



MAURA T. HEALEY
GOVERNOR

KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR

GINA K. KWON
SECRETARY

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Safety Commission

Automatic Sprinkler Appeals Board

P.O. Box 1025 ~ State Road

Stow, Massachusetts 01775

(978) 567-3181 Fax: (978) 567-3121

KRISTIN M. KELLY
CHAIR

DANIEL GARY ROGERS
VICE CHAIR

Docket # 2026-04
753 Montgomery Street
Chicopee, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This administrative appeal is held in accordance with Massachusetts General Law, Chapter 30A, Chapter 148, Section 26H and Chapter 6, Section 201, to determine whether to affirm, reverse or modify the Order of the Chicopee Fire Department requiring Nicole McKinstry of McKinstry Garden Market, Inc. to install automatic sprinklers in a single-family house at 753 Montgomery Street, Chicopee, Massachusetts.

B) Procedural History

By written Order dated May 7, 2026 and received by Nicole McKinstry on May 7, 2026, the Chicopee Fire Department required automatic sprinklers to be installed throughout a single-family house at 753 Montgomery Street, Chicopee, Massachusetts. The Order was issued pursuant to the provisions of M.G.L. c. 148, Section 26H. On May 7, 2026, Ms. McKinstry filed an appeal of the decision with the Automatic Sprinkler Appeals Board. The Board held a video conference hearing on this matter on June 10, 2026.

Appearing on behalf of the Appellants were: Nicole McKinstry of McKinstry Garden Market, Inc., property owner. Appearing on behalf of the Chicopee Fire Department were Chief Daniel Stamborski; Captain Katie Collins-Kalbaugh; Karl Ferguson, Conditional Building Commissioner; and Kevin Corridan, Esq., City Solicitor.

Present for the Board were: Kristin Kelly, Chair; Daniel Gary Rogers, Vice Chair; Deputy Chief Colin Kelly; Alexander MacLeod; Jennifer McHale; Chief Michael Spanknebel; and State Fire Marshal Jon M. Davine. Rachel E. Perlman, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Order of the Chicopee Fire Department requiring sprinklers in the house located at 753 Montgomery Street, Chicopee, Massachusetts pursuant to M.G.L. c. 148, Section 26H, should be affirmed, reversed or modified?

D) Evidence Received

- | | | |
|----|---|----------|
| 1. | Appeal Application filed by Appellant | 5/7/2026 |
| 2. | Order of Notice of the Chicopee Fire Department | 5/7/2026 |

E) Subsidiary Findings of Fact

- 1) By written Order dated May 7, 2026 and received by Nicole McKinstry on May 7, 2026, the Chicopee Fire Department required automatic sprinklers to be installed throughout a single-family house at 753 Montgomery Street, Chicopee, Massachusetts. The Order was issued pursuant to the provisions of M.G.L. c. 148, Section 26H.
- 2) Nicole McKinstry testified that her family operates McKinstry Farms, a seventh-generation farm that cultivates more than 300 acres of agricultural land throughout Massachusetts. In addition to operating year-round and seasonal farm stands, the farm has renovated an existing farmhouse behind its Chicopee farm stand to provide seasonal housing for agricultural workers.
- 3) Ms. McKinstry described the property at issue as a wood-frame farmhouse with approximately 6,146 square feet of space with an addition and 4 bedrooms. She stated that one family member currently resides in the home, but that the farm is seeking approval to use the farmhouse as a temporary farm labor camp for up to 6 seasonal workers, with a maximum occupancy of 10 individuals during the upcoming season.
- 4) Ms. McKinstry stated that the housing would be used exclusively by seasonal farm employees during the summer months for no more than 180 days each year. She explained that the farm must comply with requirements established by the State Workforce Agency (SWA), including annual inspections and numerous safety regulations governing farm labor camps. She noted that the farm is already making additional safety improvements, such as installing a fire escape ladder, to satisfy state requirements. In response to a question by the Board, Ms. McKinstry stated that there are no locks on the bedroom doors.
- 5) Ms. McKinstry further explained the process required to hire seasonal agricultural workers through the federal H-2A program. According to her testimony, the farm must first advertise available positions and attempt to hire domestic workers. Only if no qualified agricultural workers apply may the farm proceed with the H-2A program under state oversight. She stressed that the worker housing is necessary to comply with these labor requirements and to support the farm's operations.
- 6) Ms. McKinstry testified that the Chicopee Fire Department informed her that a sprinkler system would be required under M.G.L. c. 148, Section 26H, as the home would be considered a lodging/boarding house. However, she questioned whether that statute applies because the farmhouse is not a lodging house or boarding house, as it is intended solely for use as a farm labor camp argued that the workers would not be tenants, would not pay rent, and would reside in the home solely as a condition of their employment on the farm. She also emphasized that the building contains less than 7,500 square feet of floor area.

- 7) Ms. McKinstry cited several Massachusetts statutes that she believes support her position, including provisions protecting agricultural uses from unreasonable regulation and highlighted language in M.G.L. c. 148, Section 26G, which exempts buildings used for agricultural purposes from sprinkler requirements. She argued that the farmhouse is being used strictly in support of agricultural operations and therefore should qualify for an agricultural exemption.
- 8) In support of the Chicopee Fire Department's Order, Chief Daniel Stamborski testified that the department became involved after being contacted by the Chicopee Building Commissioner regarding the proposed use of a single-family residence as housing for seasonal farm workers. Following a site inspection, Chief Stamborski and Captain Collins-Kalbaugh determined that the proposed occupancy constituted a change in use from a single-family dwelling to a boarding or lodging house under M.G.L. c. 148, Section 26H and issued the order to require sprinklers in the property.
- 9) Captain Collins-Kalbaugh testified that the structure is a wood-frame, single-family residence with an attached in-law addition, with one current resident. She explained that the fire department's interpretation of Section 26H was based on the proposal to house multiple unrelated workers in the residence. She advised that other similar boarding and lodging house occupancies in Chicopee have historically been required to install sprinkler systems, and the department viewed this proposal as consistent with those prior cases.
- 10) Captain Collins-Kalbaugh further testified that the department reviewed state farm labor camp regulations and noted language requiring compliance with applicable state and local fire safety laws. She acknowledged the importance of the agricultural operation and the farm's need for additional workers but maintained that those regulations did not exempt the property from the sprinkler requirements of Section 26H. Captain Collins-Kalbaugh (and Ms. McKinstry) confirmed that the property is served by public water and that a residential sprinkler system could be installed if required.
- 11) Assistant City Solicitor Kevin Corridan testified that, notwithstanding agricultural exemptions found elsewhere in Massachusetts law, the Chicopee Fire Department is obligated to enforce the provisions of Chapter 148. He stated that the proposed occupancy qualified as a lodging or boarding house under the statutory definitions relied upon and that he was unaware of any agricultural exemption that would relieve the property from compliance with the sprinkler requirement. In his opinion, the fire department's enforcement action was consistent with its statutory obligations.
- 12) Building Commissioner Karl Ferguson offered a different interpretation of the applicable code provisions, testifying that the structure remains a single-family home and that the proposed use should be treated as a temporary farm labor camp under Section 108 of the Massachusetts Building Code, governing temporary structures and uses. Mr. Ferguson stated that, in his view, there was no change in occupancy classification because the residence would continue to function as a single-family dwelling while temporarily housing agricultural workers for a limited duration.
- 13) Mr. Ferguson further testified that he reviewed the applicant's conformance statement addressing fire safety, means of egress, sanitation, lighting, and ventilation requirements

and found it consistent with applicable Building Code provisions and stated that he issued a temporary permit for the proposed use and referred the matter to the fire department for review as required by the Building Code. Mr. Ferguson characterized the dispute as one of differing code interpretations rather than disagreement over the underlying facts or the condition of the property.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) M.G.L. c. 148, Section 26H requires the installation of an adequate system of automatic sprinklers in accordance with the state building code in certain lodging or boarding houses. The statute requires installation of said system in all applicable houses within five years after acceptance of the law by a City or Town. The statute defines a “lodging house” or “boarding house” as a house “. . . where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it . . .”
- 2) The Board is owed deference in its reasonable interpretation of its own statute. *See AT&T v. Automatic Sprinkler Appeals Board*, 52 Mass. App. Ct. 11, 15 (2001). The Board is an agency with expertise and experience in the technical aspects of fire safety. *See Mass Sober House Corp. v. Automatic Sprinkler Appeals Board*, 66 Mass. App. Ct. 701.
- 3) The Board finds that this case presents unique facts and circumstances in comparison to prior Section 26H cases the Board has heard and decided. However, the primary issue before this Board was not whether the property served an agricultural purpose but whether M.G.L. c. 148, Section 26H was correctly applied with the proposed occupancy, as outlined in the Order of the Chicopee Fire Department.
- 4) Through testimony provided, the Board heard that the property could ultimately house up to ten (10) seasonal workers in addition to one permanent occupant, resulting in a maximum occupancy of eleven (11) people. The ten (10) seasonal workers would not be charged rent for the use of the home at 753 Montgomery Street, Chicopee. Massachusetts law recognizes leases in both oral and written form and Massachusetts Courts have recognized that the exchange of obligations constitutes the consideration underlying a lease relationship. *See Commonwealth Inv. Co. v. Fellsway Motor Mart*, 294 Mass. 306 (1936)).
- 5) The Board also considered Ms. McKinstry's argument that the property should be exempt from the sprinkler requirement under agricultural exemptions found in the zoning and agricultural statutes. The Board rejected that argument. Consistent with Crossing Over, Inc. v. City of Fitchburg, 98 Mass. App. Ct. 822 (2020) the Board concluded that those statutes do not override the sprinkler requirements of M.G.L. c. 148, Section 26H. Compliance with zoning and agricultural laws is a separate obligation from compliance with the fire safety requirements of Chapter 148. Satisfying the former does not exempt a property from the latter.
- 6) The Board considered the Appellant's argument that an agricultural exemption should apply but rejected it. The Chicopee Fire Department's Order was issued under M.G.L. c.

148, Section 26H, which governs lodging and boarding houses. Unlike Section 26G, Section 26H contains no agricultural exemption. Because the Order was issued under Section 26H, Section 26G does not apply.

- 7) The Board also considered the Chicopee Fire Department's testimony that similar boarding and lodging house occupancies in Chicopee have historically been required to install sprinkler systems. The Board notes that it has likewise upheld sprinkler requirements in lodging and boarding house cases over the years. The Board finds that applying the same requirement here promotes consistency in the enforcement of fire safety laws and ensures that similarly situated properties are treated alike.
- 8) Based upon the testimony of the Chicopee Fire Department, the Board finds that the subject property is served by public water and no evidence was presented demonstrating that a sprinkler system could not be installed. While the Appellant testified that the cost of installation would create a financial hardship, no cost estimates or technical evidence were submitted showing that the work was infeasible. After considering the potential hardship against the safety benefits of sprinkler protection, the Board concludes that the life-safety concerns outweigh the financial burden asserted by the appellant.
- 9) The Board also considered the testimony of the Chicopee Building Inspector concerning the Building Code classification of the subject property. However, the Board finds that the question before it is not whether the property complies with or is properly classified under the Massachusetts State Building Code, but whether the property is subject to the automatic sprinkler requirements of M.G.L. c. 148, Section 26H. Although Building Code determinations may be relevant to the Board's analysis, they are not controlling. The Board's authority under Section 26H is separate from the Building Code's enforcement and appeal process, and this Board has independently evaluated the evidence presented to determine whether the statutory requirements of Section 26H have been satisfied.
- 10) Finally, the Board finds that the property does not fall within any of the specific exceptions listed in the second paragraph of M.G.L. c. 148, Section 26H. The purpose of Section 26H is to protect groups of unrelated individuals residing together in lodging or boarding house-type occupancies from the dangers of fire. Although compliance with the statute may require a financial investment, the sprinkler requirement does not prohibit the proposed use of the property. Rather, it allows the use to proceed while providing a level of fire protection that the Legislature has determined is necessary for the safety of the occupants.

G) Decision and Order of the Automatic Sprinkler Appeals Board

Based upon the aforementioned findings and reasoning, the Board hereby **upholds** the Order of the Chicopee Fire Department to require the installation of an adequate system of sprinklers throughout all portions of the subject building in accordance with the provisions of M.G.L. Chapter 148, Section 26H. This decision is subject to the following conditions:

1. Plans for the installation of sprinklers shall be submitted to the Head of the Chicopee fire department within 6 months of the date of this (written) decision;

2. The installation of the sprinkler system shall be completed by July 1, 2027.

H) Vote of the Board

Kristin Kelly, Chair	In Favor
Daniel Gary Rogers, Vice Chair	Opposed
Deputy Chief Colin Kelly	In Favor
Alexander MacLeod	Opposed
Jennifer McHale	In Favor
Chief Michael Spanknebel	In Favor
State Fire Marshal Jon Davine	In Favor

I) Right of Appeal

You are hereby advised you have the right to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order, pursuant to section 14 of chapter 30A of the General Laws.

SO ORDERED,



Kristin M. Kelly, Chair

Dated: July 20, 2026

**A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL,
RETURN RECEIPT REQUESTED TO:**

Nicole McKinstry
McKinstry Garden Market, Inc.
753 Montgomery Street
Chicopee, Massachusetts 01013
farming4life@charter.net

Chief Daniel Stamborski
Captain Katie Collins-Kalbaugh
Chicopee Fire Department
80 Church Street
Chicopee, Massachusetts 01020-1815
DStamborski@chicopeema.gov
kkalbaugh@chicopeema.gov