

# CHAPTER 1

## ADMINISTRATION

*(Substantial portions of this Chapter are entirely unique to Massachusetts)*

### 780 CMR 101.0 SCOPE

**101.1 Title:** 780 CMR shall be known as the Commonwealth of Massachusetts State Building Code.

**101.2 Scope:** 780 CMR, in accordance with St. 1984, c. 348, as amended shall control all matters concerning;

- (a) the construction, reconstruction, alteration, repair, demolition, removal, inspection, issuance and revocation of permits or licenses, installation of equipment, classification and definition of any *building* or *structure* and use or *occupancy* of all *buildings* and *structures* or parts thereof except bridges and appurtenant supporting structures which have been or are to be constructed by, or are under the custody and control of the Department of Public Works (Massachusetts Highway Department), the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation Authority, the Metropolitan District Commission, or the Massachusetts Port Authority or for which said agencies have maintenance responsibility;
- (b) the rehabilitation and maintenance of *existing buildings*;
- (c) the standards or requirements for materials to be used in connection therewith, including but not limited to provisions for safety, ingress and egress, energy conservation and sanitary conditions;
- (d) the establishment of reasonable fees for inspections and the issuance of licenses to individuals engaged as construction supervisors;
- (e) the certification of inspectors of buildings, building commissioners and local inspectors and;
- (f) the registration of Home Improvement Contractors pursuant to MGL c 142A, except as such matters are otherwise provided for in the Massachusetts General Laws Annotated, or in the rules and regulations authorized for promulgation under the provisions of 780 CMR.
- (g) other duties and responsibilities as defined in 780 CMR R1 through R7.

**101.3 Application of references:** Unless otherwise specifically provided for in 780 CMR, all references to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of 780 CMR.

**101.4 Intent:** 780 CMR shall be construed to secure its expressed intent, which is to insure public safety, health and welfare insofar as they are affected by

building construction, through structural strength, adequate *means of egress* facilities, sanitary conditions, light and ventilation, energy conservation and fire safety; and, in general, to secure safety to life and property from all hazards incident to the design, construction, reconstruction, alteration, repair, demolition, removal, use or *occupancy* of *buildings*, *structures* or *premises*.

**101.5 Specialized Codes:** Specialized codes, rules or regulations pertaining to building construction, reconstruction, alteration, repair or demolition, promulgated, and under the authority of the various boards which have been authorized by the general court shall be incorporated into 780 CMR. The said specialized codes, rules or regulations include, but are not limited to, those listed in *Appendix A*.

**101.6 Referenced standards:** The standards referenced in 780 CMR and listed in *Appendix A* shall be considered part of the requirements of 780 CMR to the prescribed extent of each such reference. Where differences occur between provisions of 780 CMR and referenced standards, the provisions of 780 CMR shall apply. The administrative provisions of 780 CMR shall apply to all standards referenced in *Appendix A*, other than the specialized codes in 780 CMR 101.5.

### 780 CMR 102.0 APPLICABILITY

**102.1 General:** The provisions of 780 CMR shall apply to all matters affecting or relating to *buildings* and *structures*, as set forth in 780 CMR 101.0 and shall apply with equal force to municipal, county, state authorities of or established by the legislature and private *buildings* and *structures*, except where such *buildings* and *structures* are otherwise provided for by statute. The construction, reconstruction, alteration, repair, addition, change in use or *occupancy*, demolition, removal of all *buildings* and *structures* shall comply with 780 CMR.

**102.2 Matters not provided for:** Any requirements that are essential for the structural, fire or sanitary safety, interior climate comfort of an existing or proposed *building* or *structure*, or for the safety of the occupants thereof, which are not specifically provided for by 780 CMR, shall be determined by the building official. The State Board of Building Regulations and Standards (hereinafter referred to as the BBRS) and the Department of Public Safety shall be notified by the building official in writing within seven working days of any action taken pursuant to 780 CMR 102.2.

**102.3 Zoning Bylaw Restrictions:** When the provisions herein specified for structural strength, adequate egress facilities, sanitary conditions, equipment, light and ventilation, energy conservation or fire safety conflict with the local zoning bylaws or ordinances, 780 CMR shall control the construction or *alteration* of *buildings* and *structures* unless such bylaws or ordinances are promulgated in accordance with the provisions of M.G.L. c. 143, § 98 .

**102.4 General bylaw restrictions:** When the provisions herein specified for structural strength, adequate egress facilities, sanitary conditions, equipment, light and ventilation, energy conservation or fire safety conflict with the local general bylaws or ordinances, 780 CMR shall control the construction or *alteration* of *buildings* and *structures* unless such bylaws or ordinances are promulgated in accordance with the provisions M.G.L. c. 143, § 98.

#### **102.5 Applicability to Existing Buildings**

**102.5.1 General:** *Existing buildings* and *structures* shall comply with the provisions of 780 CMR 102.5 and all other applicable provisions of 780 CMR.

**102.5.2** Unless specifically provided otherwise in 780 CMR, any *existing building* or *structure* shall meet and shall be presumed to meet the provisions of the applicable laws, codes, rules or regulations, bylaws or ordinances in effect at the time such *building* or *structure* was constructed or altered and shall be allowed to continue to be occupied pursuant to its use and *occupancy*, provided that the *building* or *structure* shall be maintained in accordance with 780 CMR 103.0.

**102.5.3** In cases which applicable codes, rules or regulations, bylaws or ordinances were not in use at the time of such construction or alteration, the provisions of 780 CMR 103.0 shall apply.

**102.5.4** In cases where the provisions of 780 CMR are less stringent than the applicable codes, rules or regulations, bylaws or ordinances at the time of such construction or substantial alteration, the applicable provisions of 780 CMR shall apply, providing such application of these provisions does not result in danger to the public, as determined by the building official.

**102.5.5** *Existing buildings* or parts or portions thereof which are proposed to be enlarged, altered, repaired or changed in use or occupancy shall comply with the provisions of 780 CMR 34.

**102.5.6 Moved Structures:** *Buildings* or *structures* moved into or within the jurisdiction shall comply with the provisions of 780 CMR 34 provided that any new system shall comply as far as practicable with the requirements for new *structures* and provided further that the siting and *fire separation distance* comply with the requirements for new *structures*.

#### **780 CMR 103.0 MAINTENANCE**

**103.1 General:** All *buildings* and *structures* and all parts thereof, both existing and new, and all systems and equipment therein which are regulated by 780 CMR shall be maintained in a safe, operable and sanitary condition. All service equipment, *means of egress*, devices and safeguards which are required by 780 CMR in a *building* or *structure*, or which were required by a previous statute in a *building* or *structure*, when erected, altered or repaired, shall be maintained in good working order.

**103.2 Owner responsibility:** The owner, as defined in 780 CMR 2, shall be responsible for compliance with provisions of 780 CMR 103.0.

#### **780 CMR 104.0 VALIDITY**

**104.1 General:** The provisions of 780 CMR are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

#### **780 CMR 105.0 OFFICE OF THE INSPECTOR OF BUILDINGS OR BUILDING COMMISSIONER**

**105.1 Appointment:** The chief administrative officer of each city or town shall employ and designate an inspector of buildings or building commissioner (hereinafter inspector of buildings) as well as such other local inspectors as are reasonably necessary to assist the inspector of buildings to administer and enforce 780 CMR and of M.G.L. c. 22, § 13 A and the rules and regulations made under the authority thereof. The inspector of buildings shall report directly to and be solely responsible to the appointing authority.

**105.2 Alternate:** The inspector of buildings is authorized to designate an alternate who shall exercise all the powers of the inspector of buildings during the temporary absence, disability or conflict of interest of the inspector of buildings. Said alternate shall be duly qualified pursuant to 780 CMR 105.3.

#### **105.3 Qualifications of the Inspector of Buildings:**

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In accordance with the provisions of M.G.L. c. 143, § 3, each inspector of buildings shall have had at least five years of experience in the supervision of building construction or design or in the alternative a four year undergraduate degree in a field related to

shall have had general knowledge of the accepted requirements for building construction, fire prevention, light, ventilation and safe egress; as well as a general knowledge of other equipment and materials essential for safety, comfort and convenience of the occupants of a *building* or *structure*.

Each inspector of buildings shall be certified by the BBRS in accordance with the provisions of 780 CMR R7, the Rules and Regulations for the Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors.

Municipalities may require additional qualifications or experience as are deemed necessary.

**105.4 Qualifications of the local inspector:** In accordance with the provisions of M.G.L. c. 143, § 3, each local inspector shall have had at least five years of experience in the supervision of building construction or design or in the alternative a two year associates degree in a field related to building construction or design, or any combination of education and experience which would confer equivalent knowledge and ability, as determined by the BBRS. In addition, such persons shall have had general knowledge of the accepted requirements for building construction, fire prevention, light, ventilation and safe egress; as well as a general knowledge of other equipment and materials essential for safety, comfort and convenience of the occupants of a *building* or *structure*.

Each local inspector shall be certified by the BBRS in accordance with the provisions of 780 CMR R7, the Rules and Regulations for the Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors.

Municipalities may require additional qualifications or experience as are deemed necessary.

### 105.5 Reporting Requirements:

#### 105.5.1 Annual report by city or town clerk:

In accordance with the provisions of M.G.L. c. 143, § 3, the clerk of each city or town shall, annually, not later than April first, transmit to the BBRS the names and official address of each inspector of buildings, building commissioner and local inspector as well as at such other times as required pursuant to 780 CMR R7, the Rules and Regulations for the Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors. Such reports shall be submitted on forms prescribed by the BBRS for said purpose.

building construction or design, or any combination of education and experience which would confer equivalent knowledge and ability, as determined by the BBRS. In addition each inspector of buildings

**105.5.2. New appointments:** The clerk of each city or town shall additionally report to the BBRS, the name, capacity and status of any new appointee within the time periods prescribed in 780 CMR R7 on forms prescribed by the BBRS for said purpose.

**105.6 Restriction of employees:** No full-time or part-time building commissioner, inspector of buildings, or full-time or part-time local inspector as defined herein shall be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or structure, or the preparation of plans or of specifications therefore within the city, town or region for which he or she is appointed, unless he or she is the owner of the building or structure; nor shall any officer or employee associated with the building department engage in any work which conflicts with his or her official duties or with the interests of the department.

**Note:** See M.G.L. c. 143, § 3Z (Local Option law relative to part-time employees).

**105.7 Relief from personal liability:** Insofar as the law allows, while acting for the municipality, the building official, charged with the enforcement of 780 CMR shall not be deemed personally liable in the discharge of his official duties.

**105.8 Official records:** An official record shall be kept of all business and activities of the department specified in the provisions of 780 CMR. In accordance with the provisions of M.G.L. c. 66, § 10(b), all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records.

## 780 CMR 106.0 DUTIES AND POWERS OF THE BUILDING OFFICIAL

**106.1 General:** The inspector of buildings and local inspector (herein after building official) shall enforce all of the provisions of 780 CMR, 521 CMR (Architectural Access Board) and any other state statutes, rules and regulations, or ordinances or bylaws which empower the building official. The building official shall act on any question relative to the mode or manner of construction and materials to be used in the construction, reconstruction, alteration, repair, demolition, removal, installation of equipment and the location, use, *occupancy* and maintenance of all *buildings* and *structures*, except

as otherwise specifically provided for by statutory requirements or as provided for in 780 CMR 109.0.

**106.2 Applications and permits:** The building official shall receive applications and issue permits for the construction, reconstruction, alteration, repair, demolition, removal or change in use or

**106.3 Notices and orders:** The building official shall issue all necessary notices or orders to ensure compliance with 780 CMR.

**106.4 Inspections:** The building official shall make such inspections as deemed necessary to ensure compliance with 780 CMR, or the building official may accept reports of inspection by qualified agencies or individuals, which reports shall be in writing and be certified by a responsible officer of such agency or by the responsible individual.

**106.5 Inspection and certification of specified use groups:** The building official shall periodically inspect and certify *buildings* and *structures* or parts thereof in accordance with Table 106. A *building* or *structure* shall not be occupied or continue to be occupied without the posting of a valid certificate of inspection where required by Table 106. A certificate of inspection as herein specified shall not be issued until an inspection is made certifying that the *building* or *structure* or parts thereof complies with all the applicable requirements of 780 CMR, and until the fee is paid as specified in Table 106. Municipalities may increase or waive only in their entirety for any specific *use group* the fees as specified in said Table 106.

**Exception:** Municipalities may revise or modify, or waive in part those fees for *buildings* and *structures* or parts thereof owned by the municipality, county or political subdivision thereof and for *buildings* and *structures* or parts thereof used solely for religious purposes.

**106.5.1 Annual inspection of any premise licensed by the Alcohol Beverage Control Commission - ABCC (per M.G.L. c. 10, § 74):** Any premise, licensed by the ABCC and from which alcoholic beverages are sold and are consumed on the premises, is required to be inspected annually and said annual certificate of inspection is to be signed by the Building Official and by the Head of the Fire Department.

**106.5.1.1 Issuance of a temporary certificate of inspection of any premise licensed by the Alcohol Beverage Control Commission - ABCC (per M.G.L. c. 10, § 74):** For premises described in 780 CMR 106.5.1, a building official may issue a temporary certificate of inspection, signed by the head of the fire department; such temporary certificate

*occupancy* of *buildings* and *structures*; inspect the *premises* for which such permits have been issued and enforce compliance with the provisions of 780 CMR.

of inspection shall be identified as effective to a date certain.

**106.5.1.1.2 Appeal of the failure to issue an annual certificate of inspection of any premises licensed by the Alcohol Beverage Control Commission - ABCC (per M.G.L. c. 10, § 74):** Failure by the building official to issue an annual certificate of inspection, signed by the head of the fire department, may be appealed in accordance with the requirements of 780 CMR 122.0.

**TABLE 106**  
**REQUIRED MINIMUM INSPECTIONS AND CERTIFICATIONS FOR SPECIFIED USE GROUPS**  
(See Chapters 3 and 4 for complete description of *use groups*)

Use Group	Use Group	Use Group Description	Minimum Inspections	Maximum Certification Period	Fees for Maximum Certification Period
A-1	Assembly - Theaters over 400 capacity	With stage and scenery Movie Theater	Semi- Annual Semi- Annual	One Year One Year	\$75 \$75
A-1	Assembly - Theaters 400 or less capacity	With stage and scenery Movie Theater	Annual Annual	One Year One Year	\$40 \$40
A-2	Assembly - Night Clubs or similar uses	Over 400 capacity 400 or less capacity	Semi Annual Annual	One Year One Year	\$75 \$40
A-3	Assembly Lecture Halls, recreation centers, terminals, etc.	Over 400 capacity 400 or less capacity	Semi Annual Annual	One Year One Year	note a \$40
A-4	Assembly	Churches, low density, recreation & similar uses	Prior to issuance of each new certificate	Five Years	\$40
A-5	Assembly	Stadiums, bleachers, places of outdoor assembly	Prior to issuance of each new certificate	One Year	note b
“A”	Special Amusement Buildings or portions thereof (780 CMR 413.0)	Special Amusement Buildings or portions thereof (780 CMR 413.7)	Annually prior to issuance of a new certification	One Year	As established by the city or town in accordance with 780 CMR 106.5
E	Educational	Educational	Prior to issuance of each new certificate	One Year	\$40
E	Day Care	Child day care centers (see Chapter 4)	Prior to issuance of each new certificate	One Year	\$40
I-2	Institutional	Incapacitated - hospitals, nursing homes, mental hospitals, certain day care facilities (see Chapter 4)	Prior to issuance of each new certificate	Two Years	note d
I-3	Institutional	Restrained - prisons, jails, detention centers, etc.	Prior to issuance of each new certificate	Two Years	note c
R-1	Residential	Hotels, motels, lodging houses, dormitories, etc. (note g)	Prior to issuance of each new certificate	One Year	note e
R-2	Residential	Multi family (note g)	Prior to issuance of each new certificate	Five Years	note f
R-1	Residential Special Occupancy	Detoxification facilities (see Chapter 4)	Prior to issuance of each new certificate	Two Years	\$75
R-2	Residential Special Occupancy	Summer camps for children (see chapter 4)	Annual	One Year	note h
R-3 or R-4	Residential Special Occupancy	Group Residence (see Chapter 4)	Annual	One Year	note h
R-5	Residential Special Occupancy	Limited Group Residence (see Chapter 4)	Annual	One Year	note h



Notes applicable to Table 106

**General:** The maximum certification period specified in Table 106 is intended to provide administrative flexibility. For those *buildings* and *structures* or parts thereof allowing more than one year maximum certification period, the building official may determine the length of validity of the certificate issued. For example, a building in the R-2 use group could be issued a certificate valid for one, two, three, four or five years. The total amount of fees charged for a certificate or certificates issued during the maximum certification period can exceed the fee listed or referenced in column 4 of Table 106. For example, if the building official issues a certificate valid for two years for a building in the R-2 use group, the fee charged would be 2/5 times the fee per maximum certification period as determined for the building in question using the formula in **Note f**.

**Note a.** For *buildings* or *structures*, or parts thereof, in the A-3 Use Group categories, with capacities over 400, the fee to be charged for the maximum certification period of one year is \$75 for accommodations for up to 5,000 persons, plus \$15 for the accommodations for each additional 1,000 persons or fraction thereof.

**Note b.** For all *buildings* or *structures*, or parts thereof, in A-5 use group, the fee to be charged for the maximum certification period of one year is \$40 for seating accommodations for up to 5,000 persons, plus \$8 for the accommodation for each additional 1,000 persons or fraction thereof.

**Note c.** For all *buildings* and *structures*, or parts thereof, in the I-3 use group, the fee to be charged for the maximum certification period of two years is \$75 for each *structure* containing up to 100 beds, plus a \$2 charge for each additional ten beds or fraction thereof over the initial 100 beds.

**Note d.** For hospitals, nursing homes, sanitariums, and orphanages in the I-2 use group, the fee to be charged for the maximum certification period of two years is \$75 for each *structure* containing up to 100 beds, plus a \$2 charge for each additional ten beds or fraction thereof over the initial 100 beds. All other *buildings* or *structures* or parts thereof in the I-2 use group classification shall be charged a fee of \$75 for a two year maximum certification period.

**Note e.** For all *buildings* and *structures* or parts thereof in the R-1 use group, the fee to be charged for the maximum certification period of one year shall be \$40 for up to five units plus \$2 per unit for all over five units. A unit shall be defined as follows:

- two hotel guest rooms;
- two lodging house guest rooms;
- two boarding house guest rooms; or
- four dormitory beds

**Note f.** For all *buildings* and *structures* or parts thereof in the R-2 use group, the fee to be charged for the maximum certification period of five years shall be \$75, plus \$2 per dwelling unit except that three family dwelling units shall be exempt from such fees.

**Note g.** For purposes of determining the required number of inspections, the maximum certification period, and the fees, as specified in Table 106, dormitories are included in the R-1 use group classification rather than the R-2.

**Note h.** Summer camps for children in use group R-2 shall be inspected and certified annually prior to the beginning of each season. The annual fee shall be \$15 for the first 25 residential units: \$8 for each additional 25 residential units; and \$15 for each assembly building or use. (A residential unit for this purpose shall be defined as four beds).

## 106.6 Reports by the Building Official

**106.6.1 Report to Appointing Authority:** The building official shall submit to the appointing authority of the jurisdiction a written report of operations in a form and content and at intervals as shall be prescribed by the appointing authority.

**106.6.2 Report to assessors:** Pursuant to M.G.L. c. 143, § 61, the building official shall give to the assessors of the municipality written notice of the granting of permits for the construction of any *buildings* or *structures*, or for the removal or demolition, or for any substantial alteration or addition thereto. Such notice shall be given within seven days after the granting of each permit, and shall state the name of the person to whom the permit was granted and the location of the *building* or *structure* to be constructed, reconstructed, altered, demolished or removed.

**106.6.3 Report to Local United States Postmaster:** Pursuant to M.G.L. c. 143, § 3X the building official shall notify the local United States Postmaster of the issuance of a building permit authorizing the construction of any *building* containing ten or more residential units.

**106.7 Department records:** The building official shall maintain official records of applications received, permits and certificates issued, inspections performed fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records as long as the *building* or *structure* to which they relate remains in existence unless otherwise provided for by law.

## 780 CMR 107.0 DUTIES AND POWERS OF THE STATE INSPECTOR (M.G.L. c. 143, § 3A)

**107.1 The State Inspector:** In every city and town 780 CMR shall be enforced by the State Inspector of the Department of Public Safety, Division of Inspections, as to any *structures* or *buildings* or parts thereof that are owned by the Commonwealth or any departments, commissions, agencies, or authorities of the Commonwealth. The state inspector shall have as to such *buildings* and *structures* all the powers of a building commissioner or inspector of buildings. All *buildings* and *structures* owned by any authority established by the legislature and not owned by the Commonwealth shall be regulated in accordance with 780 CMR 106.0.

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**107.2 Other responsibilities:** The state inspector shall make periodic reviews of all local building inspection practices, provide technical assistance and advice to the local building officials in the implementation of 780 CMR, and report in writing his findings to the building officials.

**107.3 Review by the Commissioner of Public Safety:** The Commissioner of the Commonwealth of Massachusetts, Department of Public Safety shall establish districts which shall be supervised by a



state inspector of the Division of Inspections. The Commissioner may review, on his own initiative, or on the application of any state inspector, any action or refusal or failure of action by any building official the result of which does not comply with the uniform implementation of 780 CMR; and may reverse, modify or annul, in whole or in part, such action except with respect to the specialized codes, provided that an order or action of the Commissioner shall not reverse, modify, annul, or contravene any order, action, determination, interpretation or any decision by the BBRS or the State Building Code Appeals Board.

**107.4 Reports:** The state inspector shall file with the BBRS reports of his periodic reviews and recommendations for improvements of building inspection practices. The format and due dates for these reports shall be determined by the BBRS.

## **780 CMR 108.0 RULES AND REGULATIONS**

**108.1 Rule making authority:** Under authority granted by St. 1984, c. 348, as amended, the BBRS is empowered in the interest of public safety, health and general welfare, to adopt and promulgate rules and regulations, and to interpret and implement the provisions of 780 CMR to secure the intent thereof.

**108.2 Amendments and promulgation of rules:** In accordance with the provisions of M.G.L. c. 143, § 97, any person may propose amendments to 780 CMR. Public hearings shall be held in the city of Boston in May and November of each year, and at such other times and places as the BBRS may determine, to consider petitions for such amendments. Amendments adopted by the BBRS shall be binding and have the full force and effect in all cities and towns.

### **108.3 Activities requiring licenses, registration or certification:**

**108.3.1 Testing laboratories:** A testing laboratory, branch laboratory and/or project laboratory shall not test *concrete* and/or concrete materials for use in *structures* subject to construction control (780 CMR 116.0) and/or controlled materials (780 CMR 17) unless licensed by the BBRS in accordance with 780 CMR and 780 CMR R1: the Rules and Regulations for Licensing of Concrete Testing Laboratories.

**108.3.2 Field technicians:** A person shall not engage in the activities of field testing of *concrete* for use in *structures* subject to construction control (780 CMR 116.0) and/or controlled materials (780 CMR 17) unless such person is licensed by the BBRS in accordance with 780 CMR R2: the Rules and Regulations for Concrete Testing Personnel.

**108.3.3 Manufactured buildings:** No individual, organization or firm shall be engaged in the construction of *manufactured buildings* for use in the Commonwealth of Massachusetts unless approved to construct same by the BBRS in accordance with 780 CMR R3.

**108.3.4 Native Lumber:** No individual, organization or firm shall engage in the production of native lumber for use in *structures* within the Commonwealth of Massachusetts unless registered by the BBRS in accordance with 780 CMR and 780 CMR R4: the Rules and Regulations Controlling the Use of Native Lumber.

### **108.3.5 Licensing of Construction Supervisors:**

**108.3.5.1** Except for those *structures* governed by Construction Control in 780 CMR 116.0, effective July 1, 1982, no individual shall be engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by any provision of 780 CMR, unless said individual is licensed in accordance the Rules and Regulations for Licensing Construction Supervisors as set forth in 780 CMR R5.

No person shall be engaged in the supervision of the field erection of a *manufactured building* unless such person is licensed in accordance with 780 CMR R5: The Rules and Regulations for the Licensing of Construction Supervisors.

**Exception:** Any Home Owner performing work for which a building permit is required shall be exempt from the licensing provisions of 780 CMR 108.3.5; provided that if a Home Owner engages a person(s) for hire to do such work, that such Home Owner shall act as supervisor. This exception shall not apply to the field erection of a *manufactured buildings* constructed pursuant to 780 CMR 35 and 780 CMR R3. For the purposes of 780 CMR 108.3.5, a “Homeowner” is defined as follows: Person(s) who owns a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a *one or two family dwelling*, attached or detached structures accessory to such use and/or farm structures. A person who constructs more than one home in a two-year period shall not be considered a home owner.



**108.3.5.2 Exemptions from Construction Supervisor License requirement:** A construction supervisor's license is not required for:

1. roofing, siding, erection of rooftop solar collectors, construction of swimming pools, the erection of signs, installation of replacement windows not involving structural modifications, the erection of tents;
2. projects which are subject to construction control (section 116.0);
3. agricultural buildings which are not open to the public or otherwise made available for public use;
4. Massachusetts registered engineers and Massachusetts registered architects provided such engineers and/or architects comply with the Construction Supervisor oversight requirements set forth in 780 CMR R5 generally and 780 CMR R5.2.12, as applicable;
5. the practice of any trade licensed by agencies of the commonwealth (see M.G.L. c.112, §81R), provided that any such work is within the scope of said license, including, but not limited to wiring, plumbing gas fitting, fire protection systems, pipefitting, HVAC and refrigeration equipment.

**108.3.5.3** No municipality shall be prohibited from requiring a license for those individuals engaged in directly supervising persons engaged in construction, reconstruction, alteration,

repair, removal or demolition in those categories of *building* and *structures* for which the BBRS does not require a license, provided that those municipalities which have established licensing requirements for construction supervisors prior to January 1, 1975, may maintain their existing licensing requirements.

**108.3.6 Registration of Home Improvement Contractors:** In accordance with the provisions of M.G.L. c.142A, no home improvement contractor, or organization or firm shall be involved in the improvement of any existing owner occupied one to four family residential building unless said home improvement contractor has registered with the BBRS in accordance with the rules and regulations for the registration of Home Improvement Contractors as set forth in 780 CMR R6.

**108.3.7 Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors;** The rules and regulations for the Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors shall be as set forth in 780 CMR R7.

**108.4 Enforcement:** Whoever violates the provisions of 780 CMR 108.0 or any rules and regulations promulgated hereunder, or who falsifies or counterfeits a license, registration or certification issued by the BBRS, or who fraudulently issues or accepts such a license, registration or certification shall be punished as provided in 780 CMR 118.0 or shall be subject to any other penalty provided for by law.



**780 CMR 109.0 APPROVAL**

**109.1 Approved materials and equipment:** All materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

**109.2 Used materials and equipment:** Used materials, equipment and devices which meet the minimum requirements of 780 CMR for new materials, equipment and devices shall be permitted; however, the building official may require satisfactory proof that such materials, equipment and devices have been reconditioned, tested, and/or placed in good and proper working condition prior to approval.

**109.3 Alternative materials and equipment:**

**109.3.1 General:** The provisions of 780 CMR are not intended to limit the appropriate use or installation of materials, appliances, equipment or methods of design or construction not specifically prescribed by 780 CMR, provided that any such alternative has been approved. Alternative materials, appliances, equipment or methods of design or construction shall be approved when the building official is provided acceptable proof and has determined that said alternative is satisfactory and complies with the intent of the provisions of 780 CMR, and that said alternative is, for the purpose intended, at least the equivalent of that prescribed in 780 CMR in quality, strength, effectiveness, *fire resistance*, durability and safety. Compliance with specific performance based provisions of 780 CMR, in lieu of a prescriptive requirement shall also be permitted as an alternate.

**109.3.2 Evidence submitted:** The building official may require that evidence or proof be submitted to substantiate any claims that may be made regarding the proposed alternate.

**109.3.3 Tests:** Determination of acceptance shall be based on design or test methods or other such standards approved by the BBRS. In the alternative, where the BBRS has not provided specific approvals, the building official may accept, as supporting data to assist in this determination, duly authenticated engineering reports, formal reports from nationally acknowledged testing/ listing laboratories, reports from other accredited sources. The costs of all tests, reports and investigations required under these provisions shall be borne by the applicant.

**109.3.4 Approval by the Construction Materials Safety Board:** The building official may refer such matters to the Construction

Materials Safety Board in accordance with 780 CMR 123.0 for approval.

**780 CMR 110.0 APPLICATION FOR PERMIT**

**110.1 Permit application:** It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a *building* or *structure*; or to change the use or *occupancy* of a *building* or *structure*; or to install or alter any equipment for which provision is made or the installation of which is regulated by 780 CMR without first filing a written application with the building official and obtaining the required permit therefor.

**110.2 Temporary Structures:**

**110.2.1 General:** A building permit shall be required for temporary structures, unless exempted by 780 CMR 110.3. Such permits shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.

**110.2.2 Special approval:** All temporary construction shall conform to the structural strength, fire safety, *means of egress*, light, ventilation, energy conservation and sanitary requirements of 780 CMR as necessary to insure the public health, safety and general welfare.

**110.2.3 Termination of approval:** The building official may terminate such special approval and order the demolition of any such construction at the discretion of the building official.

**110.3 Exemptions:** A building permit is not required for the following activities, such exemption, however, shall not exempt the activity from any review or permit which may be required pursuant to other laws, by-laws, rules and regulations of other jurisdictions (e.g. zoning, conservation, etc.).

1. One *story* detached accessory buildings used as tool or storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.
2. Fences six feet in height or less.
3. *Retaining walls* which, in the opinion of the building official, are not a threat to the public safety health or welfare and which retain less than four feet of unbalanced fill.
4. Ordinary repairs as defined in 780 CMR 2. Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam, column or other loadbearing support, or the removal or change of any required *means of egress*, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs

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include addition to, alteration of, replacement or relocation of any standpipe, water supply, mechanical system, *fire protection system*, energy conservation system or other work affecting public health or general safety.

5. Greenhouses: A building permit or notice to the building official is not required for the construction of greenhouses covered exclusively with plastic film (in accordance with St. 1983, c. 671). (This exemption does not apply if the greenhouse is to be used for large assemblies of people or uses other than normally expected for this purpose.)

**110.4 Form of application:** The application for a permit shall be submitted in such form as determined by the building official but in all cases shall contain, as a minimum, the information required on the appropriate sample uniform building permit application forms in *Appendix B*. The application for a permit shall be accompanied by the required fee as prescribed in 780 CMR 114.0 and the construction documents as required in 780 CMR 110.7 and 110.8, where applicable and as required by other sections of 780 CMR.

**110.5 By whom application is made:** Application for a permit shall be made by the owner or lessee of the *building* or *structure*, or agent of either. If application is made other than by the owner, the written authorization of the owner shall accompany the application. Such written authorization shall be signed by the owner and shall include a statement of ownership and shall identify the owner's authorized agent, or shall grant permission to the lessee to apply for the permit. The full names and addresses of the owner, lessee, applicant and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

**Note:** It shall be the responsibility of the registered contractor to obtain all permits necessary for work covered by the Home Improvement Contractor Registration Law, M.G.L. c. 142A. An owner who secures his or her own permits for such shall be excluded from the guaranty fund provisions as defined in M.G.L. c. 142A. Refer to 780 CMR R6 and M.G.L. c. 142A for additional information regarding the Home Improvement Contractor Registration Program.

**110.6** The securing of a building permit by the owner, or the owner's authorized agent, to construct, reconstruct, alter, repair, demolish, remove, install equipment or change the use or *occupancy* of a *building* or *structure*, shall not be construed to relieve or otherwise limit the duties and responsibilities of the licensed, registered or certified individual or firm under the rules and regulations governing the issuance of such license registration or certification.

**Note:** Also see 780 CMR 903.1 (Exceptions 1. and 2.).

**110.7 Construction documents:** The application for permit shall be accompanied by not less than three sets of *construction documents*. The building official is permitted to waive, or modify the requirements for filing construction documents when the building official determines that the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to 780 CMR, specific information shall be given to establish such quality, and 780 CMR shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

**110.8 Engineering Details, Reports, Calculations, Plans and Specifications:** In the application for a permit for *buildings* and *structures* subject to construction control in 780 CMR 116.0, the *construction documents* shall contain sufficient plans and details to fully describe the work intended, including, but not limited to all details sufficient to describe the structural, *fire protection*, fire alarm, mechanical, light and ventilation, energy conservation, architectural access and egress systems. The building official may require such calculations, descriptions narratives and reports deemed necessary to fully describe the basis of design for each system regulated by 780 CMR. In accordance with the provisions of M.G.L. c. 143, § 54A all plans and specifications shall bear the original seal and original signature of a Massachusetts registered professional engineer or registered architect responsible for the design, except as provided in M.G.L. c. 143, § 54A and any profession or trade as provided in M.G.L. c. 112, § 60L and M.G.L. c. 112, § 81R.

When such application for permit must comply with the provisions of 780 CMR 4 or 780 CMR 9 or 780 CMR 34, the building official shall cause one set of construction documents filed pursuant to 780 CMR 110.7 to be transmitted simultaneously to the head of the local fire department for his file, review and approval of the items specified in 780 CMR 903.0 as they relate to the applicable sections of 780 CMR 4, 780 CMR 9 or 780 CMR 34. The head of the local fire department shall within ten working days from the date of receipt by him, approve or disapprove such construction documents. If the head of the local fire department disapproves such construction documents, he or she shall do so, in writing citing the relevant sections of noncompliance with 780 CMR or the sections of the referenced standards of *Appendix A*. Upon the request of the head of the local fire department, the building official may grant one or more extensions of time for such review provided, however, that the total review by said head of the local fire department

shall not exceed 30 Calendar days. If such approval, disapproval or request for extension of time is not received by the building official within said ten working days, the building official may deem the construction documents to be in full compliance

**110.9 Existing Buildings:** The application for a building permit to reconstruct, alter or change the use or *occupancy* of *existing buildings* or *structures* which are subject to construction control pursuant to 780 CMR 116.0, shall be accompanied by a building survey where required by 780 CMR 34 and *Appendix F*.

**110.10 Site plan:** A site plan shall be filed showing, to scale, the size and location of all new construction and all *existing structures* on the site, distances from *lot lines*, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all *existing structures* and construction that are to remain on the site or plot.

#### **110.11 Independent Structural Engineering Review:**

**110.11.1** As a condition for the issuance of a building permit, the structural design of the following described structures shall be reviewed by an independent structural engineer to verify that the design of the primary structure is conceptually correct and that there are no major errors in the design:

1. Buildings which are five stories or more in *height* above the lowest floor, including stories below grade.
2. Buildings which enclose a total volume of 400,000 cubic feet, including stories below grade. The volume shall be measured using the outside dimensions of the *building*.
3. Structures in *Use Group A*, or structures which are partially in *Use Group A*, which will be used for public assembly of 300 or more persons.
4. Structures of unusual complexity or design shall be determined by the BBRS. A building official may apply to the BBRS for such a determination on a specific structure.

**Exemption:** Temporary structures erected for a period of one year or less.

**110.11.2 Requirements for the review:** The independent structural engineering review shall be in accordance with the requirements of *Appendix I*.

**110.11.3** Disputes between the structural engineer responsible for the design of the *building* or *structure* and the structural

with the applicable sections of 780 CMR 4, 780 CMR 9 or 780 CMR 34 and, therefore approved by the head of the local fire department.

engineering peer shall be resolved by the structural peer review advisory committee in accordance with 780 CMR 125.0.

**110.12 Structures subject to control:** In those structures subject to control as required in 780 CMR 116.0, affidavits must be submitted with the permit application that the individuals and testing laboratories responsible for carrying out the duties specified in 780 CMR 116.0 have been licensed by the BBRS.

**110.13 Amendments to application:** Subject to the limitations of 780 CMR 110.14, amendments to a plan, application or other records accompanying the same shall be filed prior to the commencement of the work for which the amendment to the permit is sought or issued. Such amendments shall be deemed part of the original application and shall be submitted in accordance with 780 CMR 110.0.

**110.14 Time limitation of application:** An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the building official shall grant one or more extensions of time for additional periods not exceeding 90 days each if there is reasonable cause and upon written request by the owner.

### **780 CMR 111.0 PERMITS**

**111.1 Action on application:** The building official shall examine or cause to be examined all applications for permits and amendments thereto within 30 days after filing thereof. If the application or the construction documents do not conform to the requirements of 780 CMR and all pertinent laws under the building official's jurisdiction, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of 780 CMR and all laws and ordinances applicable thereto, the building official shall issue a permit therefor.

**111.2 Zoning:** In accordance with the provisions of M.G.L. c. 40A or St. 1956, c. 665 as amended, no permit for the construction, alteration, change of use or moving of any *building* or *structure* shall be issued if such *building* or *structure* or use would be in violation of any zoning ordinance or by-law.

**111.3 Railroad right-of-way:** No permit to build a *structure* of any kind on land formerly used as a railroad right-of-way or any property appurtenant thereto formerly used by any railroad company in

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the state shall be issued without first obtaining, after public hearing, the consent in writing to the issuance of such permit from the Secretary of the Executive Office of Transportation and Construction, all in accordance with M.G.L. c. 40, § 54A.

**111.4 Water Supply:** No permit shall be issued for the construction of a *building* or *structure* which

**111.5 Debris:** As a condition of issuing a permit for the demolition, renovation, rehabilitation or other alteration of a *building* or *structure*, M.G.L. c. 40, § 54 requires that the debris resulting therefrom shall be disposed of in a properly licensed solid waste disposal facility as defined by M.G.L. c. 111, § 150A. Signature of the permit applicant, date and number of the building permit to be issued shall be indicated on a form provided by the building department, and attached to the office copy of the building permit retained by the building department. If the debris will not be disposed of as indicated, the holder of the permit shall notify the building official, in writing, as to the location where the debris will be disposed.

**111.6 Workers' Compensation:** No permit shall be issued to construct, reconstruct, alter or demolish a *building* or *structure* until acceptable proof of insurance pursuant to M.G.L. c. 152, § 25C(6) has been provided to the building official.

**111.7 Hazards to air navigation:** Application for building new structures or adding to existing structures within airport approaches as defined in M.G.L. c. 90, §35B and any amendments thereto or language substituted therefor, must include a certification by the applicant that;

1. Either a permit from the Massachusetts Aeronautics Commission is not required because the structure is, or will be; a) In an area subject to airport approach regulations adopted pursuant to M.G.L. c. 90, §§ 40A through 40I, or; b) in an approach to Logan International Airport, or; c) less than 30 feet above ground level, or;
2. A permit from the Massachusetts Aeronautics Commission is required pursuant to M.G.L. c. 90, § 35B and a copy of said permit is enclosed with the application.

Applications for permits to build a new structure or add to an existing structure requiring the filing of a Notice of Proposed Construction or Alteration (FAA Form 7460-1) with the Federal Aviation Commission shall mail a copy of the completed FAA Form 7460-1 to the Massachusetts Aeronautic Commission within three business days after submitting said form to the FAA.

**111.8 Expiration of permit:** Any permit issued shall be deemed abandoned and invalid unless the

would necessitate the use of water therein, unless a supply of water is available therefor, either from a water system operated by a city, town or district, or from a well located on the land where the *building* or *structure* is to be constructed, or from a water corporation or company, as required by M.G.L. c. 40, § 54.

work authorized by it shall have been commenced within six months after its issuance; however, for cause, and upon written request of the owner, one or more extensions of time, for periods not exceeding six months each, may be granted in writing by the building commissioner or inspector of buildings. Work under such a permit in the opinion of the building commissioner or inspector of buildings, must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances. It is the sole responsibility of the owner to inform, in writing, the building commissioner or inspector of buildings of any facts which support an extension of time. The building commissioner or inspector of buildings has no obligation under 780 CMR 111.7 to seek out information which may support an extension of time. The owner may not satisfy this requirement by informing any other municipal and/or state official or department.

For purposes of 780 CMR 111.7 any permit issued shall not be considered invalid if such abandonment or suspension of work is due to a court order prohibiting such work as authorized by such permit; provided, however, in the opinion of the building commissioner or inspector of buildings, the person so prohibited by such court order, adequately defends such action before the court.

**111.9 Previous approvals:** 780 CMR shall not require changes in the construction documents, construction or designated *use group* of a *building* for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been actively prosecuted within 180 days after the effective date of 780 CMR and is completed with dispatch.

**111.10 Signature to permit:** The building official's signature shall be attached to every permit; or the building official shall authorize a subordinate to affix such signature thereto.

**111.11 Approved construction documents:** When the building official has determined that the proposed construction conforms to the provisions of 780 CMR and other applicable laws, by-laws, rules and regulations under his/her jurisdiction, the building official shall stamp or endorse in writing the three sets of construction documents "Approved". One set of the approved construction documents shall be retained by the building official, one set by the head of the local fire department and



the other set shall be kept at the construction site, open to inspection of the building official or an authorized representative at all reasonable times.

**111.12 Revocation of permits:** The building official shall revoke a permit or approval issued under the

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provisions of 780 CMR in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

**111.13 Approval in part:** The building official may issue a permit for the construction of foundations or any other part of a *building* or *structure* before the construction documents for the whole *building* or *structure* have been submitted, provided that adequate information and detailed statements have been filed complying with all of the pertinent requirements of 780 CMR. Work shall be limited to that work approved by the partial approval and further work shall proceed only when the building permit is amended in accordance with 780 CMR 110.13. The holder of such permit for the foundation or other parts of a *building* or *structure* shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire *building* or *structure* will be granted.

**111.14 Posting of permit:** A true copy of the building permit shall be kept on the site of operations, open to public inspection during the entire time of prosecution of the work and until the completion of the same.

**111.15 Notice of start:** At least 24-hour notice of start of work under a building permit shall be given to the building official.

## 780 CMR 112.0 DEMOLITION OF STRUCTURES

**112.1 Service connections:** Before a *building* or *structure* is demolished or removed, the owner or agent shall notify all utilities having service connections within the *structure* such as water, electric, gas, sewer and other connections. A permit to demolish or remove a *building* or *structure* shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

All debris shall be disposed of in accordance with 780 CMR 111.5.

**112.2 Notice to adjoining owners:** Only when written notice has been given by the applicant to the owners of adjoining *lots* and to the owners of wired or other facilities, of which the temporary removal is necessitated by the proposed work, shall a permit be granted for the removal of a *building* or *structure*.

**112.3 Lot regulation:** Whenever a *building* or *structure* is demolished or removed, the *premises* shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the *lot*, restoration of established grades and the erection

of the necessary *retaining walls* and fences in accordance with the provisions of 780 CMR 33.

## 780 CMR 113.0 CONDITIONS OF PERMIT

**113.1 Payment of fees:** A permit shall not be issued until the fees prescribed in 780 CMR 114.0 have been paid.

**113.2 Compliance with code:** The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of 780 CMR or any other law or regulation, except as specifically stipulated by modification or legally granted variation as described in the application.

**113.3 Compliance with permit:** All work shall conform to the approved application and the approved construction documents for which the permit has been issued and any approved amendments to the approved application or the approved construction documents.

**113.4 Compliance with site plan:** All new work shall be located strictly in accordance with the approved site plan.

## 780 CMR 114.0 FEES

**114.1 General:** A permit to begin work for new construction, alteration, removal, demolition or other building operation shall not be issued until the fees prescribed in 780 CMR 114.0 shall have been paid to the department of building inspection or other authorized agency of the jurisdiction, nor shall an amendment to a permit necessitating an additional fee be approved until the additional fee has been paid.

**114.2 Special fees:** The payment of the fee for the construction, alteration, removal or demolition for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of *signs* and display structures, *marquees* or other *appurtenant structures*, or fees of inspections, certificates of *occupancy* or other privileges or requirements, both within and without the jurisdiction of the department of building inspection.

**114.3 New construction and alterations:** The fees for plan examination, building permit and inspections shall be as prescribed in 780 CMR 114.3.1 and the building official is authorized to establish by approved rules a schedule of unit rates for *buildings* and *structures* of all *use groups* and

types of construction as classified and defined in  
780 CMR 1, 3 and 6.

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**114.3.1 Fee schedule:** A fee for each plan examination, building permit and inspection shall be paid in accordance with the fee schedule as established by the municipality.

**114.4 Accounting:** The building official shall keep an accurate account of all fees collected; and such collected fees shall be deposited in the jurisdiction treasury in accordance with procedures established by the municipality, or otherwise disposed of as required by law.

## 780 CMR 115.0 INSPECTION

**115.1 Preliminary inspection:** Before issuing a permit, the building official shall, if deemed necessary, examine or cause to be examined all *buildings*, *structures* and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use or *occupancy* thereof.

**115.2 Required inspections:** After issuing a building permit, the building official shall conduct inspections during construction at intervals sufficient to ensure compliance with the provisions of 780 CMR. The building official shall inform the applicant of the required points of inspection at the time of application. Upon completion of the work for which a permit has been issued, the building official shall conduct a final inspection pursuant to 780 CMR 115.5. A record of all such examinations and inspections and of all violations of 780 CMR shall be maintained by the building official. For *buildings* and *structures* subject to construction control, the owner shall provide for special inspections in accordance with 780 CMR 1705.0.

In conjunction with specific construction projects, the building official may designate specific inspection points in the course of construction that require the contractor or builder to give the building official 24 hours notice prior to the time when those inspections need to be performed. The building official shall make the inspections within 48 hours after notification.

**115.3 Approved inspection agencies:** The building official may accept reports of approved inspection agencies provided such agencies satisfy the requirements as to qualifications and reliability.

**115.4 Plant inspection:** Where required by the provisions of 780 CMR or by the approved rules, materials or assemblies shall be inspected at the point of manufacture or fabrication in accordance with 780 CMR 1703.3.

**115.5 Final inspection:** Upon completion of the *building* or *structure*, and before issuance of the certificate of *occupancy* required by 780 CMR 120.0, a final inspection shall be made. All

variations of the approved construction documents and permit shall be noted and the holder of the permit shall be notified of the discrepancies.

**115.6 General:** In the discharge of his duties, the building official shall have the authority to enter at any reasonable hour any *building*, *structure* or *premises* in the municipality to enforce the provisions of 780 CMR.

If any owner, occupant, or other person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to every part of the *structure*, operation or *premises* where inspection authorized by 780 CMR is sought, the building official, or state inspector may seek, in a court of competent jurisdiction, a search warrant so as to apprise the owner, occupant or other person concerning the nature of the inspection and justification for it and may seek the assistance of police authorities in presenting said warrant.

**115.7 Identification:** The building official shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under 780 CMR.

**115.8 Jurisdictional cooperation:** The assistance and cooperation of police, fire, and health departments and all other officials shall be available to the building official as required in the performance of his duties.

**115.9 Coordination of inspections:** Whenever in the enforcement of 780 CMR or another code or ordinance, the responsibility of more than one building official of the jurisdiction is involved, it shall be the duty of the building officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the *building* or *structure* shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the building official having jurisdiction.

## 780 CMR 116.0 REGISTERED ARCHITECTURAL AND PROFESSIONAL ENGINEERING SERVICES - CONSTRUCTION CONTROL

**116.1 General:** The provisions of 780 CMR 116.0 define the construction controls required for all *buildings* and *structures* needing registered architectural or registered professional engineering services, and delineate the responsibilities of such professional services together with those services

that are the responsibility of the contractor during construction.

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The following structures are exempt from the requirements of 780 CMR 116.0;

1. Any *building* containing less than 35,000 cubic feet of enclosed space, measured to the exterior surfaces of walls and *roofs* and to the top of a ground supported floor, or in the case of a crawl space, to the bottom surface of the crawl space. In the case of basement floors or levels, the calculation of enclosed space shall include such spaces.
2. Any single or two family dwelling or any accessory *building* thereto;
3. Any *building* used exclusively for farm purposes (this exemption does not apply if the building is to be used for large assemblies of people or uses other than farm purposes); and
4. *Retaining walls* less than ten feet in *height* at all points along the wall as measured from the base of the footing to the top of the wall.

Notwithstanding the exemptions above, professional engineering services shall be required for activities which are deemed to constitute the practice of engineering as defined in M.G.L. c. 112, § 81D, except as provided in M.G.L. c. 54A and any legally required profession or as provided in M.G.L. c. 112, § 81R.

**116.1.1 Specialized structures requiring construction control:** Telecommunication towers and similar structures are engineered structures and shall be subject to the requirements of 780 CMR 116.

## **116.2 Registered architectural and engineering services:**

**116.2.1 Design:** All plans, computations and specifications involving new construction, alterations, repairs, expansions or additions or change in use or *occupancy of existing buildings* shall be prepared by or under the direct supervision of a Massachusetts registered architect or Massachusetts registered professional engineer and shall bear his or her original signature and seal or by the legally recognized professional performing the work, as defined by M.G.L. c. 112, §81R. Said signature and seal shall signify that the plans, computations and specifications meet the applicable provisions of 780 CMR and all accepted engineering practices.

**116.2.2 Architect/engineer responsibilities during construction:** The registered architects and registered professional engineers who have prepared plans, computations and specifications or the registered architects or registered professional engineers who have been retained to perform construction phase services, shall perform the following tasks for the portion of the work for which they are directly responsible;

1. Review, for conformance to the design concept, shop drawings, samples and other submittals which are submitted by the contractor in accordance with the requirements of the construction documents.
2. Review and approval of the quality control procedures for all code-required controlled materials.
3. Be present at intervals appropriate to the stage of construction to become, generally familiar with the progress and quality of the work and to determine, in general, if the work is being performed in a manner consistent with the construction documents.

**116.2.3 Structural Tests and Inspections:** Structural tests and inspection shall be provided in accordance with 780 CMR 1705.0.

**116.2.4 Tests and Inspections of non structural systems:** Tests and inspections of non structural systems shall be performed in accordance with applicable engineering practice standards or referenced standards listed in *Appendix A*.

**116.3 Construction contractor services:** The actual construction of the work shall be the responsibility of the general contractor as identified on the approved building permit and shall involve the following:

1. Execution of all work in accordance with the approved construction documents.
2. Execution and control of all methods of construction in a safe and satisfactory manner in accordance with all applicable local, state, and federal statutes and regulations.
3. Upon completion of the construction, he shall certify to the best of his knowledge and belief that such has been done in substantial accord with 780 CMR 116.3 items 1 and 2 and with all pertinent deviations specifically noted.

**116.4 On site project representation:** When applications for unusual designs or magnitude of construction are filed, or where reference standards require special architectural or engineering inspections, the building official may require full-time project representation by a registered architect or professional engineer in addition to that provided in 780 CMR 116.2.2. The project representative shall keep daily records and submit reports as may be required by the building official. Upon completion of the work, the registered architect or professional engineer shall file a final report indicating that the work has been performed in accordance with the approved plans and 780 CMR.

**116.4.1 Building permit requirement:** This on-site project representation requirement shall be determined prior to the issuance of the building permit and shall be a requisite for the permit

issuance. Refusal by the applicant to provide such service as required by the building official shall result in the denial of the permit. However,

**116.4.2 Fee and costs:** All fees and costs related to the performance of on-site project representation shall be borne by the owner.

**116.5 Building official responsibility:** Nothing contained in 780 CMR 116.0 shall have the effect of waiving or limiting the building official's authority to enforce 780 CMR with respect to examination of the contract documents, including plans, computations and specifications, and field inspections (see 780 CMR 106.0).

## 780 CMR 117.0 WORKMANSHIP

**117.1 General:** All work shall be conducted, installed and completed in a workmanlike and acceptable manner so as to secure the results intended by 780 CMR.

## 780 CMR 118.0 VIOLATIONS

**118.1 Unlawful acts:** It shall be unlawful for any person, firm or corporation to use, occupy or change the use or *occupancy* of any *building* or *structure* or to erect, construct, alter, extend, repair, remove, demolish any *building* or *structure* or any equipment regulated by 780 CMR, or cause same to be done, in conflict with or in violation of any of the provisions of 780 CMR.

**118.2 Notice of violation:** The building official shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, removal, demolition or *occupancy* of a *building* or *structure* in violation of the provisions of 780 CMR, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of 780 CMR. Such order shall be in writing and shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

**118.3 Prosecution of violation:** If the notice of violation is not complied with in the time period specified in said notice of violation, the building official may institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful *occupancy* of the *building* or *structure* in violation of the provisions of 780 CMR or of the order or direction made pursuant thereto.

**118.4 Violation penalties:** Whoever violates any provision of 780 CMR, except any specialized code referenced herein, shall be punishable by a fine of not more than \$1,000 or by imprisonment for not

the applicant may file an appeal as provided in 780 CMR 122.0.

more than one year, or both for each such violation. Each day during which a violation exists shall constitute a separate offense. The building official shall not begin criminal prosecution for such violations until the lapse of 30 days after the issuance of the written notice of violation.

**118.5 Abatement of violation:** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a *building*, *structure* or *premises* or to stop an illegal act, conduct, business or *occupancy* of a *building* or *structure* on or about any *premises*.

**118.6 Notice or orders, service and content:** Every notice or order authorized by 780 CMR shall be in writing and shall be served on the person responsible:

1. personally, by any person authorized by the building official; or
2. by any person authorized to serve civil process by leaving a copy of the order or notice at the responsible party's last and usual place of abode; or
3. by sending the party responsible a copy of the order by registered or certified mail return receipt requested, if he is within the Commonwealth; or
4. if the responsible party's last and usual place of abode is unknown, by posting a copy of this order or notice in a conspicuous place on or about the *premises* in violation and by publishing it for at least three out of five consecutive days in one or more newspapers of general circulation wherein the *building* or *premises* affected is situated.

## 780 CMR 119.0 STOP WORK ORDER

**119.1 Notice to owner:** Upon notice from the building official that work on any *building* or *structure* is being prosecuted contrary to the provisions of 780 CMR or in an unsafe and dangerous manner or contrary to the approved construction documents submitted in support of the building permit application, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

**119.2 Unlawful continuance:** Any person who shall continue any work in or about the *building* or *structure* after having been served with a stop work order, except such work as that person is directed to

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perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$1,000 or by imprisonment for not more than one year, or both for each such violation. Each day during which a violation exists shall constitute a separate offense.



## 780 CMR 120.0 CERTIFICATE OF OCCUPANCY

### 120.5 Posting structures:

**120.1 General: New buildings and structures:** A *building* or *structure* hereafter shall not be used or occupied in whole or in part until the certificate of use and *occupancy* shall have been issued by the building commissioner or inspector of buildings or, when applicable, the state inspector. The certificate shall not be issued until all the work has been completed in accordance with the provisions of the approved permits and of the applicable codes for which a permit is required, except as provided in 780 CMR 120.3.

**120.2 Buildings or structures hereafter altered:** A *building* or *structure*, in whole or in part, altered to change from one *use group* to another; to a different use within the same *use group*; the fire grading; the maximum live load capacity; the *occupancy* load capacity shall not be occupied or used until the certificate shall have been issued certifying that the work has been completed in accordance with the provisions of the approved permits and of the applicable codes for which a permit is required. Any use or *occupancy*, which was not discontinued during the work of alteration, shall be discontinued within 30 days after the completion of the alteration unless the required certificate is issued.

**120.3 Temporary occupancy:** Upon the request of the holder of a permit, a temporary certificate of *occupancy* may be issued before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely prior to full completion of the *building* or *structure* without endangering life or public welfare. Any *occupancy* permitted to continue during the work shall be discontinued within 30 days after completion of the work unless a certificate of *occupancy* is issued by the building official.

**120.4 Contents of certificate:** When a *building* or *structure* is entitled thereto, the building official shall issue a certificate of *occupancy* within ten days after written application. Upon completion of the final inspection in accordance with 780 CMR 115.5 and correction of the violations and discrepancies, and compliance with 780 CMR 903.4, the certificate of *occupancy* shall be issued. The certificate of *occupancy* shall specify the following.

1. The edition of the code under which the permit was issued.
2. The *use group* and *occupancy*, in accordance with the provisions of 780 CMR 3.
3. The type of construction as defined in 780 CMR 6.
4. The occupant load per floor.
5. Any special stipulations and conditions of the building permit.

**120.5.1 Posted use and occupancy:** A suitably designed placard approved by the building official shall be posted by the owner on all floors of every building and structure and part thereof designed for high hazard, storage, mercantile, factory and industrial or business use (use groups H, S, M, F and B) as defined in 780 CMR 3. Said placard shall be securely fastened to the building or structure in a readily visible place, stating: the use group, the fire grading, the live load and the occupancy load.

**120.5.2 Posted occupancy load:** A suitably designed placard approved by the building official shall be posted by the owner in every room where practicable of every building and structure and part thereof designed for use as a place of public assembly or as an institutional building for harboring people for penal, correctional, educational, medical or other care or treatment, or as residential buildings used for hotels, lodging houses, boarding houses, dormitory buildings, multiple family dwellings (use groups A, I, R-1 and R-2). Said placard shall designate the maximum occupancy load.

**120.5.3 Replacement of posted signs:** All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed or defaced, and if lost, removed or defaced, shall be immediately replaced.

**120.5.4 Periodic inspection for posting:** The building official may periodically inspect all existing buildings and structures except one and two family dwellings for compliance with 780 CMR in respect to posting; or he may accept the report of such inspections from a qualified registered engineer or architect or others certified by the BBRS; and such inspections and reports shall specify any violation of the requirements of 780 CMR in respect to the posting of floor load, fire grading, occupancy load and use group of the building or structure.

## 780 CMR 121.0 UNSAFE STRUCTURES

**121.1 General:** The provisions of 780 CMR 121.0 are established by M.G.L. c. 143, §§ 6, 7, 8, 9 and 10.

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**121.2 Inspection:** The building official immediately upon being informed by report or otherwise that a *building* or other *structure* or anything attached thereto or connected therewith is dangerous to life or limb or that any *building* in that city or town is unused, uninhabited or abandoned, and open to the weather, shall inspect the same; and he shall forthwith in writing notify the owner to remove it or make it safe if it appears to him to be dangerous, or to make it secure if it is unused, uninhabited or abandoned and open to the weather. If it appears that such *building* or *structure* would be especially unsafe in case of fire, it shall be deemed dangerous within the meaning hereof, and the building official may affix in a conspicuous place upon its exterior walls a notice of its dangerous condition, which shall not be removed or defaced without authority from him.

**121.3 Removal or making structure safe:** Any person so notified shall be allowed until 12:00 noon of the day following the service of the notice in which to begin to remove such *building* or *structure* or make it safe, or to make it secure, and he shall employ sufficient labor speedily to make it safe or remove it or to make it secure; but if the public safety so requires and if the mayor or selectmen so order, the building official may immediately enter upon the *premises* with the necessary workmen and assistants and cause such unsafe structure to be made safe or demolished without delay and a proper fence put up for the protection of passersby, or to be made secure.

**121.4 Failure to remove or make structure safe, survey board, survey report:** If an owner of such unsafe structure refuses or neglects to comply with the requirements of such notice within the specified time limit, and such *structure* is not made safe or taken down as ordered therein, a careful survey of the *premises* shall be made by a board consisting; in a city, of a city engineer, the head of the fire department, as such term is defined in M.G.L. c. 148, § 1, and one disinterested person to be appointed by the building official; and, in a town of a surveyor, the head of the fire department and one disinterested person to be appointed by the building official. In the absence of any of the above officers or individuals, the mayor or selectmen shall designate one or more officers or other suitable persons in place of the officers so named as members of said board. A written report of such survey shall be made, and a copy thereof served on such owner.

**121.5 Removal of dangerous or abandoned structures:** If such survey report as outlined in 780 CMR 121.4 declares such *structure* to be dangerous or to be unused, uninhabited or abandoned, and open to the weather, and if the owner continues such refusal or neglect, the

building official shall cause it to be made safe or taken down or to be made secure; and, if the public safety so requires, said building official may at once enter the *structure*, the land on which it stands or the abutting land or *buildings*, with such assistance as he may require, and secure the same; and may remove and evict, under the pertinent provisions of M.G.L. c. 239, or otherwise, any tenant or occupant thereof; and may erect such protection for the public by proper fence or otherwise as may be necessary, and for this purpose may close a public highway. In the case of such demolition, the said building official shall cause such *lot* to be leveled to conform with adjacent grades by a inorganic fill. The costs and charges incurred shall constitute a lien upon the land upon which the *structure* is located, and shall be enforced in an action of contract; and such owner shall, for every day's continuance of such refusal or neglect after being so notified, be punished by a fine in accordance with 780 CMR 118.4. The provisions of M.G.L. c. 139, § 3A, paragraph two, relative to liens for such debt and the collection of claims for such debt shall apply to any debt referred to in this section, except that the said building official shall act hereunder in place of the mayor or board of selectmen. During the time such order is in effect, it shall be unlawful to use or occupy such *structure* or any portion thereof for any purpose.

**121.6 Remedy of person ordered to remove a dangerous structure or make it safe:** Notwithstanding the provisions of 780 CMR 122, an owner, aggrieved by such order may have the remedy prescribed by M.G.L. c. 139, § 2: provided that any provision of M.G.L. c. 139, § 2 shall not be construed so as to hinder, delay or prevent the building official from acting and proceeding under 780 CMR 121; and provided, further, that this section shall not prevent the city or town from recovering the forfeiture provided in said 780 CMR 121.5 from the date of the service of the original notice, unless the order is annulled by the jury.

**121.7 Standards for making buildings safe or secure:** Any owner of a building who has been notified that said building shall be made safe or secure under 780 CMR 121.2, shall:

1. Remove all materials determined by the head of the fire department or building official to be dangerous in case of fire.
2. Secure all floors accessible from grade utilizing one of the following methods so long as such method is approved by the head of the fire department and building official in writing:
  - a. Secure all window and door openings in accordance with the U.S. Fire Administration, National Arson Prevention Initiative Board Up Procedures, continuously until such time as the building is reoccupied; or

- b. Provide 24 hour watchman services, continuously until such time as the building is reoccupied; or
- c. Provide a monitored intruder alarm system at the perimeter of all floors accessible from grade, continuously until such time as the building is reoccupied.



Said owner, as the case may be, shall notify the building official that the approved method chosen to secure the building has been incorporated. Said owner shall allow the building official to enter the building for an inspection to ascertain that the building is secured and made safe. Said owner shall allow the head of the fire department to enter the building. The building official shall be supplied with records of maintenance and operation if the provisions of 780 CMR 121.7.2.b or c. are used.

3. Maintain any existing fire alarms or sprinkler systems unless written permission is obtained from the head of the fire department in accordance with M.G.L. c. 148, § 27A to shut off or disconnect said alarms or systems.

4. Maintain utilities unless written permission is obtained from the building official to disconnect said utilities. Permission to disconnect utilities shall not be granted if it will result in inadequate heat to prevent freezing of an automatic sprinkler system or inadequate utilities to maintain any other protection systems.

5. The requirements of 780 CMR 121.7.1. through 4. do not prevent a building official from ordering or taking expeditious, temporary security measures in *emergency situations* pending the completion of the requirements of 780 CMR 121.7.1. through 4.

For the purposes of 780 CMR 121.7.5., an "*emergency situation*" shall be defined as: an unexpected incident, which by its very nature may present a threat to public safety personnel who may be required to affect a rescue effort or conduct fire extinguishment operations.

Upon refusal or neglect of said owner to comply with such notice, any building official acting under the authority of 780 CMR 121.3 or 121.5, shall cause to be secured all window and door openings accessible from grade in accordance with the U.S. Fire Administration, National Arson Prevention Initiative Board-up Procedures or other equivalent procedure approved by the head of the fire department, continuously until such time as the building is reoccupied.

Any building which has been made to conform to the provisions of 780 CMR 121.7 during vacancy may be reoccupied under its last permitted use and occupancy classification, provided that any systems which were disconnected or shut down during the period of vacancy are restored to fully functional condition and subject to 780 CMR 111.2 and M.G.L. c. 40A. The local building official shall be notified in writing prior to re-occupancy. If said building is changed in use or occupancy or otherwise renovated or altered it shall be subject to the applicable provisions of 780 CMR 34.

**121.8 Marking or identifying certain buildings that are especially unsafe in the case of fire.** Any building official who determines that a building is

especially unsafe in case of fire under 780 CMR 121.2, shall notify the head of the fire department about the existence of said building. The building official, in cooperation with the head of the fire department, shall cause said building to be marked in accordance with the marking requirements established by the Board of Fire Prevention Regulations in 527 CMR 10.00.

## **780 CMR 122.0 BOARD OF APPEALS**

**122.1 State Building Code Appeals Board:** Except for actions taken pursuant to 780 CMR 121.0, whoever is aggrieved by an interpretation, order, requirement, direction or failure to act under 780 CMR by any agency or official of the city, town or region, or agency or official of the State charged with the administration or enforcement of 780 CMR or any of its rules or regulations, excepting any specialized codes, may appeal directly to the State Building Code Appeals Board as provided in 780 CMR 122.0.

Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act under 780 CMR by any agency or official of a city, town or region charged with the administration or enforcement of 780 CMR, excepting any specialized codes, may appeal directly to the State Building Code Appeals Board or may appeal first to a local or regional building code appeals board and if aggrieved thereby he may then appeal to the State Building Code Appeals Board as provided in 780 CMR 122.0.

In the event an appeal is taken directly to the State Building Code Appeals Board from an interpretation, order, requirement or direction, said appeal shall be filed as specified in 780 CMR 122.3.1 with the State Building Code Appeals Board not later than 45 days after the service of notice

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thereof of the interpretation, order, requirement or direction.

In the event the appeal is taken directly to the State Building Code Appeals Board for the failure to act, the appeal shall be taken not later than 45 days after a request to act has been made by the aggrieved person in writing and served upon the appropriate building official or chief administrative officer of the state or local agency which fails to act.

If the aggrieved person elects to appeal before the local or regional building code appeals board, he shall not be allowed to enter such appeal with the State Building Code Appeals Board until such time as the said local or regional board renders a decision, unless the reason for appeal to the State Building Code Appeals Board is the failure of the local or regional board to act.

## **122.2 Membership:**

**122.2.1 Three member panel:** The State Building Code Appeals Board (hereinafter referred to in 780 CMR 122.0 as the Board) shall consist of the membership of the BBRS. The chairman of the BBRS shall be Chairman of the Board. The Chairman of the Board may designate any three members of the Board to act as a three member panel to hold any public hearing under 780 CMR 122.0 and to hear testimony and take evidence. The Chairman of the Board shall select one of the three members to act as chairman of the said three member panel. If a three member panel is so designated, the three member panel shall act as the Appeals Board and render a decision as provided in 780 CMR 122.0.

**122.2.2 Clerk:** The administrator of the BBRS shall designate a clerk to the BBRS. The clerk shall keep a detailed record of all decisions and appeals and a docket book on file showing the name of each appeal properly indexed and the disposition of the appeal. Said docket book shall be open to public inspection at all times during normal business hours.

**122.2.3 Quorum:** A majority of the Board shall constitute a quorum if the appeal is heard by the entire Board.

## **122.3 Appeals procedure for State Building Code Appeals Board:**

**122.3.1 Entry:** Appeals shall be entered on forms provided by the BBRS and shall be accompanied by an entry fee of \$150 or such other amounts as may be determined by the BBRS from time to time.

The appeal shall be signed by the appellant or his attorney or agent and shall note the name and address of the person or agency in whose behalf the appeal is taken and the name of the person

and address wherein service of notice for the appellant is to be made. The appeal shall also state in detail the interpretation, order, requirement, direction or failure to act which are the grounds of the appeals as well as the particular section or sections of 780 CMR which are involved in the appeal and the reasons for the appellant advances supporting the appeal.

A copy of the appeal shall be served in accordance with 780 CMR 118.6 by the appellant on the person or state, regional or local agency from whose action or inaction the appeal is taken, on or before entry of the appeal. An affidavit, under oath, that such copy has been served shall be filed with the Board forthwith by the appellant.

**122.3.2 Stay of Proceedings:** Entry of an appeal shall stay all proceedings in furtherance of the action or failure to act appealed from, unless the state, regional or local agency or any person charged with the administration or enforcement of 780 CMR presents evidence and the Board or a three member panel or a single member of the Board, appointed by the chairman for said purpose, finds that upon the evidence presented a stay would involve imminent peril to life or property. In such an event, stay of all proceedings shall be waived or the Board or three member panel or single member may order such other action necessary to preserve public safety.

Before waiving the stay or proceedings, the Board or three member panel or single member of the Board, appointed by the chairman for said purpose, shall hold a hearing and give the appellant and state, regional or local agency or any person claiming that a stay would involve imminent peril to life or property, notice in writing of the hearing not less than 24 hours before said hearing.

**122.3.3 Documents:** Upon entry, the clerk shall request in writing from the state, city, regional or town officer in charge of the matter on appeal, a copy of the record and all other papers and documents relative to the appeal to be transmitted forthwith to the Board. Said state, city, regional or town officer shall upon receipt of the request of the Board transmit forthwith all the papers and documents and a copy of the record relating to the matter on appeal.

**122.3.4 Hearings:** The chairman of the Board shall fix a convenient time and place for a public hearing. Said hearings shall be held not later than 30 days after the entry of such appeal, unless such time is extended by agreement with the appellant.

Any such party may appear in person or by agent or attorney at such hearing. The chairman or clerk shall give notice of the time and place of said hearing to all parties to the hearing and to anyone else requesting notice in writing at least

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ten days prior thereto. Failure to hold a public hearing within 30 days shall not affect the validity of the appeal or any decision rendered. The Board or three member panel in its hearings





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conducted under this section shall not be bound by strict rules of evidence prevailing in courts of law or equity.

**122.3.5 Conduct of Hearing:** Hearing shall be conducted in accordance with the informal/fair hearing rules as set forth in 801 CMR 1.02.

**122.4 Decisions:**

**122.4.1 Votes required:** If the appeal is conducted by a three member panel, then the concurrence of two of the three members holding the public hearing shall be required. If the appeal is conducted by the entire Board, then a majority vote of those hearing the case shall be required.

**122.4.2 Standard:** The Board or a three member panel may vary the application of any provision of 780 CMR in any particular case, may determine the suitability of alternate materials and methods of construction, and provide reasonable interpretations of the provisions of 780 CMR; provided that the Board or a three-member panel finds that the decision to grant a variance shall not conflict with the general objectives set forth M.G.L. c. 143, § 95 or with the general objectives of 780 CMR.

**122.4.3 Time for decision:** The Board shall within 30 days after such hearing, unless such time is extended by agreement of the parties, issue a decision or order reversing, affirming or modifying in whole or in part the order, interpretation, requirement, direction or failure to act which is the subject matter of the appeal.

Failure to render a decision within 30 days shall not affect the validity of any such decision or appeal.

Notice of and a copy of the decision shall be sent by the clerk to all parties to the appeal and anyone requesting in writing a copy of the decision.

**122.4.4 Contents of decision:** All decisions shall be in writing and state findings of fact, conclusions and reasons for decisions. Every decision shall indicate thereon the vote of each member and shall be signed by each member voting. A decision shall not be considered by any person or agency as a precedent for future decisions.

**122.4.5 Additional powers:** The Board or a three member panel may impose in any decision, limitations both as to time and use, and a continuation of any use permitted may be conditioned upon compliance with future amendments to 780 CMR.

**122.5 Enforcement:** Upon receipt of the decision of the Board or a three member panel, the parties to the appeal shall take action forthwith to comply with the decision unless a later time is specified in the decision.

**122.6 Appeals from State Building Code Appeals Board:** Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of law or equity in conformance with M.G.L. c. 30A, § 14.

**122.7 Local and regional board of appeals:**

**122.7.1 Local or regional board of appeals:** Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act under 780 CMR by any agency or official of a city, region or town charged with the administration or enforcement of 780 CMR or any of its rules and regulations may appeal first to the appeals board in that city, region or town or to the State Building Code Appeals Board as provided in 780 CMR 122.0.

In the event an appeal is taken from an interpretation, order, requirement or direction, said appeal shall be filed with the local or regional appeals board not later than 45 days after the service of notice thereof of the interpretation, order, requirement or direction.

In the event the appeal is taken for the failure to act, the appeal shall be taken not later than 45 days after a request to act has been made by the aggrieved person in writing and served to the appropriate building official or chief administrative officer of the city, regional or town agency which fails to act.

**122.7.2 Membership:** Any building code board of appeals duly established by ordinance or by law or otherwise in a city, region or town and in existence on January 1, 1975, shall qualify as a local board of appeals under 780 CMR 122.0 notwithstanding anything to the contrary contained herein. However, the procedure and rights for appeals for such board of appeals shall be governed by 780 CMR.

If a city, region or town had not duly established by ordinance or bylaw or otherwise a local or regional building code appeals board prior to January 1, 1975, said city, region or town may establish a local or regional board of appeals, hereinafter referred to as the local board of appeals, consisting of five members appointed by the chief administrative officer of the city, region or town: one member appointed for five years, one for four years, one for three years, one for two years and one to serve for one year; and thereafter each new member to serve for five years or until his successor has been appointed.

**122.7.3 Qualifications of local board members:** Each member of a local board of appeals established under 780 CMR 122.7.2 shall have had at least five years experience in the construction, alteration, repair and maintenance of building and building codes. At least one member shall be a registered structural or civil professional engineer and one member a licensed registered architect.

**122.7.4 Chairman of local or regional board:** The board shall select one of its members to serve as chairman and a detailed record of all proceedings shall be kept on file in the building department.

**122.7.5 Absence of members:** During the absence of a member of a local board of appeals for reason of disability or disqualification, the chief administrative officer of the city, region or town shall designate a substitute who shall meet the qualifications as outlined in 780 CMR 122.7.3.

**122.7.6 Quorum:** A quorum shall be three members.

**122.7.7 Procedures:** Entry of appeals shall be governed by 780 CMR 122.3.1 excepting that a city, region or town may set its own entry fee.

Upon notice of entry of appeal the local building commissioner or inspector of buildings shall transmit a copy of the record and all the papers and documents to the local board of appeals.

Entry of an appeal shall stay all proceedings in furtherance of the action or failure to act appealed from, unless the building commissioner or inspector of buildings certifies in writing to the local board of appeals that a stay would involve imminent peril to life or property. Notice in writing of such certification by the building commissioner or inspector of buildings shall be given the appellant at least 24 hours prior to the hearing. In such an event a hearing on such stay shall be given first priority and be the first matter heard by the local board of appeals at its next scheduled meeting. The hearing on the appeal shall be held as soon as possible thereafter in accordance with 780 CMR 122.7.8.

The local board of appeals may establish its own rules for procedure not established herein or not inconsistent with 780 CMR or with the general objectives set forth in M.G.L. c. 143, § 95.

**122.7.8 Hearings:** All hearings shall be public and notice of said hearings shall be advertised in a newspaper of general circulation in the city, region or town in which the appeal is taken at

least ten days before said hearing. Notice of the hearing, setting forth the date and time of said hearing, shall be mailed by the local board of appeals to all parties and all those who requested notice in writing at least 14 days before said hearing. Said hearings shall be held not later than 30 days after the entry of such appeal, unless such time is extended by agreement with the appellant.

This section as it pertains to notice shall not apply to hearings on a stay as provided in 780 CMR 122.7.7.

**122.7.9 Decisions of local boards:** A concurring vote of a majority of all the members present shall be required for any decision. The local board of appeals may vary the application of 780 CMR to any particular case, may consider the suitability of alternate materials and methods of construction and may provide reasonable interpretations of the provisions of 780 CMR; provided that the decision of the local board shall not conflict with the general objectives of 780 CMR or with the general objectives of M.G.L. c. 143, § 95. The local board of appeals may impose, in any decision, limitations both as to time and use, and a continuation of any use permitted may be conditioned upon compliance with future amendments to 780 CMR.

**122.7.10 Time for decision:** The board shall within 30 days after such hearing, unless such time is extended by agreement of the parties, issue a decision or order reversing, affirming or modifying in whole or in part the order, interpretation, requirement, direction or failure to act which is the subject matter of the appeal.

Failure to render a decision within 30 days shall not affect the validity of any such decision or appeal.

Notice of and a copy of the decision shall be sent by the clerk to all parties to the appeal and to anyone requesting in writing a copy of the decision.

**122.7.11 Contents of decision:** All decisions shall be in writing and state findings of fact, conclusions and reasons for the decisions. Every decision shall indicate thereon the vote of each member and shall be signed by each member voting. Any decision shall not be considered by any person or agency as a precedent for future decisions.

**122.7.12 Copy of decision:** A copy of any decision by a local board of appeals shall be transmitted to the State Building Code Appeals Board within ten days after the rendering of such decision. If the State Building Code Appeals Board disapproves of the said decision of the local board, it may on its own motion appeal from the

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decision of the local board of appeals according to 780 CMR 122.0 and call for a hearing *de novo*.

If the State Building Code Appeals Board does not notify the local board in writing within 45 days from the date of the local board's decision, **122.7.13 Enforcement of decision:** If said decision is approved by the State Building Code Appeals Board, all parties to the appeal shall take immediate action in accordance with the decision of the local board unless the person aggrieved by such decision appeals to the State Building Code Appeals Board as provided in 780 CMR 122.0.

**122.7.14 Review:** Any person, including the State Building Code Appeals Board, aggrieved by a decision of the local board of appeals, whether or not a previous party to the decision, or any municipal officer or official board of the municipality, may, not later than 45 days after the mailing of the decision of the local board, apply to the State Building Code Appeals Board for a hearing *de novo* before the State Board, in accordance with the regulations contained in 780 CMR 122.0.

## 780 CMR 123.0 CONSTRUCTION MATERIALS SAFETY BOARD

**123.1 Membership:** There shall be a board under the control of the BBRS called the Construction Materials Safety Board, hereafter in 780 CMR 123.0 called the CMSB which shall consist of nine members, one of whom shall be a member of the BBRS who shall be ex-officio and a voting member of the Board and eight members to be appointed by the chairman of the BBRS: one of whom shall be a registered professional engineer who is a structural engineer; one of whom shall be a registered architect; one of whom shall be a representative of a commercial testing laboratory; one of whom shall be a representative of a public testing laboratory; two of whom shall be representatives from the construction industry; one of whom shall be a member of a university faculty engaged in research and teaching in structural materials; and one of whom shall be a member of a university faculty engaged in research and teaching in the area of theoretical and applied mechanics.

**123.2 Duties:** The CMSB will review applications for registration or licensing of individuals, laboratories or firms responsible for the inspection, control and testing of construction materials, and review applications and pertinent data relevant to all materials, devices, products and methods of construction not included in 780 CMR; and report to the BBRS their recommendations. The CMSB will collect information and review cases where disciplinary action against an existing license, whether an individual, laboratory or firm, has been proposed; and make recommendations to the BBRS.

the said decision shall be deemed approved; provided that the decision shall not conflict with the general objectives of the state building code and the objectives of M.G.L. c. 143, § 95.

The BBRS will issue applications, receive payment for the review of such applications and approvals, registration and licensing fees, and maintain records for the efficient dispatch of the duties of the CMSB.

**123.3 Testing and evaluation groups:** The BBRS shall establish and maintain testing and evaluation groups who will have the responsibility of administering and directing, under the supervision of the BBRS, the testing and controls for evaluating individual applicants, laboratories and firms wishing to become registered or licensed.

## 780 CMR 124.0 FIRE PREVENTION -FIRE PROTECTION ADVISORY COMMITTEE

**124.1 Constitution of the Fire Prevention - Fire Protection Advisory Committee:** There shall be a Committee under the control of the BBRS called the Fire Prevention - Fire Protection Advisory Committee, hereinafter called the FPPF Advisory Committee which shall consist of 17 members, two of whom shall be members of the BBRS; one of whom shall be the State Fire Marshal or his designee; one of whom shall be the Commissioner of the City of Boston Fire Department or his designee; all four of whom shall be ex-officio and voting members of the Committee, and 12 members to be appointed by the chairman of the BBRS for a term of one year; two of whom shall be representatives of the Fire Chiefs Association of Massachusetts; two of whom shall be representatives of the Fire Prevention Association of Massachusetts; one of whom shall be a representative of the International Municipal Signalmen's Association; one of whom shall be a member of the State Board of Fire Prevention Regulations; one of whom shall be a member of the Board of State Examiners of Electricians who satisfies the requirements of that Board as a systems contractor holding a certificate C license and is actively engaged in the business of fire warning systems; one of whom shall be a Massachusetts building official; one of whom shall be a Massachusetts registered Fire Protection Engineer; one of whom shall be a Massachusetts registered professional engineer or architect; one of whom shall be a Massachusetts registered professional engineer with specific experience in the design and installation of smoke control systems. and; one of whom shall be a *sprinkler system* installer who shall be certified by the National Institute for Certification in Engineering Technologies (NICET), and; one of whom shall be a member proposed jointly by the Massachusetts Burglar and Fire Alarm Association and the Automatic Fire Alarm Association and the Automatic Fire Alarm Association, New England.

The FPDF Advisory Committee shall elect a chairman and a vice chairman and each shall serve for a term one year. A member of an agency or board of the state shall not be eligible for the office of chairman or vice chairman.

**124.2 Purpose:** The FPDF Advisory Committee shall review and recommend to the BBRS changes to 780 CMR relating to fire prevention and *fire protection* and more specifically those matters contained in 780 CMR 9.

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**780 CMR 125.0 STRUCTURAL PEER REVIEW  
ADVISORY COMMITTEE**

**125.1 Membership:** There shall be a Board under the control of the BBRS called the Structural Peer Review Advisory Committee, which shall consist of seven members, six of whom shall be professional engineers, registered in Massachusetts, each having a minimum of ten years of structural design experience and shall be appointed by the BBRS from nominations submitted by the Boston Association of Structural Engineers, the Boston Society of Civil Engineers and the American Consulting Engineers Council of New England. The seventh member shall be the structural engineer member of the BBRS who shall serve as chairman of said Advisory Board.

**125.2 Quorum:** The chairman of said Advisory Committee shall appoint three of the members to mediate the disputes by a majority vote of the three members.

**125.3 Purpose:** The Structural Peer Review Advisory Committee shall mediate any unresolved disputes between the engineer of record and the reviewing engineer which may result from the independent structural engineer review specified in 780 CMR 110.11.

**125.4 Procedure:** The structural engineer of record or the reviewing engineer or the owner or the building official shall submit any unresolved disputes cited in Appendix I-5 (3), to the Structural Peer Review Advisory Committee on a form provided for this purpose. Said Committee shall convene a mediation hearing within 30 days from the receipt of the application and render a decision in writing within 30 days following the mediation hearing.

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