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PETER J. OSTROSKEY
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MEMORANDUM

To: Heads of Fire Departments

From: Peter J. Ostroskey
State Fire Marshal

Date: October 5, 2016

RE: **Regulation Updates**
527 CMR 1.00:1.12.8.1 (Table)
527 CMR 1.00:10.11
527 CMR 1.00:10.11.16

I am forwarding the following updated regulations which can also be found on our website at www.mass.gov/dfs. Below is a summary however, these codes should be downloaded and reviewed in their entirety.

Summary of Amendments:

527 CMR 1.00: 1.12.8.1 (table) correctly identifies the permit issuing authority for Open Burning as the Forrester Warden who derives authority from M.G.L. c. 48 § 13.

527 CMR 1.00:10.11 is amended with new language and a new table to reflect the appropriate authority for Outdoor Fires. The amendments eliminate confusion about permit requirements for outdoor fires used for cooking and recreational purposes and is consistent with the provisions of M.G.L. c. 48 § 13. In general such requirements are within the scope of the rules and regulations of the State Forester and the Department of Environmental Protection (DEP), rather than the State Fire Code.

527 CMR 1.00: 10.11.6 is amended to expand the permissible use of certain outdoor heating and cooking appliances (such as grills which use solid fuel or gas) on balconies and decks. The current code limited the use of such appliances to only decks of single family

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dwellings. The new amended language was initiated by public comment. BFPR reviewed the history of the cooking regulations in the national standard and determined 527 CMR 1.00 was too stringent when the cooking appliances are used and maintained in a safe manner. The revised regulation allows for more situations where the cooking/heating equipment may be used based upon the building's characteristics, adequate clearances, and fire protection capabilities. A new table (10.11.6) makes determining allowable locations and uses easier.

Further assistance is always available from the Division of Fire Safety on this and similar issues. If you have further questions, please contact the Code Compliance Help Desk at (978) 567-3375.

1.00: continued

Table 1.12.8.1 Permits Required

Chapters 10	General Requirements	
Work/ Activity	Issuing Authority	Code Section/M.G.L.
Open Air Burning	Forest Warden	M.G.L. c. 48, § 13
Burning demolition/building debris.	Head of Fire Department	Section 10.11.4 for open fires
Ceremonial Bonfires.		M.G.L. c. 111, §§ 142H and I Section 10.11.4.1 and 10.11.4.2
Use of candles, open flames, and portable cooking in assembly areas, dining areas of restaurants, and drinking establishments.		Section 10.11.1
Burning of Christmas trees.		M.G.L. c. 111, § 142G Section 1.12.8 and 10.11.4 and 10.14
Use of a torch or other flame or heat producing device.		Section 10.11.9.1
Use of canine guards.		Section 10.22.1
Fumigation and insecticidal fogging.		Section 10.21.1
Storage of combustible goods > 2500 c.u. ft (70.8 m ³) gross volume.		Section 10.19.2 Section 10.16.2

1.12.8.2 Oil Burners and Fuel-oil.**1.12.8.2.1 Permit Requirements.**

1.12.8.2.1.1 In accordance with M.G.L. c. 148, § 38J, on a form approved by the State Fire Marshal, a document indicating that each fuel line is enclosed with a continuous non-metallic sleeve or is otherwise equipped with an oil safety valve, shall be submitted with the application for permit, when applicable.

1.12.8.2.1.2 Inspection.

1.12.8.2.1.2.1 If after 30 days, an inspection is not conducted, the delivery of fuel oil shall not be prohibited for lack of a permit to store.

1.12.8.2.2 Permit Not Required.

1.12.8.2.2.1 A permit shall not be required for routine maintenance, such as the replacement of nozzles, ignition electrodes, or filters; however, a combustion performance test shall be conducted.

1.12.8.2.3 Emergency Conditions.

1.12.8.2.3.1 If an oil burner installation is made under emergency conditions, said application shall be made within 24 hours thereafter, excluding Saturdays, Sundays and holidays.

1.12.8.2.4 Fuel Oil Deliveries.

1.12.8.2.4.1 Fuel oil shall not be delivered to any storage tank unless the deliverer has knowledge that a permit has been obtained.

1.12.8.2.4.1.1 Such knowledge may be considered to consist of any of the following:

- (1) Verification by the Head of the Fire Department that such a permit is in effect.
- (2) Written verification from the owner or customer that the permit is either in his possession or is posted on the premises.
- (3) Observation that such a permit is in the possession of the owner or customer, or is posted on the premises.

1.00: continued

Table 1.12.8.2 Permits Required

Chapter 11	Oil Burners and Fuel-oil	
Work/Activity	Issuing Authority	Code Section/M.G.L.
Installation or alteration of any fuel oil burning equipment.	Head of Fire Department	Section 11.5.1.8 M.G.L. c.148, §§ 10A, 23 and 24
Storage of fuel oil in excess of ten gallons used in connection with an oil burner.		
Installation or removal of a fuel storage tank (unless provided otherwise in M.G.L. c. 66).		Section 11.5.1.10.5(6) and 11.5.10.5.1

1.12.8.3 Smoke, Fire and Carbon Monoxide Protection System.

1.12.8.3.1 No person or entity may install any fire protection system in any new or existing building or structure without first complying with the provisions in this Section and table 1.12.8.3.

1.12.8.3.2 A fire protection system shall include any wiring, equipment and systems used to detect, suppress or control smoke, fire and carbon-monoxide or any combination thereof.

1.12.8.3.3 No permit shall be required for the replacement, in kind, of an individual device (battery, smoke detector/alarm, carbon monoxide detector/alarm).

Table 1.12.8.3 Permits Required

Chapter 13	Fire Protection System and Related Equipment	
Work/Activity	Issuing Authority	Code Section/M.G.L.
Sale or transfer CO/ smoke devices installations [≤ 5 dwelling units].	Head of Fire Department	Chapter 13
Installations of carbon monoxide protection technical options.		Section 13.7.1.4.9 Section 13.13.2.13
Fire protection system and related equipment.		Chapters 42 and 69
Replacement or disconnection of any fire protection system.		Chapters 13 and 50

1.12.8.4 Safeguarding Construction, Alteration, and Demolition Operations.

1.12.8.4.1 Permits must be obtained at least two days prior to the placement of a tar kettle on a roof.

Table 1.12.8.4 Permits Required

Chapter 16	Safeguarding Construction, Alteration, and Demolition Operations	
Work/Activity	Issuing Authority	Code Section
Torch-applied roofing operations.	Head of Fire Department	Section 10.11.9.1 and 16.6.1
Placement of a tar kettle on a roof.		Section 10.11.9.1 and 16.7.1.2
Use of salamanders.		Section 16.1.1.1

1.12.8.5 Combustible Waste and Refuse.

1.12.8.5.1 A permit shall not be required for containers which are delivered to a location and removed in the course of a single business day.

1.12.8.5.2 Containers shall be marked with the name and telephone number of the company who can be reached in an emergency

1.00: continued

5.1.9* Information Transfer to the Fire Service. Where a performance-based design is approved and used, a registered design professional shall ensure that information regarding the operating procedures of the performance-based designed fire protection system is transferred to the owner and to the AHJ for inclusion in the pre-fire plan.

5.1.10* Design Feature Maintenance.

5.1.10.1 The design features required for the facility to meet the performance goals and objectives shall be maintained by the owner and be readily accessible to the AHJ for the life of the facility.

5.1.10.2 The facility shall be maintained in accordance with all documented assumptions and design specifications.

5.1.10.2.1 Any proposed changes or variations from the approved design shall be approved by the AHJ and the building inspector prior to the actual change.

5.1.10.2.2 Any approved changes to the original design shall be maintained in the same manner as the original design.

5.1.11* Annual Certification. Where a performance-based design is approved and used, a registered design professional shall annually certify to the AHJ and the Building Official that the design features and systems have been maintained in accordance with the approved original performance-based design and assumptions and any subsequent approved changes or modifications to the original performance-based design.

5.7.3 Facility Design Specifications. All details of the proposed facility design that affect the ability of the facility to meet the stated goals and objectives shall be documented.

Chapter 6 Classification of Occupancy. Delete Chapter 6 in its entirety:

Chapter 10 General Safety Requirements. Modify this Chapter by adding, deleting or replacing the following Sections as provided:

Delete the following Section: 10.1.2

Replace with the following Section:

10.1.3 Building Code. All new construction shall comply with this *Code* and the building code.

Replace with the following Section:

10.1.4.1 Where structural elements have visible damage, the AHJ shall notify the Building Official.

Delete the following Section: 10.1.4.2

Delete the following Section: 10.1.5

Replace with the following Section:

10.3.4.1 In any building or structure, whether or not a physical alteration is needed, a change from one use or occupancy classification to another shall comply with the building code.

Replace with the following Section:

10.4.1 Whenever or wherever any device, equipment, system, condition, arrangement, level of protection, fire-resistive construction, or any other feature is required for compliance with the provisions of this *Code*, such device, equipment, system, condition, arrangement, level of protection, fire-resistive construction, or other feature shall thereafter be continuously maintained. Maintenance shall be provided in accordance with this *Code*, the building code and applicable NFPA requirements, or requirements developed as part of a performance-based design.

Replace with the following Section:

10.4.3 Existing life safety features obvious to the public, if not required by this *Code*, shall be either maintained or removed as provided in M.G.L. c. 148, § 27A.

1.00: continued

Replace with the following Section:

10.4.4 Any device, equipment, system, condition, arrangement, level of protection, fire-resistive construction, or any other feature requiring periodic testing, inspection, or operation to ensure its maintenance shall be tested, inspected, or operated as specified elsewhere in this *Code* and the building code.

Add the following Section:

10.5.2.1 Overcrowding. Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited. The head of the fire department, upon finding overcrowded conditions or obstructions in aisles, passageways or other means of egress, or any condition which constitutes a hazard to life and safety shall cause the performance, presentation, spectacle or entertainment to be stopped until the area posted occupant load is re-established or the obstruction or hazardous condition is removed.

Replace with the following Section:

10.6.1 Where Required. Emergency egress and relocation drills conforming to the provisions of this *Code* shall be conducted as specified by the provisions of Chapter 20 of this *Code*. Drills shall be designed in cooperation with the local authorities.

Replace with the following Section:

10.6.2* Drill Frequency. Emergency egress and relocation drills, where required by Chapter 20 of this *Code*, shall be held with sufficient frequency to familiarize occupants with the drill procedure and to establish conduct of the drill as a matter of routine. Drills shall include suitable procedures to ensure that all persons subject to the drill participate.

Delete the following Section: **10.7.2**

Delete the following Section: **10.7.4**

Replace with the following Section:

10.8 Tampering with Fire Safety Equipment. See M.G.L. c. 266 and M.G.L. c. 148, § 27A.

Replace with the following Section:

10.9.1 Where Required. Emergency plans shall be provided for high-rise, health care, ambulatory health care, residential board and care, assembly, day-care centers, special amusement buildings, hotels and dormitories, housing for the elderly for six or more dwelling units, detention and correctional occupancies, educational, bulk merchandising retail buildings, underground and windowless structures, facilities storing or handling materials covered by Chapter 60, or where required by the AHJ.

Replace 10.11 through 10.11.4.1 with the following:

10.11 Open Flame, Candles, Outdoor Fires.

10.11.1 Permits. Permits, where required, shall comply with Section 1.12.

10.11.1.1 Fires for cooking and recreational purposes shall comply with the provisions of M.G.L. c. 48, § 13 and the rules and regulations of the State Forester and regulations of the Department of Environmental Protection.

10.11.2 The AHJ shall have the authority to prohibit any or all open flames, candles where circumstances make such conditions hazardous.

10.11.3 Outdoor Fires.

10.11.3.1* Outdoor fires shall comply with the provisions of M.G.L. c. 48, § 13 and the rules and regulations of the State Forester, and regulations of the Department of Environmental Protection.

Delete: 10.11.4 through 10.11.4.1

Add the following Sections:

10.11.4.1.1 Bonfires and the Burning of Christmas Trees.

1.00: continued

10.11.4.1.1.1 Ceremonial Bonfires. The city council of a city with the approval of its mayor, or the board of selectmen or town council of a town, may authorize the fire department of such city or town to issue not more than one permit in any one year for a ceremonial bonfire. Such bonfires shall mark the observance of a significant municipal, state or national event, and such ceremonial bonfire shall be under the continuous supervision of the fire department. Only wood which has not been painted, impregnated, or otherwise treated with any foreign substance shall be permitted to burn in ceremonial bonfires. No bonfire shall burn for more than 12 hours. (M.G.L. c. 111, § 142 H.)

10.11.4.1.1.2 Bonfires from July 2nd to July 6th. Any civic, fraternal, veteran, community or business organization may build and ignite bonfires under the supervision and control of the fire department of the city or town in which such burning takes place during the period from July 2nd to July 6th. (M.G.L. c. 111, § 142I.)

10.11.4.1.1.3 Burning of Christmas Trees. Any person may burn Christmas trees during the period from December 26th to January 7th provided that such burning is under the supervision and control of the fire department. (M.G.L. c. 111, § 142G.)

Replace 10.11.6 through 10.11.6.3* with the following:

10.11.6 Appliances - Cooking.

10.11.6.1 General. Cooking appliances shall be kept clean during and cleaned after each use. Cooking appliances shall never be left unattended after the cooking appliance is kindled. Cooking appliances shall be stored only after the appliance is cleaned; the appliance is cool to the human touch and; the fuel is disconnected and removed from the appliance. Cooking appliances shall not be altered, used, kindled, placed, or stored in a manner that is not established by the manufacturer's instructions of the appliance and its equipment.

10.11.6.2 Terms. As used in this section, the enclosed terms shall have the following meaning assigned to them.

- (1) **Appliance (cooking).** Utilization equipment, generally other than industrial, that is normally built in standardized sizes or types and is used, installed or connected as a unit to perform one or more functions such as grills, ranges, cook top units, wall ovens, and chimineas or similar such appliances.
- (2) **Balcony.** A structure attached to a building with no exterior stairs other than through the attached building.
- (3) **Deck, (including porches, and patios).** A structure attached to a building where constructed above grade has exterior stairs extending to grade.
- (4) **Equipment. (cooking).** The component of an appliance, such as the hose, burner, heating element, electronic controls, igniters, heat exchanger, container or regulator that is designed specifically for the purpose and constructed with approved safety standards and tested by a recognized product testing agency. See Chapter 3, for the term Listed 3.2.6*.
- (5) **Grade (as it applies to balconies and decks).** On earth; or on blocks, slab or of other approved material placed on earth and elevated not greater than 30 inches from earth.
- (6) **Permanent.** Fastened in place, and cannot be easily moved without requiring the disconnection of fasteners, piping, fittings.
- (7) **Solid Fuel.** Includes wood, charcoal, pellet fuels, and any other non-gaseous fuel but not including fuel generation or co-generation of electric energy.

10.11.6.3 Solid Fuel, Gaseous Fuel, and Electric Cooking and Heating Appliances Use and Storage on Balconies and Decks or under Overhangs and Structures.

10.11.6.3.1 All cooking and heating appliances shall be permitted to be used, kindled, or stored on a balcony or deck unless specifically prohibited or restricted below.

10.11.6.3.2 No solid fuel cooking and heating appliances shall be permitted to be used, kindled, or stored on any balcony.

10.11.6.3.3 No gaseous fuel cooking and heating appliances shall be used, kindled, or stored on any balcony located above grade, unless permitted to be permanently installed pursuant to its equipment listings.

10.11.6.3.4 No cooking or heating appliances shall be used, installed, kindled or stored on any fire escape balcony.

1.00: continued

10.11.6.3.5 No cooking or heating appliances shall be used, installed, kindled or stored on any balcony or deck where the balcony or deck is enclosed by a roof, walls, other than the wall of the attached building, or any covering that would prevent air circulation, unless a sprinkler system is installed in accordance with the building code, or such appliance is permitted by the manufacturer's instructions and equipment listings.

10.11.6.3.6 No equipment of any cooking and heating appliances shall be permitted to be used or stored under any overhang; less than 10' from a building; unless a sprinkler system is installed in accordance with the building code; or it is permitted by the manufacturer's instructions and equipment listings. The storage of any cooking or heating appliances under the overhang or 10 ft (3m) from a building shall be permitted only when its fuel is not present within or near any cooking or heating appliance, unless such appliance is permanently installed.

10.11.6.3.7 All appliances that are permanently installed shall be approved by the specialized code official.

Add 10.11.6.4

10.11.6.4 LP-Gas Containers (cylinders) 1-lb or Greater, Use, Placment at Dwellings.

10.11.6.4.1 Containers shall only be transported using exterior means independent from the attached building.

10.11.6.4.2 Containers shall not be placed inside or pass through any building.

10.11.6.4.3 Containers shall not be stored or obstruct ingress or egress of any building.

10.11.6.4.4 Containers having water capacities greater than 2.7 lb (1 kg) [nominal 1 lb (0.5 kg) LP-Gas capacity] shall not be located on decks or balconies of dwellings of two or more living units above the first floor unless the deck or balcony is served by exterior stairways.

Add Table 10.11.6

Table 10.11.6 Appliances - Cooking/ Heating						
Balcony See 10.11.3.2(2)				Deck, Porch. Patio. See 10.11.6.2(3)		
*NOT Permitted under overhangs, roofs or enclosed in by walls or within 10' of a building ¹ ; unless sprinklered pursuant to the building code						
Fuel	Gaseous Fuels	Solid ⁽⁷⁾ Fuels	Electric	Gaseous Fuels	Solid ⁽⁷⁾ Fuels	Electric
Type of Appliance	Cooking and Heating Appliance	Cooking and Heating Appliance	Cooking and Heating Appliances	Cooking and Heating Appliances	Cooking and Heating Appliance	Cooking and Heating Appliances
Grade	Permitted* See 10.1.7; 10.11.6.3.4 and 10.11.6.4	Not Permitted See 10.11.6.3.2	Permitted See 10.1.7 and 10.11.6.3.1	Permitted* See 10.1.7; 10.11.6.3.5 and 10.11.6.3.6	Permitted* See 10.1.7; 10.11.6.3.5 and 10.11.6.3.6	Permitted See 10.1.7; and 10.11.6.3.1
Above Grade	Not Permitted unless permanently installed* See 10.1.7; 10.11.6.3.3; 10.11.6.3.5 and 10.11.6.4					

Note 1: For the purposes of this section a structure or building is not considered the decking of a balcony, or a deck.

1.00: continued

Delete the following Sections: 10.11.8 through 10.11.8.3

Replace with the following Section:

10.11.9.1 Welding torches, tar pots, fire lanterns, and other devices, machines, or processes liable to start or cause fire shall not be operated or used in or upon any areas, except by permit from the AHJ.

Delete the following Section: 10.12.1.3

Replace with the following Section:

10.12.3.1 Enclosed stairs serving three or more stories and existing enclosed stairs serving five or more stories shall be maintained in accordance with the building code approved at the time of construction and maintenance.

Delete the following Sections: 10.12.3.1.1 through 10.12.3.1.13

Delete the following Sections: 10.12.3.2 through 10.12.3.2.2

Replace with the following Section:

10.12.3.3* Stairway Tread Marking. Where new contrasting marking is applied to stairs, such marking shall be maintained in accordance with the provisions of the building code in effect at the time of construction and maintenance.

Delete the following Section: 10.12.3.4

Add the following Sections:

10.12.4 Inner Courts Specialized Construction.

10.12.4.1 Any inner court not protected by a roof shall have a parapet or guard at least 42 inches high.

10.12.4.2 Where a roof is provided over an inner court it shall be constructed as prescribed by the building code.

10.12.4.3 Where a skylight is provided it shall support a minimum of 40 lbs. per square foot, or shall have a parapet or guard at least 42 inches high.

Replace the following title: 10.13 Vacant Buildings and Premises.

Replace with the following Section:

10.13.1 Every person owning or having charge or control of any vacant building, premises, or portion thereof shall remove all combustible storage, waste, refuse, and vegetation and shall lock, barricade, or otherwise secure the building or premises to prohibit entry by unauthorized persons pursuant to M.G. L. c. 143, §§ 6 through 14 and the building code.

Delete the following Section 10.13.1.1

Replace with the following Sections:

10.13.2 All fire protection systems shall be maintained in service in vacant buildings.

10.13.2.1 With the approval of the AHJ, fire protection and fire alarm systems in vacant buildings shall be permitted to be removed from service as provided in M.G.L. c. 148, § 27A.

10.13.2.2 When required by the AHJ, other systems or components pertaining to fire protection shall be maintained as provided in M.G.L. c. 148, § 27A.

Add the following Sections:

10.13.4 Any owner of a building who has been notified that said building shall be made safe or secure under the provisions of the building code, 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:

1.00: continued

- (a) Secure all window and door openings in accordance with the U.S. Fire Administration, 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.

10.13.4.1 Said owner, as the case may be, shall notify the Building Official that the approved method chosen to secure the building has been incorporated.

10.13.4.2 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.

10.13.4.3 The Building Official shall be supplied with records of maintenance and operation if the provisions of Section 10.13.4(2)(b) or (c) are used as provided in the building code.

10.13.4.4 The owner shall 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.

10.13.4.5 The owner shall 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.

10.13.4.6 The requirements of Section 10.13.4 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 10.13.4.

10.13.4.7 For the purposes of Section 10.13.4.6, 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.

10.13.4.8 Upon refusal or neglect of said owner to comply with such notice, any Building Official acting under the authority of the building code, shall cause to be secured all window and door openings accessible from grade in accordance with the U.S. Fire Administration, 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.

10.13.4.9 Any building which has been made to conform to the provisions of Section 10.13.4 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 the building code 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 the building code.

Add the following Sections:

10.13.5 Any building determined to be especially unsafe in case of fire, under the provisions of the building code shall be identified and caused to be marked by the Building Official, with the cooperation of the Head of the Fire Department, to indicate the degree of hazard.

10.13.5.1 In marking such buildings, the following symbols shall be used:

- ☐ This symbol shall mean that interior hazards exist to such a degree that interior operations shall be conducted with extreme caution. This symbol shall not in any way limit the discretion of the on scene Incident Commander in directing operations that the Incident Commander deems necessary.