) Foam plastic may be used in a roof covering assembly without the thermal barrier when the foam is separated from the interior of the building by plywood sheathing not less than ½ inch in thickness bonded with interior glue, with edges supported by blocking, tongue-and-groove joints or other approved type of edge support, or an equivalent material.

Foam plastic roof insulation which complies with Factory Mutual Standard 4450 or Underwriters Laboratories Subject 1256 need not meet the requirements of paragraph A.

For roofing applications, the smoke-developed rating shall not be limited.

(6) Foam plastics having a flame-spread rating of 75 or less may be used as a core material without a thermal barrier when the door is covered by a metal facing of not less than 0.032 inch thick aluminum or No. 26 gauge steel.

(7) Foam plastics may be used as a siding backer board with a maximum thickness of ½ inch, provided it is separated from the interior of the building by not less than 2 inches of mineral fiber insulation or equivalent, or when applied as residing over existing wall construction.

(8) Within an attic or crawl space where entry is made only for service of utilities, foam plastics shall be protected against ignition by 1½ inch thick mineral fiber insulation, ¼ inch thick plywood, particleboard, hardboard or gypsum wallboard, No. 26 gauge sheet steel or other approved material installed in such a manner that the foam plastic is not exposed.

B. Existing low hazard storage facilities with foam plastic insulation may be maintained without the required thermal barrier.

(1) Potato storage facilities constructed after the effective date of this paragraph shall provide an approved thermal barrier over foam plastic insulation for a minimum of 8' above the floor.

(2) The State Fire Marshal may permit in specific circumstances the use of foam plastic with a flame barrier when such use does not create a life safety hazard.

2. **Alternate installations.** Foam plastics may be used in applications other than as listed in this section, when specifically approved by the State Fire Marshal based on diversified tests such as the Factory Mutual Building Corner Test Procedure or the enclosed room test procedures described in Underwriters Laboratories Subject 723. These approvals shall also be based on tests conducted in accordance with ASTM E-84 and ASTM D1929. Testing shall be performed on the finished manufactured foam plastic assemblies and on the maximum thickness intended for use.

3. **Penalty.** Any violation of this section shall be a Class E crime. 1979, c. 167; 1981, c. 101.

Historical Note

Laws 1981, c. 101, added par. B of subsec. 1.

Library References

Health and Environment §32.

C.J.S. Health and Environment § 28 et seq.

Notes of Decisions

Potato storage facilities 1

1. **Potato storage facilities**

Requirement of this section that approved thermal barrier separate foam plastic insulation

from habitable or occupiable spaces in all buildings, required that thermal barrier be used in all areas within potato storage houses where persons could work. Op.Atty.Gen., July 15, 1980.

Urethane insulation could be used in potato storage houses, if it met applicable product and

insulation standards, in accordance with provisions of this section governing foam plastic insulation standards. Id.

§ 2448. Construction permit; when required

No property owner, agent or representative of the owner may construct, alter or change the use of any structure to become a public building without first obtaining from the Commissioner of Public Safety a permit therefor. A request for a permit shall be accompanied by a true copy of the plans and specifications for that construction, reconstruction or change of use. The commissioner shall issue a permit only if the plans comply with statutes and lawful regulations promulgated to reduce fire hazards.

The term "public building" shall include any building or structure constructed, operated or maintained for use by the general public, which shall include, but not be limited to, all buildings or portions of buildings used for a schoolhouse, hospital, convalescent, nursing or boarding home to be licensed by the Department of Human Services, Division of Licensing and Certification; theater or other place of public assembly, mercantile occupancy over 3,000 square feet, hotel, motel or business occupancy of 2 or more stories; or any building to be state owned or operated.

The term "true copy" means an accurate representation by dimensioned plans and specifications of the final construction documents.

1957, c. 397, § 50; 1971, c. 592, § 35; 1973, c. 242, § 1; 1979, c. 208, § 1; 1983, c. 232, § 1.

Historical Note

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Laws 1973, c. 242, in the first sentence, inserted "or boarding home to be licensed by the Division of Hospital Services, Department of Health and Welfare", and deleted "to which admission is to be charged" following "public assembly".

Laws 1979, c. 208, in the first sentence, inserted "or alter any existing structure to become" and "hotel or motel of 2 or more stories".

Laws 1983, c. 232, repealed and replaced this section, which prior thereto read:

"No person, firm or corporation shall construct or alter any existing structure to become a public building, schoolhouse, hospital, convalescent, nursing or boarding home to be licensed by the Division of Hospital Services, Department of

Human Services, theater or other place of public assembly, hotel or motel of 2 or more stories or any building to be state owned or operated, without first obtaining from the Commissioner of Public Safety a permit therefor. If any such building be damaged by fire or otherwise to the extent of 50% or more, no person, firm or corporation shall repair or reconstruct such building without first obtaining from the Commissioner of Public Safety a permit therefor. A request for a permit shall be accompanied by a true copy of the plans and specifications for such construction or reconstruction. The commissioner shall issue a permit only if the plans comply with statutes and lawful regulations promulgated to reduce fire hazards."

Derivation:

R.S.1954, c. 97, § 47-A.

Cross References

Hospitals and institutions, inspection and licensing, see title 22, § 1811 et seq.
Nursing home defined, see title 22, § 1812-A.
Police power ordinances, see title 30, § 2151.

Library References

Municipal Corporations \Leftarrow 621.
C.J.S. Municipal Corporations § 167 et seq.

§ 2449. Penalty

Whoever violates the provisions of section 2448 shall be guilty of a Class E crime.

1957, c. 397, § 50; 1973, c. 242, § 2; 1975, c. 293, § 4; 1979, c. 208, § 2.

Historical Note

Laws 1973, c. 242, substituted "convalescent nursing or boarding home to be licensed by the Division of Hospital Services, Department of Health and Welfare" for "convalescent home, nursing home", and deleted "to which admission is to be charged" following "public assembly".

Laws 1975, c. 293, substituted references to the Department of Human Services for references to the Department of Health and Welfare.

Laws 1979, c. 208, repealed and replaced this section, which prior thereto read:

"Whoever shall construct or reconstruct a public building, schoolhouse, hospital, convalescent, nursing or boarding home to be licensed by the Division of Hospital Services, Department of Human Services, theater or other place of public assembly or any building to be owned or operated by the State, without first obtaining the permit required by section 2448, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than \$100."

Derivation:

R.S.1954, c. 97, § 47-B.

Library References

Municipal Corporations \Leftarrow 633(1).
C.J.S. Municipal Corporations § 316 et seq.

§ 2450. Examinations by State Fire Marshal

The Commissioner of Public Safety shall, in accordance with requirements of the Maine Administrative Procedure Act, Title 5, chapter 375,¹ adopt a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the Office of the State Fire Marshal. No fee charged pursuant to this section may exceed \$55. The fees shall be credited to the State Fire Marshal to defray the expenses of that office. Any balance of the fees shall not lapse, but shall be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

1959, c. 182, § 1; 1971, c. 592, § 35; 1973, c. 242, § 3; 1973, c. 725, § 3; 1973, c. 788, § 111, eff. April 1, 1974; 1975, c. 293, § 4; 1979, c. 186; 1983, c. 232, § 2.

¹ Section 8001 et seq. of title 5.

Historical Note

As appearing in the 1964 revision, this section read:

"The fee for examination by the Insurance Commissioner through the Division of State Fire Prevention of each set of plans for construction, reconstruction or repairs of public buildings, hospitals, convalescent homes, nursing homes, theaters or other place of public assembly shall be \$15. Such fee shall be credited to the Division of State Fire Prevention to defray the expenses of the division. Any balance of said fees shall

not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years."

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Laws 1973, c. 242, in the first sentence, substituted "convalescent nursing or boarding homes to be licensed by the Division of Hospital Services, Department of Health and Welfare" for "convalescent homes, nursing homes".

Laws 1973, c. 725, substituted "State Fire Marshal" for "Division of State Fire Prevention" in the first and second sentences; in the first sentence, inserted "or examination of a set of plans for construction, reconstruction, or repairs to any other type of building, on request,"; and in the second sentence, substituted "that office" for "the division".

Laws 1973, c. 788, without reference to Laws 1973, c. 725, substituted "Office of State Fire Marshal" for "Division of State Fire Prevention" in the first and second sentences; and, in the second sentence, substituted "office" for "division".

Laws 1975, c. 293, substituted references to the Department of Human Services for references to the Department of Health and Welfare.

Laws 1979, c. 186, in the first sentence, inserted "hotels or motels of 2 or more stories," following "public assembly".

Laws 1983, c. 232, repealed and replaced this section.

Derivation:

R.S.1954, c. 97, § 47-C.

§ 2451. Repealed. Laws 1973, c. 632, § 10

Historical Note

The repealed section, derived from R.S.1954, c. 97, § 48 and Laws 1959, c. 66, required doors of public buildings to open outwards.

§ 2452. Exits

The Commissioner of Public Safety shall adopt and may amend, after notice and public hearing, reasonable rules governing the safety to life from fire in all buildings or other structures within his jurisdiction. These rules shall not apply to nursing homes having 3 or less patients. Automatic sprinkler systems shall not be required in existing noncommercial places of assembly. Noncommercial places of assembly shall include those facilities used for such purposes as deliberation, worship, entertainment, amusement or awaiting transportation which have a capacity of 100 to 300 persons.

1. **Effective date.** The regulations, and amendments thereto, become effective when reviewed for form and legality by the Office of the Attorney General and a certified copy of them has been approved in writing by the Commissioner of Public Safety and filed with the Secretary of State.

2. **Rights declared.** Any person aggrieved by a regulation or by an act of the commissioner in enforcing it may have his rights declared by bringing an action for declaratory judgment under Title 14, chapter 707,¹ naming the commissioner as defendant.

3. **Violation.** Any person who violates a regulation issued by the commissioner under this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.

Existing buildings licensed pursuant to Title 22, subtitle 6,² having more than 6 boarders, with the exception of boarding care facilities, shall comply with any rules for residential-custodial care facilities required by the State Fire Marshal's Office, except that such existing facilities of not more than 2 stories in height shall not be required to be fire resistive, protected or unprotected noncombustible, protected wood frame or heavy timber construction. Such existing facilities must be protected by a complete approved automatic sprinkler system and meet

all other requirements of residential-custodial care facilities as required by the State Fire Marshal's Office.

Existing boarding care facilities licensed pursuant to Title 22, subtitle 6, shall comply with the applicable fire safety requirements of the Life Safety Code adopted by the State Fire Marshal pursuant to Title 22, section 7904-A.

1959, c. 163; 1961, c. 365; 1963, c. 390; 1963, c. 414, § 111; 1967, c. 301; 1971, c. 592, § 35; 1973, c. 187; 1973, c. 660, eff. Jan. 31, 1974; 1975, c. 142; 1975, c. 491, § 3, eff. June 13, 1975; 1975, c. 771, § 266, eff. Jan. 4, 1977; 1977, c. 78, § 161, eff. April 14, 1977; 1979, c. 59, §§ 1, 2; 1985, c. 770, § 17.

¹ Section 5951 et seq. of title 14.

² Section 7701 et seq. of title 22.

Historical Note

As appearing in the 1964 revision, this section read:

"The Insurance Commissioner shall adopt and may amend, after notice and public hearing, reasonable regulations governing exits in all buildings or other structures within his jurisdiction. Such regulations shall not apply to boarding or lodging homes having 5 or less boarders or lodgers or to nursing homes having 3 or less patients.

"1. **Effective date.** The regulations, and amendments thereto, become effective when a certified copy of them has been approved in writing by the Governor and Council and filed with the Secretary of State.

"2. **Rights declared.** Any person aggrieved by a regulation or by an act of the commissioner in enforcing it may have his rights declared by bringing an action for declaratory judgment under Title 14, chapter 707, naming the commissioner as defendant.

"3. **Violation.** Any person who violates a regulation issued by the commissioner under this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both."

Laws 1967, c. 301, in the first paragraph, added a third sentence.

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Laws 1973, c. 187, in the third sentence of the first paragraph, added "and thereafter shall not be required in boarding homes having 6 or less boarders or lodgers".

Laws 1973, c. 660, in the first sentence of the first paragraph, inserted "rules and"; in the second sentence of the first paragraph, substituted "6" for "5"; and deleted the third sentence of the first paragraph which read: "Automatic

sprinkler systems shall not be required in boarding homes prior to July 1, 1969 and thereafter shall not be required in boarding homes having 6 or less boarders or lodgers."

Laws 1975, c. 142, added the third and fourth sentences of the first paragraph.

Laws 1975, c. 491, added the next to last paragraph.

Laws 1975, c. 771, in subsec. 1, deleted "and Council" following "the Governor".

Laws 1977, c. 78, in the first sentence of the next to last paragraph, substituted "subtitle 6" for "section 5".

Laws 1979, c. 59, in the first sentence of the first paragraph, substituted "the safety to life from fire" for "exits"; and, in subsec. 1, inserted "reviewed for form and legality by the Office of the Attorney General and", and substituted "Commissioner of Public Safety" for "Governor".

Laws 1985, c. 770, in the first paragraph, in the first sentence, deleted "and regulations" following "rules", in the second sentence, substituted "These rules" for "Such regulations", and deleted "to boarding or lodging homes having 6 or less boarders or lodgers and" following "apply", and in the third sentence, deleted "boarding homes having 6 or less boarders or lodgers and" following "in"; in the second paragraph, in the first sentence, deleted "boarding homes or other existing" following "Existing", inserted "with the exception of boarding care facilities," and deleted "and regulations" following "rules"; and added the last paragraph.

Derivation:

R.S.1954, c. 97, § 48-A.

Laws 1961, c. 365.

Laws 1963, c. 390.

Laws 1963, c. 414, § 111.

Cross References

Adult day care program, fire safety, see title 22, § 8605.
 Boarding care facilities, licenses, fire safety inspections, see title 22, § 7904-A.
 Circuses and traveling amusement shows, tents and equipment, egress, see title 8, § 51.
 Dance halls, see title 8, § 161.
 Nursing home defined, see title 22, § 1812-A.

Library References

Municipal Corporations ⇐601.2.
 C.J.S. Municipal Corporations § 224 et seq.

§ 2452-A. Use of candles

No regulation of the Commissioner of Public Safety shall prohibit the use of candles by any officials of religious or fraternal orders during the course of a religious or fraternal service, which service occurs on the property of said church or fraternal order, provided the said use of candles is properly supervised. 1967, c. 273; 1971, c. 592, § 35.

Historical Note

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Library References

Health and Environment ⇐33.
 C.J.S. Health and Environment § 47.

§ 2453. Fire escapes; appeals

Each story above the first story of a building used as a schoolhouse, orphan asylum, hospital for the mentally ill, reformatory, opera house, hall for public assemblies, hotel, boardinghouse or lodginghouse accommodating more than 6 persons, or tenement house occupied by more than 2 families, or store in which more than 10 persons are employed above the first story, shall be provided with more than one way of egress, by stairways on the inside or fire escapes on the outside of such building. Such stairways and fire escapes shall be so constructed, in such a number, or such size and in such location as to give reasonably safe, adequate and convenient means of exit, in view of the number of persons who may need to use such stairway or fire escape, shall at all times be kept free from obstruction and shall be accessible from each room in each story above the first story.

No individual, partnership or corporation shall offer for sale in this State, any type of fire escape device or fire alarm systems unless first securing approval of the Commissioner of Public Safety.

Any person or corporation aggrieved by any order of the commissioner issued under this section may appeal to the Superior Court by filing within 30 days from the effective date of such order a complaint therefor and the court shall fix a time and place of hearing and cause notice thereof to be given to the commissioner and, after the hearing, the court may affirm or reverse in full or in part any such order of the commissioner and the decision of the court shall be

PREVENTIVE MEASURES & RESTRICTIONS
Ch. 317

25 §§ 2454, 2455
Repealed

final. If the commissioner in the interest of public safety, because he deems there is immediate danger, forbids the use of such buildings for any public purpose until satisfactory compliance with his order, such order shall become immediately effective and the filing of the complaint shall not operate as a stay thereof.

R.S.1954, c. 97, § 49; 1961, c. 317, § 292; 1971, c. 592, § 35; 1973, c. 632, § 11.

Historical Note

Laws 1971, c. 592, substituted references to the Commissioner of Public Safety for references to the Insurance Commissioner.

Laws 1973, c. 632, at the end of the second paragraph, deleted "or fire inspector".

Library References

Health and Environment ☞32.
Municipal Corporations ☞603.

C.J.S. Health and Environment §§ 28 to 52.
C.J.S. Municipal Corporations § 254 et seq.

Notes of Decisions

Construction and application 1
Duties of owner 2, 3
 In general 2
 Negligence 3
Restaurants 4

wife when she used her arm to break a window when building equipped, contrary to R.S.1954, c. 97, § 49, with only one way of egress from 2nd story, caught fire, plaintiffs' causes were dependent upon proven exercise of reasonable care by plaintiff-wife. *Kimball v. Breton* (1958) 153 Me. 476, 138 A.2d 637.

1. Construction and application

R.S.1903, c. 28, § 38 was to be construed so as to make it applicable to a building in which any trade was carried on requiring the presence of workmen in such number above the first floor that because of their number escape would have been difficult in case of fire or a panic from an alarm of fire. *Carrigan v. Stillwell* (1905) 99 Me. 434, 59 A. 683.

If defendant's failure to provide fire escapes for his building, for the benefit of persons lawfully employed in the building, was the proximate cause of the death of plaintiff's intestate, and her death was the ordinary consequence of this negligence of defendant, then it is evidence of actual negligence on his part to be submitted to a jury. *Carrigan v. Stillwell* (1903) 97 Me. 247, 54 A. 389.

2. Duties of owner—In general

The duty imposed upon the owner of a building to provide fire escapes does not depend on the action of the municipal officers or fire engineers, or upon their failure to take action. *Carrigan v. Stillwell* (1903) 97 Me. 247, 54 A. 389.

4. Restaurants

R.S.1903, c. 28, § 38, was not applicable to a building used as a restaurant on the first floor, with a kitchen connected therewith on the 3rd floor, the business requiring the presence in the kitchen of only 3 persons. *Carrigan v. Stillwell* (1905) 99 Me. 434, 59 A. 683.

3. — Negligence, duties of owner

In actions by husband and wife against their landlord, predicated upon injuries sustained by

§§ 2454, 2455. Repealed. Laws 1973, c. 632, § 12

Historical Note

Section 2454, derived from R.S.1954, c. 97, § 50 and Laws 1971, c. 592, § 35, related to the inspection of fire escapes.

sufficiency of the required safeguards, was derived from:

Section 2455, providing for notice to the occupant or owner of inspected premises as to the

R.S.1954, c. 97, § 1.

Laws 1957, c. 16; § 2.

Laws 1971, c. 592, § 35.

§§ 2456 to 2460. Repealed. Laws 1973, c. 632, § 13

Section 2456, derived from R.S.1954, c. 97, § 52, provided penalties for failure to comply with orders for safeguards.

Section 2457, derived from R.S.1954, c. 97, § 53, related to the issuance of certificates of sufficiency of safeguards.

Section 2458, derived from R.S.1954, c. 97, § 54, required that the certificate of sufficiency of safeguards be posted in the building.

Section 2459, derived from R.S.1954, c. 97, § 55, provided for penalties for town officers who refused to perform the duties imposed upon him sections 2451 to 2458.

Section 2460, providing for the recovery of fines and forfeitures imposed by sections 2456 to 2459, was derived from:

R.S.1954, c. 97, § 56.

Laws 1961, c. 317, § 293.

Laws 1963, c. 182.

§ 2461. Repealed. Laws 1973, c. 632, § 14

Section 2461, derived from R.S.1954, c. 97, § 57 and Laws 1971, c. 592, § 35, authorized the state factory inspector or insurance commissioner to investigate complaints of a town officer's failure to comply with sections 2451 to 2459.

§ 2462. Plundering at fires as larceny

Whoever takes, carries away or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards shall be deemed guilty of larceny and punished accordingly. R.S.1954, c. 97, § 58.

Library References

Larceny ⇐1.

C.J.S. Larceny § 1 et seq.

§ 2463. Installation of sprinkler systems and smoke, heat or fire detection systems

All new hotels constructed after September 23, 1971, of any type construction, other than fire resistive as defined in the current edition of National Fire Protection Association # 220, Standard Types of Building Construction, having 2 stories or more above grade level, shall be protected by a complete approved automatic sprinkler system.

All other hotels having 2 stories or more above grade level shall be protected by a complete approved smoke, heat or fire detection system operated by electrical current or powered by batteries by July 1, 1981.

The State Fire Marshal, or his designee, shall inspect all systems installed pursuant to this section and shall approve all systems which comply with this section, except that when the hotel is located in a municipality which has a municipal fire department or incorporated volunteer fire department, that department shall be responsible for the inspection and approval of the system, unless the State Fire Marshal agrees to undertake that responsibility.

The term "hotel" includes buildings or groups of buildings under the same management in which there are more than 15 sleeping rooms for hire, whether designated as a hotel, inn, club, motel, apartment hotel or by any other name.

Any person or corporation violating this section shall be guilty of a Class E crime.

1969, c. 409; 1971, c. 240; 1971, c. 622, § 85, eff. March 15, 1972; 1977, c. 665; 1985, c. 183.

Historical Note

Laws 1971, c. 240, in the first paragraph, substituted "new hotels constructed after the effective date of this Act" for "hotels or additions thereto after January 1, 1970", and "2 stories" for "3 stories".

Laws 1971, c. 622, in the first paragraph, substituted "September 23, 1971" for "the effective date of this Act".

Laws 1977, c. 665, repealed and replaced this section, which prior thereto read:

"All new hotels constructed after September 23, 1971, of any type construction, other than fire resistive as defined in the current edition of National Fire Protection Association # 220, Standard Types of Building Construction, having 2 stories or more above grade level, shall be protected by a complete approved automatic sprinkler system.

"The term 'hotel' shall include building or groups of buildings under the same management in which there are more than 15 sleeping rooms

for hire, primarily used by transients who are lodged with or without meals, whether designated as a hotel, inn, club, motel or by any other name. So-called apartment hotels shall be classified as hotels because they are potentially subject to transient occupancy like that of hotels.

"Any person or corporation violating this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both."

Laws 1985, c. 183, in the third paragraph, added ", unless the State Fire Marshal agrees to undertake that responsibility"; and in the fourth paragraph, substituted "includes" for "shall include", deleted "primarily used by transients who are lodged with or without meals," following "rooms for hire", inserted ", apartment hotel", and deleted the second sentence, which read: "So-called apartment hotels shall be classified as hotels because they are potentially subject to transient occupancy like that of hotels."

Library References

Municipal Corporations § 601.2.
C.J.S. Municipal Corporations § 224 et seq.

Notes of Decisions

New construction 1

1. New construction

This section, providing for installation of sprinkler systems, requires that if existing building is

destroyed by fire and rebuilt, builder must install automatic sprinkler system if building is rebuilt on its original foundation. Op. Atty. Gen., Sept. 29, 1980.

§ 2464. Smoke detectors

1. **Definition.** "Smoke detector" means any device which, when activated by the presence of smoke, provides an audible alarm suitable to warn the occupants within the individual dwelling unit in which it is attached, which has been approved for use in this State by the State Fire Marshal.

2. **Smoke detectors required.** The owner shall install, or cause to be installed, not less than one approved smoke detector upon or near the ceiling in areas within, or giving access to, bedrooms in:

A. Any single-family dwelling, the construction of which is completed after the effective date of this section;

B. Each apartment in any building of multifamily occupancy, other than any occupied by the owner of the building;

C. Any addition to or restoration of an existing single-family dwelling which adds at least one bedroom to the dwelling unit and the construction of which is completed after the effective date of this paragraph; and

D. Any conversion of a building to a single-family dwelling after the effective date of this paragraph.

3. **Multiapartment buildings.** In multiapartment buildings more than 3 stories in height, approved smoke detectors shall also be installed in each corridor and hallway on each floor.

4. **Regulations.** The State Fire Marshal is authorized and directed to promulgate by regulation criteria for approval and a list of approved smoke detectors.

5. **Penalties.** Whoever violates this section is guilty of a civil infraction and shall be subject to a forfeiture of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 10 days of the issuance of a complaint.

6. **Liability.** Nothing in this section gives rise to any action against an owner required to comply with subsection 2, paragraph B, if the owner has conducted an inspection of the required smoke detectors immediately after installation and has reinspected the smoke detectors prior to occupancy by each new tenant, unless the owner has been given at least 24-hours' actual notice of a defect or failure of the smoke detector to operate properly and has failed to take action to correct the defect or failure.

1981, c. 399, § 1; 1985, c. 175; 1985, c. 190.

Historical Note

Laws 1985, c. 175, in subsec. 3, deleted "closed" preceding "corridor" and "hallway".

Laws 1985, c. 190, added pars. C and D of subsec. 2.

Effective date; transition. Sections 2 and 3 of Laws 1981, c. 399, provide:

"Sec. 2. **Effective date.** The Revised Statutes, Title 25, section 2464, subsections 2, 3, 5

and 6, as enacted by section 1 of this Act, shall become effective on January 1, 1982.

"Sec. 3. **Transition.** The State Fire Marshal shall promulgate an initial set of regulations as required by the Revised Statutes, Title 25, section 2464, subsection 4, no later than October 31, 1981."

Library References

Health and Environment ⇨32.

C.J.S. Health and Environment § 28 et seq.

§ 2465. Adoption of regulations

1. **Adoption of rules.** The Commissioner of Public Safety shall, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375,¹ adopt by reference the Rules and Regulations as found in the then current edition of the National Fire Protection Association Code # 211, "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances".

2. **Prohibitions.** No person may, for compensation, construct or install any chimney, fireplace, vent or solid fuel burning appliance unless so constructed or installed in accordance with the provisions of the National Fire Protection

Association Code # 211, "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances".

3. **Enforcement.** The Fire Marshal or his designees, Safety Compliance Officers of the Oil and Solid Fuel Board, duly appointed fire chiefs or their designees, and municipal building inspectors and code enforcement officers may enforce the requirements of "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances".

4. **Prior installation.** Any chimney, fireplace, vent or solid fuel burning appliance constructed or installed prior to the effective date of this section may be continued in use subject to the provisions of section 2432.

5. **Home rule.** Any municipality may adopt as ordinance requirements for the materials, installation or construction of chimneys, fireplaces, vents or solid fuel burning appliances which exceed the requirements of "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances".

5-A. **Safety information.** No new factory-built fireplace, fireplace stove or solid fuel burning room heater may be sold in retail trade, unless the seller provides the buyer, on or before the sale, with an installation instruction manual or, in the case where such a manual is not available, with a publication of the Office of Energy Resources containing recommended clearances the same as those prescribed in the National Fire Protection Association Code # 211, The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances, as approved by the office of the State Fire Marshal.

6. **Penalty.** Any person who, for compensation, constructs or installs chimneys, fireplaces, vents or solid fuel burning appliances in violation of the standards, and permits such violation to remain uncorrected after 30 days' notice from any official empowered to enforce this section, shall be considered guilty of a civil violation and shall be subject to a forfeiture of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 30 days of the issuance of a complaint.

Any person who fails to provide a purchaser with an instruction manual or the authorized publication of the Office of Energy Resources, as described in subsection 5-A, commits a civil violation for which a forfeiture of not less than \$200 nor more than \$500 for the first offense and not less than \$500 nor more than \$800 for each subsequent offense shall be adjudged. In addition to the civil penalty provided in this subsection, any violation of this chapter constitutes a violation of Title 5, chapter 10.²

1981, c. 622; 1983, c. 231, §§ 1, 2.

¹ Section 8001 et seq. of title 5.

² Section 205-A et seq. of title 5.

Historical Note

Laws 1983, c. 231, added subsec. 5-A and the second paragraph of subsec. 6.

CHAPTER 317

PREVENTIVE MEASURES AND RESTRICTIONS

Section	Section
2432. Removal or repair of defective stoves, boilers and the like.	2441. Explosives or inflammables; rules.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 2432. Removal or repair of defective stoves, boilers and the like

On complaint of any citizen that a stove, stovepipe, oven, furnace, boiler or appurtenance is defective, out of repair or so placed in any building as to endanger it or any other building, the Commissioner of Public Safety or municipal officers of any town of not more than 2,000 inhabitants, if satisfied that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if the owner or occupant unnecessarily neglects for 3 days to remove or repair the same effectually, the owner or occupant forfeits not less than \$10 nor more than \$100.

1991, c. 198, § 2

Historical and Statutory Notes

Amendments

1991 Amendment. Laws 1991, c. 198, § 2, deleted chimneys from the list of defective items and made gender-neutral language changes.

§ 2435. Kindling fire with intent to injure another

Whoever with intent to injure another causes a fire to be kindled, whereby the property of any other person is injured or destroyed, commits a Class D crime.

1991, c. 797, § 12.

Historical and Statutory Notes

Amendments

1991 Amendment. Laws 1991, c. 797, § 12, revised this section, which had read:

"Whoever with intent to injure another causes a fire to be kindled on his own or another's land,

whereby the property of any other person is injured or destroyed, shall be punished by a fine of not less than \$20 nor more than \$1,000, or by imprisonment for not less than 3 months nor more than 3 years."

§ 2441. Explosives or inflammables; rules

The Commissioner of Public Safety shall make, amend or rescind, after public hearing, notice of which has been duly advertised in the state paper, reasonable rules for the use of explosives; and the keeping, possession, storage, handling, dispensing or transporting from place to place in the State of all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine and all other explosives and illuminating substances which the commissioner believes dangerous to the lives or safety of citizens.

This section shall not apply to the storage in underground tanks of petroleum, coal oils, burning fluids, naphtha, benzines and other hazardous substances, materials or waste which are regulated by the Department of Environmental Protection under Title 38.

This section shall not apply to the purchase, sale, transportation or storage of smokeless powder in amounts not in excess of 15 pounds, or primers not in excess of 1,000 in number.

The rules shall become effective when reviewed by the Attorney General for form and legality and approved in writing by the Commissioner of Public Safety and when a certified copy of the rules has been filed with the Secretary of State. Any person aggrieved by any rule or the reasonableness of a rule, or any act or order of the Commissioner of Public Safety in enforcing any rule, may appeal to the Superior Court. The court shall fix a time and place of hearing and cause notice to be given to the commissioner and, after the hearing, the court may affirm or reverse the rule, act or order of the commissioner. The decision of the court shall be final.

The commissioner may waive the requirements of any rule to cover any special circumstances, conditions or localities.

The following schedule of fees applies to all inspections and permits required by rule under this section.

1. **Permit to use.** A permit to use must provide authorization to purchase, possess, store, transport and use explosives. The permit to use is valid for 3 years from date of issue. The fee for this permit is \$30.
2. **Inspection of explosive storage magazines and vehicles used to transport explosives.** All explosive storage magazines and vehicles transporting explosives in intrastate commerce must be inspected prior to issuance of a permit to use. The cost of each inspection is \$30. Reinspection of storage magazines and vehicles transporting explosives are conducted upon renewal of the permit to use.
3. **Inspection of aboveground flammable liquid storage facility.** The cost of inspection of an aboveground flammable liquid storage facility and the permit is \$15.

No person may use explosives, nor keep or transport any explosive or flammable substance in any quantity or manner, except as prescribed in the rules, unless waived by the commissioner as provided. Any person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged for each offense. All such substances may be seized by any peace officer and forfeited and, within 20 days after such seizure, may be libeled according to law. Cities and towns may make and enforce reasonable ordinances or bylaws not inconsistent with these rules.

1989, c. 135; 1991, c. 464, §§ 5, 6.

Historical and Statutory Notes

Amendments

1989 Amendment. Laws 1989, c. 135, in the opening par., inserted "the use of explosives; and", and in the first 2 pars., substituted "naphtha" for "naptha"; and in the concluding par., substituted "No person may use explosives, nor keep or transport any explosive or flammable substance in any quantity" for "No person shall keep or transport any such article in any quantity", inserted "Any person who violates this section commits a civil violation for which a forfeiture", raised the amount of this penalty from a fine of \$20 to \$100 to \$100 to \$500, and made numerous technical word and phrase changes throughout the section.

1991 Amendment. Laws 1991, c. 464, § 5, in the par. beginning "The following schedule of

fees", substituted "applies" for "shall apply", and a period for a colon at the end of the sentence.

Laws 1991, c. 464, § 6, repealed and replaced subsecs. 1 to 3, which had read:

"1. **Inspection of explosive magazines.** Inspection of explosive magazines: \$10 to include any permit issued;

"2. **Inspection of vehicle used to transport explosives.** Inspection of vehicle used to transport explosives: \$10 to include any permit issued; and

"3. **Inspection of flammable liquid storage facility.** Inspection of flammable liquid storage facility: \$10 to include any permit issued."

§ 2447-B. Foam plastic insulation standards

1. **Prohibition.** No individual, partnership or corporation shall install in this State any type of foam plastic insulation unless that product complies with and is installed in accordance with the following requirements.

A. Unless otherwise excepted in the following subparagraphs, all foam plastic or foam plastic cores of manufactured assemblies shall have a flame-spread rating of not more

than 75 and a smoke-developed rating of not more than 450 when tested in the maximum thickness intended for use in accordance with ASTM E-84. For all such installations, the foam plastic shall be separated from habitable or occupiable spaces by an approved thermal barrier of ½ inch gypsum wallboard or equivalent thermal barrier material which will limit the average temperature rise of the unexposed surface to not more than 250° F. after 15 minutes of fire exposure complying with the ASTM E-119 standard time-temperature curve. Thermal barriers shall be installed in a manner that assures they will stay in place for a minimum of 15 minutes under the same test exposure conditions.

(1) Foam plastics may be used without the thermal barrier described in this paragraph when the foam plastic is protected by a minimum of one inch thickness of masonry or concrete.

[See main volume for (2) to (4)]

(5) Foam plastic may be used in a roof covering assembly without the thermal barrier when the foam is separated from the interior of the building by plywood sheathing not less than ½ inch in thickness bonded with interior glue, with edges supported by blocking, tongue-and-groove joints or other approved type of edge support, or an equivalent material.

Foam plastic roof insulation that complies with Factory Mutual Standard 4450 or Underwriters Laboratories Subject 1256 need not meet the requirements of this paragraph.

For roofing applications, the smoke-developed rating shall not be limited.

[See main volume for (6) to (8), B; 2 and 3]

R.R.1991, c. 2, § 96.

Historical and Statutory Notes

Codification

Revisor's Report 1991, c. 2, § 96, in subsec. 1, par. A, subpars. (1) and (5), corrected reference to par. A; and in subsec. 1, par. A, subpar. (5), made grammatical change.

§ 2450. Examinations by State Fire Marshal

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act,¹ a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the Office of the State Fire Marshal. A fee charged pursuant to this section may not exceed \$450. The fees must be credited to the State Fire Marshal to defray the expenses of that office. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

1993, c. 410, § X-4, eff. June 30, 1993.

¹ See 5 M.R.S.A. § 8001.

Historical and Statutory Notes

Amendments

1993 Amendment. Laws 1993, c. 410, § X-4, substituted reference to the Maine Administrative

Procedure Act, for reference to the Maine Administrative Procedure Act, Title 5, chapter 375, and increased the maximum allowable fee from \$55 to \$450.

§ 2463. Installation of sprinkler systems and smoke, heat or fire detection systems

All new hotels constructed after January 1, 1992 of any type construction having 2 stories or more above grade level, must be protected by a complete approved automatic sprinkler system.

All high-rise buildings constructed after January 1, 1992 of any type construction must be protected by a complete approved automatic sprinkler system.

All other hotels having 2 stories or more above grade level must be protected by a complete approved smoke, heat or fire detection system operated by electrical current or powered by batteries by July 1, 1981.

The State Fire Marshal, or the marshal's designee, shall inspect all systems installed pursuant to this section and shall approve all systems which comply with this section, except that when the hotel is located in a municipality which has a municipal fire department or incorporated volunteer fire department, that department is responsible for the inspection and approval of the system, unless the State Fire Marshal agrees to undertake that responsibility.

The term "hotel" includes buildings or groups of buildings under the same management in which there are more than 15 sleeping rooms for hire, whether designated as a hotel, inn, club, motel, apartment hotel or by any other name.

The term "high-rise building" includes any building used for any commercial purpose that is 75 feet or more above grade level.

Any person or corporation violating this section is guilty of a Class E crime.
1991, c. 359.

Historical and Statutory Notes

Amendments

1991 Amendment. Laws 1991, c. 359, in the first par., made provisions applicable to all new hotels constructed after Jan. 1, 1992, in lieu of formerly making provisions applicable to all new hotels constructed after Sept. 23, 1971, and deleted exception for hotels of fire resistive construction, as defined in the current edition of National Fire

Protection Association # 220, Standard Types of Building Construction; added a second par. providing that all high-rise buildings constructed after Jan. 1, 1992, of any type of construction be protected by a complete approved automatic sprinkler system; in the fourth par., made references to the State Fire Marshal's designee gender-neutral; and added a sixth par. defining "high-rise building".

§ 2464. Smoke detectors

[See main volume for 1 to 6]

7. **Noninterference.** A person may not knowingly interfere with or make inoperative any smoke detector required by this section, except that the owner or the agent of an owner of a building may temporarily disconnect a detector in a dwelling unit or common area only for construction or rehabilitation activities when such activities are likely to activate the detector or make it inactive. The detector must be immediately reconnected at the cessation of construction or rehabilitation activities each day, regardless of the intent to return to construction or rehabilitation activities on succeeding days.
1991, c. 260.

Historical and Statutory Notes

Amendments

1991 Amendment. Laws 1991, c. 260, added subsec. 7.

§ 2465. Adoption of regulations

[See main volume for 1]

2. **Prohibitions.** No person may, for compensation, construct or install any vent or solid fuel burning appliance unless constructed or installed in accordance with the provisions of the National Fire Protection Association Code # 211, "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances." Construction and installation of chimneys and fireplaces are governed by Title 32, chapter 33.¹

3. **Enforcement.** Subject to Title 32, chapter 33,¹ the Fire Marshal or the marshal's designees, state oil and solid fuel compliance officers, duly appointed fire chiefs or their designees, and municipal building inspectors and code enforcement officers may enforce the requirements of "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances" and Title 32, section 2313-A.

[See main volume for 4]

5. **Home rule.** Subject to Title 32, chapter 33,¹ any municipality may adopt as ordinance requirements for the materials, installation or construction of chimneys, fireplaces, vents or

solid fuel burning appliances that exceed the requirements of "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances."

5-A. **Safety information.** No new factory-built fireplace, fireplace stove or solid fuel burning room heater may be sold in retail trade, unless the seller provides the buyer, on or before the sale, with an installation instruction manual or, in the case where such a manual is not available, with a publication of the Department of Economic and Community Development containing recommended clearances the same as those prescribed in the National Fire Protection Association Code # 211, The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances, as approved by the Office of the State Fire Marshal.

6. **Penalty.** Any person who, for compensation, constructs or installs vents or solid fuel burning appliances in violation of the standards and permits such violation to remain uncorrected after 30 days' notice from any official empowered to enforce this section is guilty of a civil violation and is subject to a forfeiture of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 30 days of the issuance of a complaint. Construction and installation of chimneys and fireplaces are governed by Title 32, chapter 33.¹

Any person who fails to provide a purchaser with an instruction manual or the authorized publication of the Department of Economic and Community Development, as described in subsection 5-A, commits a civil violation for which a forfeiture of not less than \$200 nor more than \$500 for the first offense and not less than \$500 nor more than \$800 for each subsequent offense may be adjudged. In addition to the civil penalty provided in this subsection, any violation of this chapter constitutes a violation of Title 5, chapter 10.²

1989, c. 501, §§ DD, 32, 33, eff. July 1, 1989; 1991, c. 198, §§ 3, 4; 1991, c. 714, §§ 7, 8, eff. March 23, 1992.

¹ Section § 2301 et seq. of title 32.

² Section 205-A et seq. of title 5.

Historical and Statutory Notes

Amendments

1989 Amendment. Laws 1989, c. 501, § DD, 32, in subsec. 5-A substituted "Department of Economic and Community Development" for "Office of Energy Resources".

Laws 1989, c. 501, § DD, 33, in subsec. 6, in sentence beginning "Any person who, for" substituted "30 days' notice" for "30 days notice" and, in sentence beginning "Any person who fails" substituted "Department of Economic and Community Development" for "Office of Energy Resources".

1991 Amendments. Laws 1991, c. 198, § 3, in subssecs. 2, 3 and 5, inserted reference to chapter 125 of title 32; and in subsec. 3 also inserted reference to § 2313-A of title 32.

Laws 1991, c. 198, § 4, in subsec. 6, provided that construction and installation of chimneys and fireplaces would be governed by chapter 125 of title 32, deleted reference to chimneys and fireplaces as subject to enforcement under this section, and made a word change.

Laws 1991, c. 714, § 7, in subssecs. 2, 3 and 5, substituted reference to Title 32, chapter 33 for reference to Title 32, chapter 125 and in subsec. 3, substituted reference to state oil and solid fuel compliance officers for reference to Safety Compliance Officers of the Oil and Solid Fuel Board.

Laws 1991, c. 714, § 8, in subsec. 6, in 1st par., substituted reference to Title 32, chapter 33 for reference to Title 32, chapter 125 and in 2nd par., changed language regarding adjudging forfeiture from mandatory to permissive.

PART 7
PUBLIC BUILDINGS

Chapter	Section
331. Construction for Physically Disabled	2701

Part 7, Public Buildings, was enacted by Laws 1967, c. 367.

**CHAPTER 331
CONSTRUCTION FOR PHYSICALLY DISABLED**

The heading for Chapter 331, Construction for Physically Handicapped, was repealed and replaced by Laws 1979, c. 248, § 2.

Section

- 2701. Definitions.
- 2702. Standards of construction.
- 2702-A. 1981 standards of construction.
- 2703. Administration authority.
- 2703-A. Construction, remodeling or enlarging begun after September 1, 1988.
- 2704. Penalty.

Cross References

- Accessible voting places for physically handicapped, see title 21-A, § 630.
- District court jurisdiction in land use proceedings, see title 4, § 152.
- Medicare supplement policies, specific standards for provisions, see title 24-A, § 5002.
- Public accommodations and places of employment constructed, remodeled or enlarged after January 1, 1982, see title 5, § 4594.
- Public accommodations constructed etc. after January 1, 1984, standards, see title 5, § 4594-A.
- Unlawful housing discrimination, see title 5, § 4582.

§ 2701. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Administrative authority. "Administrative authority" means the state, county or municipal official responsible for the administration and enforcement of this chapter.

2. Building. "Building" means:

A. A structure to which the public customarily has access and utilizes, and which is constructed, in whole or in part, with funds of the State or its political subdivisions; or

B. A structure or facility specifically intended:

(1) As a place where 5 persons or more will be employed; or

(2) As public housing, and which is constructed, in whole or in part, with either state or federal funds.

3. **Physical disability.** "Physical disability" means an impairment which confines an individual to a wheelchair; causes an individual to walk with difficulty; affects the sight or hearing to the extent that an individual functioning in public areas is insecure or exposed to danger; cause faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that special facilities are needed to provide for the safety of that individual.

4. **Public housing.** "Public housing" means a building included under subsection 2 which includes a minimum of 10 family units.

5. **Standards of construction.** "Standards of construction" means the most recent standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," except as otherwise exempted or provided by the National Fire Protection Association's Life Safety Code 101 or as amended by rule of the Director of Public Improvements.

6. **Repealed.** Laws 1987, c. 357, § 2. 1967, c. 367; 1975, c. 93, § 1; 1977, c. 80, § 2, eff. April 14, 1977; 1979, c. 248, § 3; 1981, c. 334, § 4; 1987, c. 357, §§ 1, 2.

Historical Note

Laws 1975, c. 93, in subsec. 2, added a second paragraph.

Laws 1977, c. 80, repealed and replaced this section, which prior thereto read:

"As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

"1. **Administrative authority.** 'Administrative authority' means the state, county or municipal official responsible for the administration and enforcement of this chapter.

"2. **Building.** 'Building' means a structure to which the public customarily has access and utilizes and which is constructed, in whole or in part, with funds of the State or its political subdivisions.

"Furthermore, it shall also mean a structure or facility constructed, in whole or in part, with either state or federal funds, and specifically intended as a place where 5 persons or more will be employed or for public housing. Public housing for the purposes of this chapter shall include a minimum of 20 family units.

"3. **Physical handicap.** "Physical handicap" means an impairment which confines an individual to a wheelchair; or causes an individual to walk with difficulty; or affects the sight or

hearing to the extent that an individual functioning in public areas is insecure or exposed to danger; or causes faulty coordination or reduces mobility, flexibility, coordination and perceptiveness to the extent that special facilities are needed to provide for the safety of that individual."

Laws 1979, c. 248, in subsec. 3, substituted "disability" for "handicap" in the heading and in the first sentence.

Laws 1981, c. 334, added subsec. 6.

Laws 1987, c. 357, repealed and replaced subsec. 5, which prior thereto read:

"'Standards of construction' means the standards set forth by the American National Standards Institute in the publication 'Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped,' [ANSI A 117-1961 (R 1971)], as amended, except as otherwise exempted or provided by the National Fire Protection Association's Life Safety Code 101.";

and repealed subsec. 6, which read:

"6. **1981 standards of construction.** '1981 standards of construction' means the standards adopted by rule by the Director of Public Improvements."

Cross References

Roadside picnic areas, toilet facilities for physically disabled, see title 23, § 954.
Telephone service for disabled persons, placement of coin telephones in public places, see title 35-A, § 7503.

Library References

States ⇐86.
C.J.S. States § 147.
Words and Phrases (Perm.Ed.)

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 2702. Standards of construction

All buildings affected by this chapter which are constructed, remodeled or enlarged before January 1, 1982, shall be in substantial compliance with standards of construction, including the following.

1. **Grading.** There shall be grading so that the ground shall attain a level with at least one primary entrance.
2. **Public walk.** There shall be at least one public walk to a primary entrance, which shall:
 - A. Be at least 48 inches wide;
 - B. Have a gradient not greater than 5%; and
 - C. Be of continuing common surface, not interrupted by steps or abrupt changes in level.
3. **Ramp.** Where a ramp with gradient greater than 5% is necessary or desired, it shall:
 - A. Not have a slope greater than one foot rise in 12 feet, or 8.33% or 4° 40'; and
 - B. Have handrails on at least one side and preferably on 2 sides that are 32 inches in height from the surface of the ramp.
4. **Doors.** Doors at the primary entrance or entrances at grade levels shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort. The floor on the inside and outside of each doorway shall extend at least one foot beyond each side of the door and be level for a distance of at least 5 feet from the closed portion of the door in the direction the door swings. If doors at a primary entrance are in a series, they shall have a space between them of not less than 84 inches measured from their closed positions and each shall open so that swings do not conflict. Thresholds shall have beveled edges.

Doors that are not intended for normal use, and that are dangerous if a blind person were to enter or exit by them, shall be made identifiable to touch by knurling the handle or knob.
5. **Floors.** Floors shall be maintained to assure nonslip surfaces, and on any given story shall be of a common level throughout or be connected by a ramp in accordance with subsection 3.
6. **Elevators.** Elevators, when provided in planning, shall be accessible to and usable by physically disabled individuals at all levels used by the general

public. They shall allow for wheelchair traffic and shall have control buttons with identifying features for the blind.

Any building on 2 or more levels, constructed after April 1, 1977, having regular occupancy of 100 or more persons, and to which the public-at-large or a substantial group normally has access, shall have at least one elevator usable by physically disabled individuals which shall meet the following requirements.

- A. The elevator cab shall have a clear area of not less than 25 square feet with a minimum of 56 inches clear in any one direction.
- B. The door shall have a clear opening of not less than 32 inches.
- C. No floor or control button shall be located higher than 48 inches above the elevator floor and shall have tactile identification braille beside the buttons for the blind.
- D. The elevator shall be adjusted or controlled so that the floor of the elevator, when stopped, conforms to building floor levels with a $\frac{1}{2}$ inch tolerance.
- E. The period of time between the opening and closing of the elevator door shall not be less than 8 seconds.

Any building on 2 levels and with less than 2 stories, constructed after April 1, 1977, having regular occupancy of 100 or more persons and to which the public-at-large or a substantial group normally has access, shall have either an elevator which shall meet the requirements included in this subsection, or a ramp which shall meet the requirements included in subsection 3.

7. Stairs. Stairs that might require use by physically disabled persons shall have handrails 32 inches high as measured from the tread at the face of the riser. At least one handrail shall extend at least 18 inches beyond the top step and the bottom step, and such extension shall be on the side of a continuing wall. Steps of stairs shall not have abrupt, square nosing, and should, wherever possible, have risers not to exceed 7 inches.

8. Restrooms and bathrooms. In accordance with the nature of a building, an appropriate number of restroom facilities shall be accessible and usable by physically disabled individuals. Furthermore, in any building designed and constructed specifically for public housing, the bathroom facilities and all accompanying fixtures shall be arranged to permit access and use by a person in a wheelchair in the following manner:

- A. In public housing of 10 to 20 units, at least one unit shall have such bathroom facilities and accompanying fixtures; and
- B. Notwithstanding the provisions in paragraph A, for every increment of 20 living units in public housing, at least one unit shall have such bathroom facilities and accompanying fixtures.

Such units shall be constructed on a single level and entrance to the bathroom shall be no less than 32 inches in width. In any municipal, county or state building constructed after April 1, 1977, normally used by the general public, restrooms shall be subject to the following provisions.

A. There shall be at least one toilet stall that meets the following specifications:

(1) It shall have a door which has a clear opening of at least 32 inches and swings out or slides;

(2) It shall have a minimum width of 4 feet and a minimum depth of 5 feet;

(3) It shall have a water closet with a seat 20 inches from the floor;

(4) It shall have handrails installed on both sides of the stall not less than 42 inches long and 33 inches above and parallel to the floor. At least 24 inches of the handrail shall be located in front of the water closet. Each handrail shall be 1½ inches in outside diameter, have a 1½-inch clearance between rail and wall, and be securely fastened to support 250 pounds.

B. There shall be at least one washbowl with a narrow apron and with 29 inches clearance to the bottom of the apron when mounted.

C. When mirrors and shelves are provided, at least one mirror and one shelf shall be located above the washbowl at a height not to exceed 40 inches above the floor, measured from the top of shelf and bottom of mirror.

D. There shall be at least one wall-mounted urinal in the men's toilet room, the basin opening of which shall be 19 inches from the floor.

E. When towel and other dispensers are provided, at least one of each shall not exceed a height of 48 inches.

9. **Drinking fountains.** In accordance with the nature and use of a building, an appropriate number of drinking fountains shall be accessible to and usable by the physically disabled. The drinking fountains or coolers shall be:

A. Wall-mounted and hand-operated to serve both able-bodied and physically disabled persons; and

B. Mounted with spouts and controls at the front with the edge of the water basin not more than 36 inches from the floor.

10. **Telephone.** Wherever public telephones are installed, at least one shall be accessible to persons confined to wheelchairs. It shall be so placed that the height of the dial, handset and coin slot do not exceed 56 inches from the floor.

11. **Warning signals.** Warning signals for emergencies should provide audible and visual signals simultaneously for the benefit of those persons with either hearing or sight disabilities.

1967, c. 367; 1975, c. 93, §§ 2, 3; 1977, c. 80, § 2, eff. April 14, 1977; 1979, c. 248, §§ 4 to 9; 1981, c. 334, § 5.

Historical Note

Laws 1975, c. 93, inserted a third sentence in subsec. 4; and repealed and replaced subsec. 8 which prior thereto read:

"Toilets. An appropriate number of toilet rooms, in accordance with the nature of a build-

ing, shall be accessible to and usable by the physically handicapped;"

Ch. 331

Laws 1977, c. 80, repealed and replaced this section, which prior thereto read:

"1. **Grading.** Grading so that the ground shall attain a level with at least one primary entrance;

"2. **Public walk.** At least one public walk to a primary entrance; such walk to be at least 48 inches wide and have a gradient not greater than 5%; and of continuing common surface, not interrupted by steps or abrupt changes in level;

"3. **Ramp.** Where a ramp with gradient greater than 5% is necessary or desired, it shall not have a slope greater than one foot rise in 12 feet, or 8.33% or 4° 50'; and shall have handrails on at least one side, and preferably 2 sides, that are 32 inches in height from the surface of the ramp;

"4. **Doors.** Doors at the primary entrance or entrances at grade level shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort. If doors at a primary entrance are in a series, they shall have a space between them of not less than 84 inches measured from their closed positions and each shall open so that swings do not conflict. The floor on the inside and outside of each doorway shall extend at least one foot beyond each side of the door and be level for a distance of at least 5 feet from the closed portion of the door in the direction the door swings. Thresholds shall have beveled edges;

"5. **Floors.** Floors shall be maintained to assure nonslip surfaces; and on any given story shall be of a common level throughout; or be connected by a ramp in accord with subsection 3;

"6. **Elevators.** Elevators, when provided in planning, shall be accessible to and usable by the physically handicapped at all levels used by the general public. They shall allow for wheelchair traffic and have control buttons with identifying features for the blind;

"7. **Stairs.** Stairs that might require use by physically handicapped persons shall have handrails 32 inches high as measured from the tread at the face of the riser. At least one handrail shall extend at least 18 inches beyond the top

step and the bottom step; and such extension shall be on the side of a continuing wall. Steps of stairs shall not have abrupt, square nosing, and should wherever possible have risers not to exceed 7 inches;

"8. **Rest rooms and bathrooms.** In accordance with the nature of a building, an appropriate number of rest room facilities shall be accessible and usable by the physically handicapped. Furthermore, in any building designed and constructed specifically for public housing, the bathroom facility and all accompanying fixtures shall be arranged to permit access and use by a person in a wheelchair in at least 5% of the living units. Such units shall be constructed on a single level and entrance to the bathroom shall be no less than 30 inches in width.

"9. **Drinking fountains.** An appropriate number of drinking fountains, in accordance with the nature and use of a building, shall be accessible to and usable by the physically handicapped;

"10. **Telephones.** Where public telephones are installed an appropriate number, in accordance with the nature and use of a building, shall be accessible to and usable by the physically handicapped;

"11. **Other doors.** Doors that are not intended for normal use, and that are dangerous if a blind person were to enter or exit by them, shall be made identifiable to touch by knurling the handle or knob;

"12. **Warning signals.** Warning signals for emergencies should provide audible and visual signals simultaneously for the benefit of those persons with either hearing or sight disabilities."

Laws 1979, c. 248, substituted "physically disabled" for "physically handicapped" throughout the section.

Laws 1981, c. 334, repealed and replaced the first paragraph, which prior thereto read:

"All buildings affected by this chapter shall be in substantial compliance with standards of construction, including the following."

Cross References

Telephone service for disabled persons, placement of coin telephones in public places, see title 35-A, § 7503.

Library References

States ⇄86.
C.J.S. States § 147.

§ 2702-A. 1981 standards of construction

1. **Amendments to standards.** Prior and subsequent to adopting any amendments to the standards, the director shall consult with physically handicapped

people and their representatives and with persons regulated by this law and their representatives, to obtain their advice on the advisability, form and effect of any amendments to the standards.

2. **Application.** All construction, remodeling and enlarging begun after January 1, 1988, of buildings subject to this chapter shall comply with the standards of construction.

3. **Construction of new public housing.** Notwithstanding subsection 2, all newly constructed public housing containing 20 or more units for which construction begins after October 1, 1988, shall meet the following standards.

A. No less than 10% of the ground level units may be accessible to and useable by physically handicapped persons.

B. A minimum of 10% of the upper story units connected by an elevator, as provided in section 2702, subsection 6, shall be accessible to and useable by handicapped persons.

1981, c. 334, § 6; 1981, c. 698, § 113, eff. April 16, 1982; 1987, c. 357, §§ 3, 4; 1987, c. 730, § 3.

Historical Note

Laws 1981, c. 698, in the second sentence of the first paragraph of subsec. 1, substituted "(ANSI A 117.1-1980)" for "(ANSI A 116.1-1980)".

Laws 1987, c. 357, repealed and replaced subsec. 1, which prior thereto read:

"Standards. The Director of Public Improvements shall adopt by rule 1981 standards of construction. The standards shall be adopted in order to fully implement the specifications in the American National Standards Institute publication 'Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People,' (ANSI A 117.1-1980), ex-

cept as otherwise exempted or provided by the National Fire Protection Association's Life Safety Code 101.

"Prior and subsequent to adopting the standards, the director shall consult with physically handicapped people and their representatives and with persons regulated by this law and their representatives, to obtain their advice on the advisability, form and effect of the standards.";

and in subsec. 2, substituted "1988" for "1982" and deleted "1981" preceding "standards".

Laws 1987, c. 730, added subsec. 3.

§ 2703. Administration authority

The responsibility for administering and enforcing this chapter shall be as follows:

1. **State.** Where state funds are used, including for space in buildings rented or leased by the State pursuant to agreements concluded with effective dates of January 1, 1982, or later, the Director of Public Improvements; except in respect to elementary and secondary school buildings, it shall be the Commissioner of Educational and Cultural Services;

2. **Counties and municipalities.** Where funds for counties and municipalities are used, except school buildings, the governing bodies thereof;

3. **New buildings.** New buildings constructed after October 7, 1967 shall meet all provisions of this chapter.

4. **Reconstructed buildings.** Plans to reconstruct, remodel or enlarge an existing building, when the estimated total cost exceeds \$100,000, shall be subject to this chapter, when, in the opinion of the administrative authority, the

proposed reconstruction, remodeling or enlargement will substantially affect that portion of said building normally accessible to the public. Only one entrance for disabled persons is required and that may be the one that can be constructed most economically.

5. Enforcement; inspection. The state, county or municipal authority who reviews plans for any building covered under this chapter shall:

A. Not approve the construction or the opening of such a building if plans or the construction are not in compliance with this chapter; and

B. Require on-site inspections which are deemed necessary to assure compliance with the specific standards of construction set forth in this chapter.

1967, c. 367; 1969, c. 98; 1973, c. 571, § 58; 1973, c. 625, § 168, eff. July 5, 1973; 1975, c. 93, § 4; 1977, c. 33, eff. March 21, 1977; 1977, c. 80, § 3, eff. April 14, 1977; 1979, c. 248, § 10; 1981, c. 334, §§ 7, 8.

Historical Note

Laws 1969, c. 98, added subsec. 4.

Laws 1973, c. 571, in subsec. 1, substituted "Commissioner of Educational and Cultural Services" for "Commissioner of Education".

Laws 1973, c. 625, in subsec. 3, substituted "October 7, 1967" for "effective date of this Act".

Laws 1975, c. 93, added subsec. 5, to read:

"**Conformity.** The state, county or municipal authority charged with administering this chapter shall not approve any plan for constructing a public building that does not conform to this chapter."

Laws 1977, c. 33, in the first sentence of subsec. 4, substituted "\$100,000" for "\$250,000".

Laws 1977, c. 80, repealed and replaced subsec. 5.

Laws 1979, c. 248, in the second sentence of subsec. 4, substituted "disabled" for "handicapped".

Laws 1981, c. 334, repealed and replaced subsec. 1 which prior thereto read:

"Where state funds are used, the Director of Public Improvements; except in respect to elementary and secondary school buildings it shall be the Commissioner of Educational and Cultural Services.";

and repealed and replaced the first paragraph of subsec. 5 which prior thereto read:

"The state, county or municipal authority who reviews plans for any building intended to provide a public program or service shall:"

Library References

Counties ⇨88.

Municipal Corporations ⇨170.

States ⇨73.

C.J.S. Counties § 139.

C.J.S. Municipal Corporations § 545.

C.J.S. States § 130 et seq.

§ 2703-A. Construction, remodeling or enlarging begun after September 1, 1988

All construction, remodeling and enlarging begun after September 1, 1988, of buildings subject to this chapter shall comply with the standards of construction, except that, in the case of toilet stalls, at least one standard stall configuration, ANSI Figure 30(a) shall be used. Any additional toilet stalls may either be standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b).

1987, c. 686, § 2, eff. April 6, 1988.

§ 2704. Penalty

Any violation of this chapter by any person, firm or organization responsible for the design or construction of any public building or facility shall be a civil violation punishable by a fine of not more than \$500, or subject to other appropriate equitable relief designed to secure substantial compliance with this chapter.

All civil violations under this chapter are enforceable by the Attorney General, his representative or any other appropriate public official in a civil action to recover what may be designated a fine or other sanction.

1977, c. 80, § 4, eff. April 14, 1977.

PART 7
PUBLIC BUILDINGS

CHAPTER 331

CONSTRUCTION FOR PHYSICALLY DISABLED

§ 2703. Administration authority

The responsibility for administering and enforcing this chapter shall be as follows:

1. State. Where state funds are used, including for space in buildings rented or leased by the State pursuant to agreements concluded with effective dates of January 1, 1982, or later, the Director of Public Improvements; except in respect to elementary and secondary school buildings, it shall be the Commissioner of Education;

[See main volume for 2 to 5]

1989, c. 700, § A-100.

Historical and Statutory Notes

Amendments

1989 Amendment. Laws 1989, c. 700, § A-100, in subsec. 1, substituted reference to the Commis-

sioner of Education for Commissioner of Educational and Cultural Services.