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110.R5.2.3 License Approval. A majority vote of the members of the BBRS shall be required to grant a license.

110.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. Except as authorized by M.G.L. c. 147, § 62(b), if a licensee fails to renew his license within one year of the expiration date, such license may thereafter be renewed within two years of its expiration date upon the payment of a fee per 780 CMR 110.R5.3.5. Practice of construction supervision is prohibited with an expired license.

110.R5.2.5 Fees. Reserved

110.R5.2.6 Procedure for Obtaining a License.

110.R5.2.6.1 Application. License applicants meeting the qualifications of 780 CMR 110.R5.2.1 may submit an examination application per 780 CMR 110.R5.2.2 to the authorized testing agent of BBRS.

110.R5.2.6.2 Forms. 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 examination fee.

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

110.R5.2.6.4 Examination Date. Upon receipt of a fully completed application, an examination date shall be set by the authorized testing agency and the applicant so notified.

110.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.

110.R5.2.8 Cause for Suspension or Revocation. The following shall be grounds for reprimand, suspension, or revocation of a license:

1. the applicant made a false statement to the BBRS;
2. a licensee made a false statement to the BBRS;
3. any violation of 780 CMR;
4. work was performed without a building permit;
5. failure to fully cooperate with a BBRS investigation into a complaint;
6. failure to turn over a suspended or revoked license to the BBRS;
7. failure to abide by a mandate or order of the BBRS;
8. failure to properly supervise a project or be present at a work site as required by 780 CMR 110.R5.4;
9. failure to meet the requirements of 780 CMR 110.R5.4.

110.R5.2.9 Procedure for Suspension or Revocation of License.

110.R5.2.9.1 Complaints. All complaints relative to a license must be in writing on a form provided by the BBRS. Any person, including a *building official* or the BBRS itself, may file a complaint. All complaints must be received by the BBRS within three years of the date the parties entered into an agreement to perform the work requiring licensure pursuant to 780 CMR 110.R5.

110.R5.2.9.1.1 Basis of Complaint. Work related to a specific building permit that is deemed to not comply with 780 CMR or a consistent pattern of abuse relating to contractual arrangements between license holder and client shall be the basis of such complaint. Any work requiring a building permit, which is performed without such permit shall be considered cause for suspension or revocation.

110.R5.2.9.1.2 Review and Investigation of Complaints. The BBRS or its designee shall review every complaint filed. If the reviewer determined that the complaint alleges plausible potential violations of 780 CMR by the licensee, a hearing shall be convened. The BBRS may, if it elects, investigate a complaint prior to scheduling a hearing. Failure of a complainant to cooperate in the investigation shall be grounds for dismissal of a complaint.

Upon receipt of a complaint, the BBRS or its designee shall send a letter acknowledging receipt to the complainant, the licensee being complained of, and the appropriate municipal *building official*. A copy of the complaint and all attachment shall be mailed to the license holder with the acknowledgment letter.

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110.R5.2.9.3 Notice of Hearing. If the *hearings officer* or the BBRs determined that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the license holder. Mailing of the notice to the address on record with BBRs shall be deemed satisfactory notice to the license holder. The notice of hearing shall contain.

1. The name of the complainant.
2. The date, time and place of said hearing.
3. The location of the incident giving rise to the complaint
4. Notice that either party may view the BBRs's complaint file by appointment.

110.R5.2.9.4 Hearings. Hearings convened pursuant to 780 CMR 110.R5 shall be conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules*. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The *hearings officer* may question any witness and include any records kept by the BBRs as exhibits. The *hearings officer* may conclude the hearing at any time and issue a decision based on the evidence presented.

If a licensee does not appear for the hearing, the *hearings officer* may conduct a hearing in their absence and render a decision based upon the evidence presented, but only after making a finding that the licensee was provided notice as required by 780 CMR 110.R5.2.9.3.

110.R5.2.9.5 Decisions and Discipline of License Holders. The *hearings officer* shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The *hearings officer* may suspend a license for a fixed period of time, revoke a license permanently, or reprimand the licensee. In conjunction with these disciplinary measures, the *hearings officer* may order the license holder to retake the CSL examination. Any license that is suspended or revoked shall be forwarded to the BBRs immediately. A person whose license is revoked may apply in writing to the BBRs for reinstatement no sooner than two years from the date of the revocation.

110.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. The filing of such a petition shall not serve to stay any disciplinary action taken by the *hearings officer*.

The BBRs may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a second Hearing on the same complaint(s). After review, the BBRs may either deny the petition or remand the matter to the *hearings officer* for further proceedings as directed. The filing of an appeal with the BBRs shall serve to toll the timing provisions of M.G.L. c. 30A, § 14 until such time as a final decision is rendered by the BBRs.

110.R5.2.10.1 Appeal to a Court. Any person aggrieved by a decision of the *hearings officer* or the BBRs may appeal such decision in conformance with M.G.L. c. 30A, § 14.

110.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.

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

Note. Any licensed construction supervisor who contracts to do work for a homeowner shall be responsible for performing said work in accordance with 780 CMR whether or not the licensed contractor secured the permit for said work.

1. Foundation:
 - a. Preparation of bearing material;
 - b. Location of foundation;
 - c. Placement of forms and reinforcing materials (if applicable);
 - d. Placing of concrete (or setting of other foundation materials);
 - e. Setting weather protection methods (if required);
 - f. Installation of waterproofing and/or damp proofing materials; and
 - g. Placement of backfill.

Note. If groundwater is encountered in excavating for foundation placement, the licensed construction supervisor shall report its presence to the *building official* and shall submit a report detailing methods of remediation.

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2. Structural frame:

- a. Installation of joists, trusses and other structural members and sheathing materials to verify size, species and grade, spacing and attachment/fastening methods. (The licensed construction supervisor shall ensure that any cutting or notching of structural members is performed in accordance with requirements of 780 CMR)
 - b. Setting of masonry or other structural systems (if used).
3. Energy conservation: Installation of insulation materials, vapor and air infiltration barriers.
 4. Fire protection: Installation of smoke, heat and carbon monoxide (CO) detectors and/or systems.
 5. Special construction, including, but not limited to:
 - a. Chimneys;
 - b. Retaining walls over four feet in height above grade.

The *building official* may require a licensed construction supervisor or his or her licensed designee to be present on the building site at other points during the construction, reconstruction, alterations, removal or demolition work as he or she deems appropriate.

110.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 work 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.

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

110.R5.2.15 Responsibility of Each License Holder.

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

110.R5.2.15.2 Responsibility to Supervise Work. The license holder shall be responsible to supervise the construction, reconstruction, installation, alteration, repair, removal or demolition for the category of license held involving any activity regulated by any provision of 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.

110.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.

110.R5.2.15.4 Willful Violation. Any licensee who shall willfully violate 780 CMR shall be subject to revocation or suspension of license by the *hearings officer*.

110.R5.2.16 Permit Applications. All building *permit* applications shall contain the name, signature and license number and the category of license so held of the construction supervisor who is to supervise those persons engaged in the work as defined in the building *permit*. 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.

110.R5.2.17 Gender of Terms. The term "he" as used in 780 CMR 110.R5 shall include the pronoun "he" and/or "she."

110.R5.3 ADMINISTRATION

110.R5.3.1 Identification. The BBRs shall issue a card or a certificate or other form of license identification.

110.R5.3.2 Records of Licensees. The BBRs shall maintain a computer listing (www.mass.gov/dps) which will be available to the public at the office of the BBRs containing all licenses issued by the BBRs.

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

Exception. An individual holding a current certification per the requirements of 780 CMR 110.R7 shall be allowed to submit an application for the construction supervisor license without the need for examination.

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110.R5.3.4 Subject to Rules, Regulations and Procedures. All persons licensed shall be subject to 780 CMR 110.R5, as well as other rules, regulations, and procedures promulgated by the BBRS.

110.R5.3.5 Fees. Any and all fees charged for licenses, examinations, renewals, and registrations shall be determined by the Commonwealth and enforced by the BBRS. Fees shall be established from time to time as necessary, and shall be paid in accordance with 801 CMR 4.02.

110.R5. 3.5.1 Building Official Fees. The BBRS shall grant a construction supervisor license without examination to an individual holding a current certification per the requirements of 780 CMR 110.R7. An individual seeking such license shall file an application to the BBRS and pay all appropriate license fees.

5.4 CONTINUING EDUCATION

110.R5.4.1 Standards. The BBRS may by rule adopt standards for continuing education requirements and course and instructor approval. The standards must include requirements for continuing education as applicable to buildings and building codes and referenced standards.

110.R5.4.2 Hours. A qualifying licensee must provide proof of completion of required hours of continuing education per two year license cycle in the appropriate category in which the licensee is licensed. Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period. In accordance with M.G.L. c. 147, § 62 the BBRS may consider granting extensions of time to returning military personnel upon application therefore.

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| 1. Construction Supervisors License | 12 Hours |
| 2. Construction Supervisors License (One- and Two-Family Dwellings) | ten Hours |
| 3. Construction Supervisors Specialty License | six Hours |

Exception. *Building officials* who are certified and in good standing in accordance with 780 CMR 110. R7 are exempt from 780 CMR 110.R5.4.

110.R5.4.3 Education Topics. All Construction Supervisor License holders are required to complete the appropriate number of continuing education each two-year renewal cycle as described in 780 CMR 110.R5.4.2. The following hour(s) of continuing education topics are required:

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| 1. Code Review | one hour |
| 2. Workplace Safety | one hour |
| 3. Business Practices / Workers' Compensation | one hour |
| 4. Energy (except Demolition Specialty License) | one hour |
| 5. Lead Safe Practices (only first renewal cycle) | one hour |

The remainder credit hours to be completed by approved electives.

110.R5.4.4 Accessibility. To the extent possible, the BBRS shall ensure that continuing education courses are offered throughout the state and are accessible to all licensees.

110.R5.4.5 Renewal of Approval. The BBRS is authorized to establish a procedure for renewal of course approval.

110.R5.4.6 Content. Continuing education consists of approved courses that impart appropriate and related knowledge in the regulated industries. Courses may include relevant materials that are included in licensing exams subject to the limitations imposed in 780 CMR 110.R5.4.6, item 1. The burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit.

Course examinations will not be required for continuing education courses unless they are required by the instructor.

Unless determined by the coordinator textbooks are not required to be used for continuing education courses. The coordinator must provide students with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers and email address of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students must be of readable quality and contain accurate and current information.

Upon completion of an approved course, licensees shall earn one hour of continuing education credit for each hour approved by the BBRS. Each continuing education course must be attended in its entirety in order to receive credit for the number of approved hours. Courses may be approved for full or partial credit, and for more than one regulated industry.