

780 CMR: MASSACHUSETTS AMENDMENTS TO THE *INTERNATIONAL BUILDING CODE 2009*

CHAPTER 1: SCOPE AND ADMINISTRATION

101.1 Replace as follows:

101.1 Adoption and Title. The Board of Building Regulations and Standards (BBRS) adopts and incorporates by reference, the *International Building Code*, 2009 edition (IBC), including Appendices A through J. The *International Building Code* together with modifications as set forth, shall collectively comprise the *Massachusetts State Building Code* (780 CMR), Eighth Edition, Base Volume, and referred to as “this code”.

101.1.1 Add subsection:

101.1.1 Appendix AA and Special Regulations. BBRS also adopts and incorporates by reference the *International Energy Conservation Code*, 2009 edition (IECC) with modifications as Appendix AA. Special Regulations unique to Massachusetts are found at 780 CMR 110.R1 through 110.R7.

101.2 Revise to read as follows:

101.2 Scope. This code shall be the building code for all towns, cities, state agencies or authorities in accordance with M.G.L. c. 143, § 94. The provisions of this code and other referenced specialized codes shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures, and residences with five or fewer occupants that are operated or licensed by the Massachusetts Department of Developmental Services shall comply with 780 CMR One- and Two-family Dwellings.

101.2.1 Delete this subsection.

101.4 Replace as follows and add Notes 1. through 4.:

101.4 Referenced Codes. Referenced codes include the specialized codes of M.G.L. c. 143, § 96 and other codes and regulations listed in 101.4.1 through 101.4.12 and shall be considered part of this code to the prescribed extent of each such reference.

Note 1. Work regulated by the specialized codes of M.G.L. c. 143, § 96 shall be designed, installed and inspected by individuals authorized to do so in accordance with the specialized codes. However, the impact of work regulated by the specialized codes of M.G.L. c. 143, § 96 and other codes and regulations on work governed by this code shall be subject to inspection by the *building official*.

Note 2. Work regulated by the Architectural Access Board regulations (521 CMR) shall be enforced by the *building official*. See M.G.L. c. 22, § 13A.

Note 3. The design and construction requirements of bunkers and magazines for the storage of explosive materials, flammable/combustible liquids and chemical process safety, shall default to the specific requirements of 527 CMR and are not enforceable by the *building official* but rather by the head of the fire department or his/her designee.

Note 4. Work regulated by the Board of Sheet Metal Regulations shall be enforced by the *building official*. See M.G.L. c. 13, § 102.

101.4.1 Revise to read as follows:

101.4.1 Gas and Fossil Fuel Burning Appliances. Reference to the *International Fuel Gas Code* shall be considered reference to the Board of State Examiners of Plumbers and Gas Fitters regulations at 248 CMR. Gas fired appliances are governed by the Board of State Examiners of Plumbers and Gas Fitters. Oil fired appliances are governed by the Board of Fire Prevention Regulations at 527 CMR 4.00: *Oil Burning Equipment*.

1.00: continued

101.4.3 Revise to read as follows:

101.4.3 Plumbing. Reference to the *International Plumbing Code* shall be considered reference to the Board of State Examiners of Plumbers and Gas Fitters regulations at 248 CMR. For sewerage disposal or water connections also see 310 CMR 15.00: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage* and 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards*.

101.4.4 Revise to read as follows:

101.4.4 Property Maintenance. Reference to the *International Property Maintenance Code* shall be considered reference to this code, the specialized codes of M.G.L. c. 143, § 96, and 105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II)*.

101.4.5 Revise to read as follows:

101.4.5 Fire Prevention. Reference to the International Fire Code (IFC) or International Mechanical Code (IMC) for fire prevention issues shall be considered reference to the Board of Fire Prevention Regulations at 527 CMR. If 527 CMR does not address an issue covered by the IFC or IMC, then that said reference code shall apply. If a conflict regarding fire prevention requirements exists between 527 CMR and 780 CMR the more stringent standard shall apply.

Note: building code requirements in the IFC and IMC are made a part of 780 CMR and are enforceable by the *building official*.

101.4.6 Revise to read as follows:

101.4.6 Energy. The provisions of the *International Energy Conservation Code*, 2009 edition, with Massachusetts Amendments shall apply to all matters governing the design and construction of buildings for energy efficiency.

101.4.7 Add subsection:

101.4.7 Architectural Access. See the Architectural Access Board regulations at 521 CMR.

101.4.8: Add subsection:

101.4.8 Environmental Protection. See the Department of Environmental Protection regulations at 310 CMR and the Division Water Pollution Control regulations at 314 CMR.

101.4.9 Add subsection:

101.4.9 Elevators. See the Massachusetts Board of Elevator Regulations at 524 CMR.

101.4.10 Add subsection:

101.4.10 Electrical. Reference to the International Electrical Code shall be considered reference to 527 CMR 12.00: *2008 Massachusetts Electrical Code (Amendments)*.

101.4.11 Add subsection:

101.4.11 Duct Work and Sheet Metal. See the Board of Examiners of Sheet Metal Workers regulations at 271 CMR.

101.4.12 Add subsection:

101.4.12 International Residential Code. Reference to the *International Residential Code for One- and Two-Family Dwellings* shall be considered reference to 780 CMR 51.00 through 120.00, (One-and Two-family Dwellings regulations).

1.00: continued

101.5 Add subsection:

101.5 BBRS Advisory Committees. Organization and duties of technical advisory committees to the BBRS may be viewed on the Department of Public Safety website (www.mass.gov/dps).

102.2 Revise to read as follows:

102.2 Other Laws. The provisions of this code shall not nullify any provision of state or federal law. Massachusetts General Laws (M.G.L.s) and the Code of Massachusetts Regulations (CMRs) are often referenced in this code. It is the code user's responsibility to determine all applicable laws and regulations relevant to sections in this code. For example, care facilities licensed or operated by Massachusetts agencies often have CMRs with building requirements beyond this code for buildings licensed or operated by the respective agency.

102.2.1 Add subsection:

102.2.1 DDS Facilities. Additional building features required by the Massachusetts Department of Developmental Services (DDS) do not change the classification of residences operated or licensed by DDS as dwellings subject to the 780 CMR One and Two-family Dwellings.

102.2.2 Add subsection:

102.2.2 Municipal Bylaws or Ordinances. When provisions of this code conflict with municipal bylaws and ordinances, this code shall govern unless the bylaws or ordinances were promulgated in accordance with M.G.L. c. 143, § 98.

102.6 Revise to read as follows:

102.6 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be *permitted* to continue without change, except as is specifically covered in this code or as deemed necessary by the *building official* for the general safety and welfare of the public.

102.6.1 Add subsection:

102.6.1 Laws in Effect. Unless specifically provided otherwise in this code, and narrow to the provisions of this code, 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 by the owner in accordance with this code. Also *see* Chapter 34.

102.6.2 Add subsection:

102.6.2 Laws Not in Use. In cases where applicable codes, rules or regulations, bylaws or ordinances were not in use at the time of such construction or alteration, the building or structure shall be maintained by the owner in accordance with this code.

102.6.3 Add subsection:

102.6.3. Less Stringent. In cases where the provisions of this code 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 this code shall apply, providing such application can be reasonably demonstrated to not result in danger to the public, as determined by the *building official*.

102.6.4 Add subsection:

102.6.4 Existing Means of Egress, Lighting and Ventilation. The *building official* shall cite the following condition in writing as a violation and order the abatement within a time frame deemed necessary by the *building official* to make the building environment safe, healthy or otherwise comply with this code.

1. Less than the required number of means of egress.

1.00: continued

2. Egress components with insufficient width or so arranged to be unsafe or inadequate, including signage and lighting.

3. Unsafe lighting and ventilation.

The *building official* shall declare a building or structure unsafe in accordance with section 116.0 when, in the *building official's* opinion, means of egress are hazardous or dangerous. Where full compliance for means of egress, lighting and ventilation are not practical, the *building official* may accept compliance alternatives, engineering, or other evaluations that adequately address the deficiency. Also see Existing Hazardous Conditions in Chapter 34.

103.1 Replace as follows:

103.1 Municipal and State Enforcement. This code shall be enforced, and enforcement officials shall be appointed, in accordance with M.G.L. c. 143, §§ 3 and 3A and M.G.L. c. 22. Reference to The Department of Building Safety shall be considered reference to the *building official*.

103.2 Delete this section

103.3 Delete this section.

104.1 Replace to read as follows:

104.1 General. The *building official* is hereby authorized and directed to enforce the provisions of this code in accordance with M.G.L. c. 143.

104.4.1. Add subsection:

104.4.1 Coordination of Inspections. Whenever in the enforcement of this code, or another code or ordinance, the responsibility of more than one enforcement official of the jurisdiction is involved, it shall be the duty of the enforcement 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 enforcement official observes an apparent or actual violation not within the official's authority, the official shall report the findings to the official having jurisdiction.

104.8 Replace as follows:

104.8 Liability. All claims of liability relative to *building officials* shall be governed by M.G.L. c. 258.

104.10 Revise to read as follows:

104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the *building official* and a copy forwarded to the BBRS within seven days. A *building official* may seek assistance from the district's state building inspector for modifications.

104.10.1 Add subsection:

104.10.1 Areas Prone to Flooding. The *building official* shall not grant modifications to any provision related to areas prone to flooding as established by this code without the granting of a variance to such provisions by the building code appeals board. Also, no variance to requirements of this code can be solely utilized to argue for lawful construction/reconstruction where such construction/reconstruction would conflict with requirements of M.G.L. c. 131, § 40: *Removal, Fill, Dredging or Altering of Land Bordering Waters* (the Wetlands Protection Act), and/or 310 CMR and 314 CMR, as applicable.

1.00: continued

104.10.2 Add subsection:

104.10.2 Matters Not Provided For. In recognition of the inherent difficulty of drafting a functional code that contemplates every situation that may arise in the area of building safety, this section provides the *building official*, the building code appeals board, or the BBRS itself, with reasonable discretion to ensure that all life safety issues that may arise in the enforcement of this code may be appropriately addressed. Matters not specifically provided for in this code regarding structural, egress, fire, energy, sanitary or other requirements essential to occupant safety shall be determined by the *building official* or, in the case of an appeal, the building code appeals board. If this provision is used, the *building official* shall notify the BBRS in writing within seven days of such determination. For highly specialized buildings and structures that conform to unique code requirements or nationally recognized standards not required in this code, *registered design professionals* shall provide sufficient information to the *building official* to support their approval. For fire protection design, *see* Chapter 9.

105.1 Replace as follows:

105.1 Required. 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 this code without first filing a written application with the *building official* and obtaining the required *permit*.

105.1.1 Delete this subsection.

105.1.2 Delete this subsection.

105.2 Replace as follows:

105.2 Work Exempt from Permit. Except for activities which may require a *permit* pursuant to other laws, by-laws, rules and the specialized codes of M.G.L. c. 143, § 96, a building *permit* is not required for the following activities:

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 retain less than four feet of unbalanced fill.
4. *Ordinary repairs* as defined in Chapter 2.00 and 9.00.
5. Greenhouses covered exclusively with plastic film intended for agricultural use.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Swings and other playground equipment.

105.2.1 Replace and add note as follows:

105.2.1 Emergency Repairs. Where equipment replacements and repairs governed by this code must be performed in an emergency situation, the *permit* application shall be submitted within the next working business day to the *building official*.

Note: Pursuant to the terms of the specialized codes of M.G.L. c. 143, § 96, this exemption might not apply to emergency repairs conducted under those specialized codes.

105.2.2 Delete this subsection.

105.2.3 Delete this subsection.

105.3 Replace as follows:

105.3 Application for Permit. To obtain a *permit*, the applicant shall file a *permit* application on a form furnished by the *building official* for that purpose. Standard application forms, along with application forms that some municipalities use, can be found at www.mass.gov/dps. Such applications shall at a minimum:

1. Identify and describe the work to be covered by the *permit* for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitively locate the proposed building or work.

1.00: continued

3. Indicate the use and occupancy for which the proposed work is intended. If the work involves a care facility or residence licensed by a State agency, indicate the agency name and appropriate licensing regulation on the permit. For example: Department of Developmental Services, 115 CMR.
4. Be accompanied by *construction documents* and other information as required in section 107. Construction documents shall list any additional building features required by a Massachusetts state agency for its facilities that go beyond the requirements in this code. Any additional building features required by the Massachusetts Department of Developmental Services shall not result in a change in the classification of a DDS operated or licensed residences for five or fewer occupants and their compliance with the 780 CMR *One- and Two-family Dwellings*.
5. State the valuation of the proposed work. The *building official* has authority to request from the applicant a detailed substantiation of the valuation.
6. Be signed by the applicant and the owner or the applicant and the owner's authorized agent.
7. Give such other data and information as required by the *building official* in accordance with this code.

105.3.1 Revise to read as follows:

105.3.1 Action on Application. The *building official* shall examine or cause to be examined applications for *permits* and amendments, and take action, within 30 days of filing. If the application or the *construction documents* do not conform to the requirements of pertinent laws, the *building official* shall reject such application in writing, to the applicant, stating the reasons. If the *building official* is satisfied that the proposed work conforms to the requirements of this code and applicable laws and ordinances, the *building official* shall issue a *permit* forthwith or as soon as practicable.

105.3.2.2 Add subsection:

105.3.1.2 Other Requirements. The following requirements must be satisfied before a building *permit* is issued:

1. **Zoning:** in accordance with M.G.L. c. 40A or St. 1956, c. 665.
2. **Railroad Right-of-way:** in accordance with M.G.L. c. 40, § 54A.
3. **Water Supply:** in accordance with M.G.L. c. 40, § 54; also refer to DEP regulations 310 CMR 22.00: *Drinking Water* and/or 310 CMR 36.00: *Massachusetts Water Resources Management Program*, when applicable.
4. **Wastewater:** in accordance with 310 CMR 15.00: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage*, and 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Standards Program*.
5. **Debris Removal:** in accordance with M.G.L. c. 40, § 54 and M.G.L. c. 111, § 150A; also refer to DEP Regulations 310 CMR 7.09(2) and 310 CMR 7.15, when applicable.
6. **Workers Compensation Insurance:** in accordance with M.G.L. c. 152, § 25C(6).
7. **Hazards to Air Navigation:** in accordance with M.G.L. c. 90, § 35B.

105.8 Add section:

105.8 Notice of Start. The *building official* shall be notified at least 24-hours before work starts.

105.9 Add section and subsections:

105.9 Independent Structural Engineering Review.

105.9.1 Condition for Permit. As a condition for the issuance of a building *permit*, the structural design of the following described structures shall be reviewed by a *registered design professional* to verify that the design of the primary structure is conceptually correct and that there are no major errors in the design:

1. *High rise* buildings.
2. Structures of unusual complexity or design as determined by the BBRS. A *building official* may apply to the BBRS for such a determination on a specific structure.

1.00: continued

This requirement shall not preclude an owner from obtaining an independent structural engineering design review of a primary structure, other than those listed in this section.

105.9.2 Review Requirements. The independent structural engineering review shall be in accordance with the guidance document found at www.mass.gov/dps.

105.9.3 Disputes. Disputes between the structural engineer responsible for the design of the *building* or *structure* and the independent structural engineering reviewer shall be resolved by the BBRS or a board established by the BBRS.

107.1 Delete the text:

‘where required by the statutes of the jurisdiction in which the project is to be constructed’ in the second sentence.

107.1.1 Add subsection:

107.1.1 Professional Seal and Signature. All plans and specifications shall bear a seal and signature of the responsible *registered design professional* in accordance with M.G.L. c. 143, § 54A. See also www.mass.gov/dpl for policy on electronic seal and signature for certain *registered design professionals*.

107.1.2 Add subsection:

107.1.2 Fire Department Review. For *permits* that include work under Chapters 4 or 9, or 34, *construction documents* shall be filed simultaneously with the head of the local fire department and *building official* for review and approval. The fire department shall complete its review within 10-working days after receiving the documents. Upon the fire department’s request, the *building official* may grant one or more extensions up to a total review period maximum of 30-days. If the fire department review is not received within the allowed time frame the *building official* may upon review deem the documents in compliance with Chapters 4 or 9, or 34. If the head of the local fire department disapproves such construction documents, he or she shall notify the *building official* (refer to M.G.L. c. 148, § 28A) in writing citing relevant sections of noncompliance with this code or the section of the referenced standards of Chapter 35.

107.2.5 Revise to read as follows:

107.2.5 Site Plan. The *construction documents* submitted with the application for *permit* shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from *lot lines*, the established street grades and the proposed finished grades and, as applicable, flood hazard zones, high hazard zones, floodways, and *base flood* elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The *building official* is authorized to waive or modify the requirement for a site plan when the application for *permit* is for *alteration* or repair or when otherwise warranted.

107.2.5.1 Revise to read as follows:

107.2.5.1 Base Flood Elevations. Base Flood Elevations shall be determined in accordance with Appendix G.

107.5 Revise to read as follows:

107.5 Retention of Construction Documents. Sets of *approved construction documents* shall be retained by the *building official* in accordance with M.G.L. c. 66, § 8.

107.6 Add section with subsections:

107.6 Construction Control.

107.6.1 General. This section shall apply to the construction controls, professional services and contractor services required for buildings and structures needing *registered design professional* services.

1.00: continued

The following structures are exempt from the requirements of this section:

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. For additions to existing buildings, the volume of enclosed space shall include the entire existing building and all proposed additions.
2. Any one- or two-family dwelling or any accessory building thereto.
3. Any building used exclusively for agricultural purposes. *See* Appendix C for occupancy and other limitations.
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 these exemptions, 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. Where work is performed by licensed trades people pursuant to M.G.L. c. 112, § 81R, plans and specifications prepared to document that work shall not be required to bear the seal or signature of a *registered design professional*.

107.6.1.1 Specialized Structures. Telecommunication towers, wind turbine towers, and similar structures are engineered structures and shall be subject to the requirements of section 107.6.

107.6.2 Registered Design Professional Services.

107.6.2.1 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 *registered design professional* and shall bear his or her signature and seal (*see* Section 107.1.1). Said signature and seal shall signify that the plans, computations and specifications meet the applicable provisions of this code and accepted engineering practices. Any alternative means and methods which deviate from prescriptive requirements of this code shall be submitted to the *building official* for *approval* in a narrative form separate from the plans.

107.6.2.2 Construction. The *registered design professionals* who are responsible for the design, plans, calculations, and specifications, their designee or the *registered design professionals* who have been retained for construction phase services, shall perform the following tasks:

1. Review, for conformance to this code and the design concept, shop drawings, samples and other submittals by the contractor in accordance with the requirements of the construction documents.
2. Perform the duties for *registered design professionals* in Chapter 17.
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 if the work is being performed in a manner consistent with the construction documents and this code.

The *permit* application shall not be deemed completed until all of the construction documents required by this code have been submitted. Documentation indicating that work complies with the plans and specifications shall be provided at the completion of each phase when required by the *building official*.

107.6.2.3 Structural Tests and Special Inspections. Structural tests and special inspection shall be provided in accordance Chapter 17.

107.6.2.4 Non Structural System Test and Inspection. Tests and inspections of non structural systems shall be performed in accordance with applicable engineering practice standards, referenced standards listed in Chapter 35, or as otherwise specified in this code.

107.6.3 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:

1.00: continued

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, certification in writing to the *registered design professional* in responsible charge that, to the best of the contractor's knowledge and belief, construction has been done in substantial accord with section 107.6 and with all pertinent deviations specifically noted. The *building official* may require a copy of this certification.

107.6.4 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 fulltime project representation by a registered architect or professional engineer in addition to that provided in Section 107.6. 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 design professional* shall file a final report indicating that the work has been performed in accordance with the approved plans and this code. 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 shall result in the denial of the *permit*. All fees and costs related to the performance of on-site project representation shall be borne by the owner.

107.6.5 Building Official Responsibility. Nothing contained in section 107.6 shall have the effect of waiving or limiting the *building official's* authority to enforce this code with respect to examination of the contract documents, including plans, computations and specifications, and field inspections.

108.3 Replace to read as follows:

108.3 Fire Department Review. Temporary structures and uses must be approved by the *building official* in consultation with the head of the local fire department.

108.5 Add section:

108.5 State of Emergency. Upon declaration by the Governor of a State of Emergency under St. 1950, c. 639, or of an emergency detrimental to the public health under M.G.L. c. 17, § 2A a building or space within a building may be used as a *temporary emergency use* for purposes of housing and/or caring for persons in accordance with procedures established for such purpose as contained in this code (also *see* Chapter 31).

109.1 Revise to read as follows:

109.1 Payment of Fees. A *permit* shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a *permit* be released until the additional fee, if any, has been paid in the amount established by the applicable governing authority.

109.2 Replace as follows:

109.2 Schedule of Permit Fees. For state building permit fees, *see* 801 CMR 4.02: *Rates*. For municipal building permit fees, refer to the municipality.

109.3 Revise to read as follows:

109.3 Building Permit Valuations. The applicant for a *permit* shall provide an estimated *permit* value at time of application. If, in the opinion of the *building official*, the valuation is underestimated on the application, the *permit* shall be denied, unless the applicant can show detailed estimates to meet the approval of the *building official*. Final building *permit* valuation shall be set by the *building official*.

109.4 Revise to read as follows:

109.4 Work Commencing Before Building Permit Issued. Any person who commences any work on a building or structure governed by this code before obtaining the necessary building *permit* shall be in violation of this code and subject to penalties. *See* section 114.

1.00: continued

109.5 Revise to read as follows:

109.5 Related Fees. Payment of the building *permit* fee shall not relieve the applicant or holder of the *permit* from the payment of other fees that are prescribed by law.

109.6 Delete subsection.

110.3 Revise to read as follows:

110.3 Required Inspections. The *building official* shall conduct inspections during construction intervals sufficient to ensure compliance with the provisions of this code which may include inspections set forth in sections 110.3.1 through 110.3.10 (Also *see* 110.4). The *building official* shall inform the applicant of the required points of inspection at the time of application.

110.3.3 Revise to read as follows:

110.3.3 Lowest Floor Elevation. Per Appendix G, in flood hazard zones and high hazard zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Appendix G, shall be submitted to the *building official*.

110.3.11 Add subsection:

110.3.11 Workmanship. All work shall be conducted, installed, protected and completed in a workmanlike and acceptable manner so as to secure the results intended by this code.

110.5 Revise to read as follows:

110.5 Inspection Requests. It shall be the duty of the holder of the building *permit* or their duly authorized agent to notify the *building official* when work is ready for inspection. It shall be the duty of the *permit* holder to provide access to and means for inspections of such work that are required by this code. The *building official* may require the *permit* holder or his representative to attend these inspections.

110.7 Add section and subsection and Table 110 with footnotes:

110.7 Periodic Inspections. The *building official* shall inspect periodically existing buildings and structures and parts thereof in accordance with Table 110 entitled Schedule for Periodic Inspections of Existing Buildings. Such buildings shall not be occupied or continue to be occupied without a valid Certificate of Inspection. Periodic inspections required by this section do not apply to residences operated or licensed by the Massachusetts Department of Developmental Services and subject to 780 CMR *One- and Two-family Dwellings*.

1.00: continued

Table 110
Schedule for Periodic Inspection of Existing Buildings
 (See Chapters 3 and 4 for complete descriptions of use groups.)

Use Group	Use Group	Use Group Description	Minimum Inspections	Maximum Certification Period
A-1	Movie theaters or theaters for performing acts (stage and scenery)	> 400 occupant load ≤ 400 occupant load	Semi – annual Semi – annual	One year One year
A-2	Restaurants, Night Clubs or similar uses	> 400 occupant load ¹ ≤ 400 occupant load ¹	Semi –annual ¹ Annual ¹	One year One year
A-3	Lecture halls, churches and places of religious worship, recreational centers, terminals, <i>etc.</i>	> 400 occupant load ≤ 400 occupant load	Semi –annual Annual	One year One year
A-4	Low density recreation and similar uses.		<i>see note 4.</i>	Five years
A	Special amusement buildings or portions thereof.		<i>see note 4.</i>	One year
E	Educational, day care		<i>see note 4.</i>	One year
I-1	Group home		<i>see note 4.</i>	One year
I-2	Residents incapable of self preservation – hospitals, nursing home, mental hospitals, certain day care facilities.		<i>see note 4.</i>	Two years ³
I-3	Residents restrained – prisons, jails, detention centers, <i>etc.</i>		<i>see note 4.</i>	Two years
I-4	Adult and/or child day care facilities.		<i>see note 4.</i>	One year
R-1	Hotels, motels, boarding houses, <i>etc.</i>		<i>see note 4.</i>	One year
R-1	Detoxification facilities		<i>see note 4.</i>	Two years
R-2 ²	Multi-family		<i>see note 4.</i>	Five years
R-2	Summer Camps for children.		Annual	One year
R-4	Residential care/assisted living facilities		Annual	One year
Any	Facilities licensed by the Alcohol Beverage Control Commission where alcoholic beverages are served and consumed.		Annual as per M.G.L. c. 10, § 74	One year as per M.G.L. c. 10, § 74
Any	House museums (<i>see</i> Chapter 34 for definition)		Annual	One year
Any	Fire escapes, <i>etc.</i> per Chapter 10		Five years	Five years

Notes:

1. When appropriate for A-2 uses, the inspection for the Certificate of Inspection should include and be timed to satisfy the requirements of M.G.L. c. 10, § 74.
2. Building inspections in this use group may be performed by a qualified third party acceptable to the *building official* that includes but is not limited to: *registered design professional* or individuals with qualifications comparable to a *building official* as per section 103.
3. One year for facilities licensed or operated by DMH.
4. Prior to issuance of new certificate.

General Note: It is the responsibility of building “owner”, as defined in Chapter 2, to meet the inspection requirements in this table for continued use and occupancy. The maximum certification period specified in the table is intended to provide administrative flexibility. For uses allowing more than one year maximum certification period, the *building official* may determine the certificate validity term. For example, an R-2 building could be certified for one, two, three, four or five years.

110.7.1 ABCC licensed Establishments. Certificates of inspection for establishments intending to sell alcoholic beverages to be consumed on the premises shall be governed by M.G.L. c. 10, § 74 and the inspection schedule in section 110.7. The *building official* may issue a temporary inspection certificate, once co-signed by the *building official* and by the head of the fire department, effective to a date certain for the establishment.

1.00: continued

111.1 Revise to read as follows:

111.1 Use and Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the *building official* has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Conformance to all applicable specialized codes of M.G.L. c. 143, § 96 is a requirement of the issuance of the Certificate of Use and Occupancy, including, when applicable, 310 CMR 7.00: *Air Pollution Control*, 310 CMR 15.00: *the State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage*, 310 CMR 22.00: *Drinking Water* or 310 CMR 30.000: *Hazardous Waste*. The certificate shall not be issued until all the work has been completed in accordance with the provision of the approved *permits* and of the applicable codes for which a *permit* is required, except as provided in section 111.3.

Exception: Certificates of occupancy are not required for work exempt from *permits* under section 105.2.

111.1.1 Add subsection:

111.1.1 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 maximum live load capacity, or 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.

111.1.2 Add subsection:

111.1.2 Massachusetts' Licensed Care Facilities. Certificate of occupancy inspections for Massachusetts licensed care facilities, including inspection of special building features required by the licensing agency, shall be limited to verifying compliance with the provisions of this code.

111.2 Add notes 13. and 14.:

13. If the facility is licensed by a State agency, the name of the agency and the name and number of any relevant Code of Massachusetts Regulations (CMR) that apply regarding building features.

14. Prior to issuance of certificate of occupancy, the *building official* shall consult with the head of the fire department.

111.5 Add section and subsections:

111.5 Posting. Buildings and structures shall be posted for occupancy as noted in this section.

111.5.1 Posting of Use and Occupancy. A copy of the certificate of occupancy shall be posted at the main entry or be made readily available for inspection.

111.5.2 Required Egress Posting. A suitably designed placard, approved by the *building official* shall be posted by the owner on all floors of every building and structure, except High Hazard, Factory, and I-3 use occupancies, as defined in Chapter 3. In addition to the per floor requirement, all rooms used as a place of assembly or as an R-1 sleeping space shall have the required egress posting. Said placard shall be securely fastened to the building or structure in a readily visible place, showing exiting paths per floor.

111.5.3 Place of Assembly Posting. A placard suitably designed in contrasting colors and 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 (use groups A). Said placard shall designate all of the occupant loads approved for each configuration within each room or space.

1.00: continued

111.5.4 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.

111.5.5 Periodic Posting Inspection. The *building official* may periodically inspect all existing buildings and structures except one and two family dwellings for compliance with this code in respect to posting; or he may accept the report of such inspections from a *registered design professional* or others certified by the BBRS; and such inspections and reports shall specify any violation of the posting requirements of this code.

112 SERVICE UTILITIES Reserved.

113.1 Replace as follows:

113.1 General. Appeals of orders, decisions, determinations and failures to act made by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules and regulations, except the specialized codes of M.G.L. c. 143, § 96 relative to the application and interpretation of this code shall be addressed by the building code appeals board in accordance with M.G.L. c. 143, § 100.

113.2 Limitations on Authority. Reserved.

113.3 Qualifications. Reserved.

113.4 Add section and subsections:

113.4 Local and Regional Boards of Appeals.

113.4.1 General. If a city, region or town had not duly established by ordinance or bylaw or otherwise a local or regional building code board of appeals prior to January 1, 1975, said city, region or town may establish a local or regional board of appeals in accordance with section 113.0, referred to as the local board of appeals, consisting of not less than three nor more than five members appointed by the chief administrative officer of the city, region or town. Any appeal originating in a city or town that has a local board must be heard by the local board before being heard by the state building code appeals board.

113.4.2 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 section 113.

113.4.3 Qualifications of Local Board Members. Each member of a local board of appeals established under M.G.L. c. 143, § 100 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.

113.4.4 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.

113.4.5 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 section 113.0.

114.1 Revise to read as follows:

114.1 Unlawful Acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish, occupy or change the use or occupancy of any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

1.00: continued

114.2.1 Add subsection:

114.2.1 Notice Service and Content. Every notice or order authorized pursuant to 114.2 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 business or abode; or
3. By sending the party responsible or their agent authorized to accept service of process in the Massachusetts a copy of the order by registered or certified mail return receipt requested, if he is within the Massachusetts; or
4. If the responsible party's last and usual place of business or 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.

114.3 Revise to read as follows:

114.3 Enforcement. Violations to this code shall be enforced in accordance with the applicable provisions of M.G.L. c. 143, §§ 6 through 10, M.G.L. c. 148, and M.G.L. c. 148A.

114.4 Revise to read as follows:

114.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure, or makes a change of use in violation of the *approved construction documents* or directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

116 Revise the entire section to read as follows:

116.1 General. The provisions of this section are established by M.G.L. c. 143, §§ 3, 3A, and 59.

116.2 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.

116.3 Removal or Making Structure Safe. Any person so notified shall be allowed until 12:00 P.M. 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 passers-by, or to be made secure.

116.4 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.

1.00: continued

116.5 Removal of Dangerous or Abandoned Structures. If such survey report as outlined in section 116.4 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 to adjacent grades with 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 section 114. 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.

116.6 Remedy of Person Ordered to Remove a Dangerous Structure or Make It Safe. Notwithstanding the provisions of section 114, 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 section 116; and provided, further, that this section shall not prevent the city or town from recovering the forfeiture provided in said section 116.5 from the date of the service of the original notice, unless the order is annulled by the jury.

116.7 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 section 116.2, 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 (www.usfa.dhs.gov/downloads/pdf/publications/napi4.pdf) 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 section 116.7.2.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 section 116.7.1. 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 section 116.7.1. through 4.

1.00: continued

For the purposes of section 116., 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 section 116.3 or 116.5, 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 section 116.7 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 section 105 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 section 34.

116.8 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 section 116.2, 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: *Fire Prevention, General Provisions*.