

780 CMR R5

CONSTRUCTION SUPERVISORS

780 CMR R5 covers the licensing rules and regulations for construction supervisors as defined in 780 CMR 109.11.

780 CMR R5.1 GENERAL

**R5.1.1 Title:** As authorized by M.G.L. c. 143, § 94(i), the BBRS herewith establishes the Rules and Regulations for Licensing Construction Supervisors.

**R5.1.2 Definitions:** Unless otherwise expressly stated in 780 CMR, the following terms shall, for the purpose of 780 CMR R5, have the meaning indicated in 780 CMR R5.1.2:

**BBRS:** State Board of Building Regulations and Standards

**Construction Supervisor:** Any individual directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by any provision of 780 CMR. Such term shall also apply to persons supervising themselves.

A licensed *construction supervisor* shall be required for the installation of all manufactured one and two family homes as required by 780 CMR 3508.1.1.

**Hearings Officer:** The Hearings Officer is the person selected by the Chairman of the BBRS to carry out the disposition of complaints against licensed *construction supervisors*.

**Licensed Designee:** Any individual designated by the license holder to be present, in the absence of said license holder, during any of the periods stated in 780 CMR R5.2.12. Such designee shall also hold a *Construction Supervisor's License*, but his name or license number need not be contained on the building permit application.

**Recognition:** The approval by the BBRS of an application and related documents by one desirous of being licensed as a *construction supervisor*.

R5.1.3 Scope:

1. 780 CMR R5 shall govern the testing and licensing of individuals who are found to possess the requisite qualifications to be licensed as qualified to have charge or control of construction, reconstruction, alteration, repair, removal or demolition of buildings or structures.
2. Except for those structures governed by Construction Control as regulated by 780 CMR 116.0, any individual directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving the

structural elements of buildings and structures shall be licensed according to 780 CMR R5.

**R5.1.4 Administration and Enforcement:** The BBRS shall administer and enforce the provisions of 780 CMR R5. The BBRS or those designated by it, shall administer examinations, under 780 CMR R5, of persons desirous of being registered as qualified to receive a license as a *construction supervisor*.

**R5.1.5 Hearings Officer:** The Chairman of the BBRS shall appoint a Hearings Officer who shall serve for one year or until a successor is appointed, whichever is later.

**R5.1.6 Meetings:** The Hearings Officer shall convene Licensed Construction Supervisor Complaint Hearings at such times as the Hearing Officer deems necessary to carry out his/her function established herein by the BBRS.

R5.1.7 Cities and Towns:

**5.1.7.1 Existing Licensed Construction Supervisors: (Historical Note)** All individuals directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving structural elements of buildings or structures who are duly licensed and qualified on January 1, 1981 within any city or town shall be allowed to continue in such capacity under the Rules and Regulations established by such jurisdiction until December 31, 1981. Such duly licensed person shall only be allowed to engage in such practice only within the city or town granting such licensing.

780 CMR R5.2 REGISTRATION AND LICENSING

**R5.2.1 Experience:** Each applicant for license must prove to the Board that he has had at least three years of experience in building construction or design in the field in which he desires to be licensed, together with any technical knowledge the Board may require him to possess. Successful completion of a three or four year vocational high school or other vocational school program in the field of building construction shall be deemed as satisfying one year of the required three years experience as cited in 780 CMR R5.2.1. (The BBRS shall determine when vocational training other than in building construction, satisfies a portion of the three year experience criteria.

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**R5.2.1.1 Other Requisites: (Historical Note)**

Any person who met one of the following

1. Filed with the BBRS prior to July 1, 1982 an application and applicable documents including an affidavit on a form provided by the BBRS attesting to his meeting the following qualifications:

- a. A registered professional architect or engineer; or
- b. A four-year undergraduate degree in a field related to building construction or design and at least one year, out of the previous ten years, of experience in the supervision of building construction or design; or
- c. At least three years, out of the previous ten years, of experience in the supervision of building construction or design and a general knowledge of the quality and strength of building materials; a general knowledge of the accepted requirements for building construction, fire prevention, light, ventilation and safe exits; and a general knowledge of other equipment and materials essential for safety, comfort and convenience of the occupants of a building or structure.

**R5.2.2 Examinations:** Examinations shall be held only by appointment. All applications must be filed in accordance with the Massachusetts Construction Supervisor (MACS) Candidate bulletin of Information.

**R5.2.3 License Approval:** A majority vote of the members of the Board shall be required to grant a license.

**R5.2.4 Expiration:** Licenses issued pursuant to these rules and regulations shall expire three years from the date of issuance which shall be noted on said license and may be renewed.

A renewal of an original license shall be for periods of two years and a renewal license shall expire two years from the date of issuance which shall be noted on said license and may be renewed.

A renewal license shall not be issued unless application therefore is made within one year of the date of expiration of the most recently issued license. Failure to submit a renewal application and to acquire a license within this time period shall be cause for examination or re-examination.

**R5.2.5 Fees:** Any and all fees charged for examination, for license fees, or for licensed renewal fees shall be determined by the Commonwealth and enforced by the BBRS. Examination fees are to be established from time to time as necessary.

**R5.2.5.1 Building Official Fees:** The BBRS shall grant a license at no fee to any building official who, as a condition of his employment requires

requisites shall be licensed by the Board without testing until July 1, 1982.

such license; provided that such person meets the necessary qualifications for licensure and provided further, that such license shall be authorized for use only during the course of employment and shall be appropriately stamped to indicate as such.

**R5.2.6 Procedure for Obtaining a License:**

**R5.2.6.1 Application:** Applications shall be submitted on forms supplied by the BBRS or its authorized agent.

**R5.2.6.2 Forms:** The applicable forms may be mailed to the appropriate testing agency as detailed in the Massachusetts Candidates Bulletin (MACS). It shall be the responsibility of the applicant to assure that the required forms are received by the testing agency. All forms shall be accompanied by the required license fee.

**R5.2.6.3 Records:** The BBRS shall keep a copy of the application and a computer file listing all licensed *construction supervisors*.

**R5.2.6.4 Notification of Examination Date:** Upon receipt of a fully completed application, an examination date shall be set and the applicant so notified.

**R5.2.7 False Statements:** Any false statement on the application or references shall be sufficient reason to refuse to issue a license, or to suspend or revoke a license if issued.

**R5.2.8 Cause for Suspension or Revocation:** Any false statement on the application for license, or in answer to any subsequent request for information, shall be cause for suspension or revocation of license. Any violation of a provision of 780 CMR shall be cause for suspension or revocation of a license as the committee sees fit, or any false statement as identified in 780 CMR R5.2.7, or work performed without a building permit as identified in 780 CMR R5.2.9.1.1

**R5.2.9 Procedure for Suspension And/or Revocation of License:**

**R5.2.9.1 Complaints:** Upon receipt of a written complaint from a building official, or upon written complaint from other persons, or upon complaint of the Board itself, the Hearings Officer shall determine whether or not a hearing shall be held. It shall not be considered as a complaint if such work was performed prior to the Licensed Construction Supervisor being licensed or prior to January 1, 1982, whichever is later.

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**Exception:** See 780 CMR R5.2.9.1.1 for complaints that may involve Home Improvement Contractor complaints.

**R5.2.9.1.1 Basis of Complaint:** Only work related to a specific building permit shall be the **Exception:** If, upon review of a Construction Supervisor License complaint the Board or the Hearings Officer determines that such complaint may involve possible Home Improvement Contractor violations of M.G.L. c. 142A and/or 780 CMR R6, such Home Improvement Contractor complaint hearing may be conducted simultaneously with the Construction Supervisor License complaint hearing.

Where possible violations of M.G.L. c. 142A and/or 780 CMR R6 exist, the notification and hearing shall also conform to the requirements of 780 CMR R6 as applicable.

**R5.2.9.2 Hearings on Complaints:** If the Hearings Officer shall so determine that a hearing shall be held, he/she shall give at least seven days notice to the complainant and license holder in accordance with 780 CMR 118.6. The sending of notice to the address recorded on the records of the BBRs shall be deemed sufficient notice to the license holder.

**R5.2.9.3 Notice of Hearing:** The notice of hearing shall contain:

1. The name of the complainant.
2. A copy of the complaint.
3. The date, time and place of said hearing.

The complete file of complaint is available for inspection at the Office of the BBRs during its regular hours.

The license holder may present oral and written evidence to refute or mitigate any charge contained in the complaint and present witnesses in his behalf.

Anyone may be represented by legal counsel.

All license holders shall have his/her license in his possession at the time of the hearing.

**R5.2.9.4 Continuation of Hearings:** The Hearings Officer in his/her discretion may continue the date for hearing or in his/her discretion and upon request by the license holder or complainant may continue the date for hearing.

**R5.2.9.5 Timing of Decision:** The Hearings Officer shall make a decision within ten days after the hearing. A written decision shall be issued within 30 days of the hearing date. Failure to render a decision within 30 days shall not affect the validity of any such decision or appeal.

basis of such complaint. Any work requiring a building permit which is performed without such permit shall be considered cause for suspension or revocation.

**R5.2.9.6 Decision of the Hearings Officer:** The Hearings Officer is authorized to determine and issue decisions relative to Licensed Construction Supervisor complaints via the process set forth in 780 CMR R5.

**R5.2.9.6.1 Decisions:** The decision of the Hearing Officer shall be final and binding upon the license holder and the complainant. If the Hearings Officer votes to revoke or suspend the license of a *construction supervisor* at the time of the hearing, the holder shall immediately surrender said license to the Hearings Officer. The Hearings Officer may, at his/her discretion, determine that instead of suspension or revocation, the actions of the license holder warrant a letter of warning be placed on file with the BBRs. Said letter of warning will be referenced in the event of future complaints against the license holder. Future complaints against a license holder who has received letter of warning may result in a suspension or revocation of the license after a hearing before the Hearings Officer. The Hearings Officer may, at his/her discretion, order the license holder to take the Construction Supervisor License examination or re-examination. A decision of the Hearings Officer that orders the Licensed Construction Supervisor to take the Construction Supervisor License examination or re-examination may be rendered even if the Hearings Officer has determined to suspend, revoke or issue a letter of warning against the license holder.

**R5.2.9.6.1.1 Decisions also involving Home Improvement Contractor responsibilities:** If the Decision involves consideration of Home Improvement Contractor matters per M.G.L. c. 142A and/or 780 CMR R6 then such Decision shall also comply with the requirements of 780 CMR R6 as applicable.

**R5.2.9.7 Suspension, Revocation or Continuance:** If, after notice has been duly given, a licensee shall not attend a hearing, the Hearings Officer may in his/her discretion immediately suspend/revoke said license or proceed with the hearing so scheduled and make decision on the evidence so presented, or continue the hearing to another date.

**R5.2.9.8 Notice of Suspension, Revocation, Letter of Warning or Order of Examination:**

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In the event that the Hearings Officer determines to suspend, revoke or issue a warning against said license holder pursuant to this hearing or, if the Hearings Officer orders the license holder to take an examination or re-examination, the license holder, upon notice of the written decision, shall immediately comply with said orders. A refusal to comply shall automatically revoke the licensee's right to supervise construction.

**R5.2.10 Appeal:** Any person aggrieved by a decision of the Hearings Officer may, in writing, request review of said decision by the BBRs (If the Licensed Construction Supervisor determines not to seek administrative review by the BBRs then appeal of said decision shall be in accordance with 780 CMR R5.2.10.1). The BBRs may or may not review such decision at its discretion. Such review is an administrative review and is not to be construed as a second Hearing on the same complaint(s). The BBRs may concur with the decision or not. If the BBRs does not concur with the decision, the BBRs shall remand the case back to the Hearings Officer with written reason as to why the case is being remanded and the Hearings Officer shall re-open the case for further consideration and decision.

If the BBRs determines that the decision is acceptable a record of such determination shall be made and the decision stands and appeal of said decision shall be in accordance with 780 CMR R5.2.10.1.

**R5.2.10.1 Appeal to a court:** Any person aggrieved by a decision of the Hearings Officer may appeal such decision to a court of law or equity in conformance with M.G.L. c. 30A, § 14.

**R5.2.11 Change of Address:** The license holder shall have the responsibility of reporting any change of address and/or change of circumstance to the BBRs. The information on file at the BBRs shall be deemed accurate unless changed by the license holder.

**R5.2.12 On-site Presence of Supervisor:** A licensed individual or a licensed designee shall be present on the site at some point to approve construction, reconstruction, alterations, removal or demolition involving the following work:

1. Excavation
2. Foundation (pouring or other)
3. Decking
4. Rough framing
5. Finished framing
6. Chimneys
  - a. Excavation/foundation.
  - b. At the top of the smoke chamber and support of the flue liner.
  - c. When erection of the chimney is completed.

**Exception** A licensed *construction supervisor* shall be required for installation of manufactured

**R5.2.9.8.1 Terms of Suspension:** Suspension by the Hearings Officer shall be for a definite term.

**R5.2.9.8.2 Reapplication:** Any licensee whose license has been revoked by the Hearings Officer may reapply for a license in accordance with 780 CMR R5 only after seeking and receiving approval to reapply from the BBRs.

one and two family homes as required by 780 CMR 3508.1.1.

**R5.2.13 Lost/stolen Licenses:** License holders are required to keep the license in their possession at all times during the course of construction at any and all building sites. If said license is lost, stolen or mutilated, it shall be the responsibility of the license holder to notify the BBRs.

**R5.2.14 Requirement to Show License:** Any building official may require the license holder to produce the license at any time on a job site.

**R5.2.15 Responsibility of Each License Holder:**

**R5.2.15.1 Responsibility for Work:** The license holder shall be fully and completely responsible for all work for which he is supervising. He shall be responsible for seeing that all work is done pursuant to 780 CMR and the drawings as approved by the Building Official.

**R5.2.15.2 Responsibility to Supervise Work:** The license holder shall be responsible to supervise the construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by any provision of 780 CMR only pursuant to 780 CMR and all other applicable Laws of the Commonwealth even though he, the license holder, is not the permit holder but only a subcontractor or contractor to the permit holder.

**R5.2.15.3 Notification of Violations:** The license holder shall immediately notify the building official in writing of the discovery of any violations which are covered by the building permit.

**R5.2.15.4 Willful Violation:** Any licensee who shall willfully violate 780 CMR R5.2.15.1, 5.2.15.2 or 5.2.15.3 or any other Sections of 780 CMR R5 and any procedures, as amended, shall be subject to revocation or suspension of license by the BBRs in accordance with the applicable complaint requirements of 780 CMR R5.

**R5.2.16 Permit Applications:** All building permit applications shall contain the name, signature and license number of the *construction supervisor* who is to supervise those persons engaged in construction,

reconstruction, alteration, repair, removal or demolition as regulated by 780 CMR 108.3.5 and 780 CMR R5 in the event that such licensee is no longer supervising said persons, the work shall immediately cease until a successor license holder is substituted on the records of the building department.

**R5.2.17 GENDER OF TERMS:** The term "he" as used in 780 CMR R5 shall include the pronoun "he" and/or "she."

### **780 CMR R5.3 ADMINISTRATION**

**R5.3.1 Identification:** The BBRS shall issue a card or a certificate or other form of identification.

**R5.3.2 Records of Licensees:** The BBRS shall maintain a computer listing which will be available

to the public at the office of the BBRS containing all licenses issued by the BBRS.

**R5.3.3 Examination:** The Board shall determine whether an examination shall be required, or shall be oral or written and shall determine the content of the examination, if applicable.

**R5.3.4 Subject to Rules, Regulations and Procedures:** All persons licensed shall be subject to these regulations as well as other rules, regulations, and procedures promulgated by this BBRS.

**R5.3.5 Fees:** Any and all fees charged for license fees, examination fees, renewal fees, and registration fees shall be determined by the Commonwealth and enforced by the BBRS. Examination fees shall be established from time to time as necessary.