



Docket # 571

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin  
Secretary of the Commonwealth

Notice of Compliance

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 780 CMR 1.00

CHAPTER TITLE: Administraion

AGENCY: State Board of Building Regulations and Standards

THIS REGULATION WAS ORIGINALLY ADOPTED AS AN EMERGENCY:

Published in Massachusetts Register Number: 1142 Date: 10/30/2009

PRIOR NOTIFICATION AND/OR APPROVAL - If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.

None

PUBLIC REVIEW - M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.

Date of public hearing or comment period: BBRS Public Hearing on December 8, 2009

AGENCY CONTACT: Don Finocchio PHONE: 617-727-3200, x-25206

ADDRESS: 1 Ashburton Place, Boston, MA 02108

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: [Signature] DATE: 1/15/10

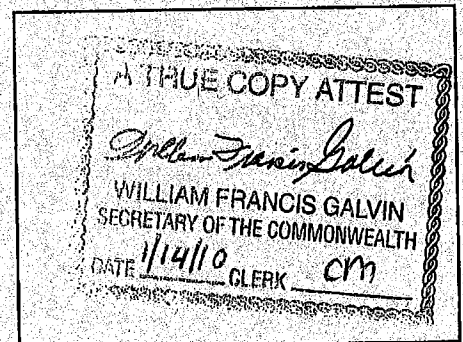
Publication - To be completed by the Regulations Division

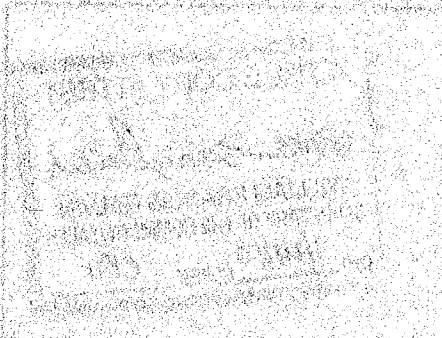
MASSACHUSETTS REGISTER NUMBER: 1149 DATE: 2/5/10

EFFECTIVE DATE: 10/16/09

CODE OF MASSACHUSETTS REGULATIONS

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entered in the files of the building department. A building official shall seek assistance from the District State Building Inspector for action under 780 CMR 109.0. Any minor modifications allowed by the building official shall be documented as part of the application, a copy of which shall be transmitted to the BBRs.

**109.3.1 Areas Prone to Flooding.** The building official shall not grant modifications to any provision related to areas prone to flooding as established by 780 CMR without the granting of a variance to such provisions by the BBRs Building Code Appeals Board as defined in 780 CMR 122.0; additionally, no variance to requirements of the Building Code can be solely utilized to argue for lawful building and structure construction/reconstruction where such construction/reconstruction would result in 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.

#### 109.4 Alternative Materials and Equipment

**109.4.1 General.** The provisions of 780 CMR are not intended to limit the appropriate use or installation of materials, appliances, equipment or preclude methods of design or construction not specifically prescribed by 780 CMR, provided that any such alternative has been approved. Alternative materials, appliances, equipment or methods of design or construction shall be approved when the building official is provided acceptable proof and has determined that said alternative is satisfactory and complies with the intent of the provisions of 780 CMR, and that said alternative is, for the purpose intended, at least the equivalent of that prescribed in 780 CMR in quality, strength, effectiveness, fire resistance, energy efficiency, durability and safety. Compliance with specific performance based provisions of 780 CMR, in lieu of a prescriptive requirement shall also be permitted as an alternate.

**109.4.2 Evidence Submitted.** The building official may require that evidence or proof be submitted to substantiate any claims that may be made regarding the proposed alternate.

**109.4.3 Tests.** Determination of acceptance shall be based on design or test methods or other such standards approved by the BBRs. In the alternative, where the BBRs has not provided specific approvals, the building official may accept, as supporting data to assist in this determination, duly authenticated engineering reports, formal reports from nationally acknowledged testing/ listing laboratories and/or reports from other accredited sources including consideration of recognized National Model Code "national evaluation reports". The costs of all tests, reports and investigations required under

780 CMR 109.4.3 shall be borne by the applicant.

**109.4.4 Approval by the Construction Materials Safety Board.** The building official may refer such matters to the Construction Materials Safety Board in accordance with 780 CMR 123.0 for approval.

#### 780 CMR 110.0 APPLICATION FOR PERMIT

**110.1 Permit Application.** 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 780 CMR without first filing a written application with the building official and obtaining the required permit therefor.

#### 110.2 Temporary Structures and Temporary Emergency Uses

**110.2.1 General.** A building permit shall be required for temporary structures, unless exempted by 780 CMR 110.3. Such permits shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.

**110.2.2 Temporary Emergency Uses:** 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 780 CMR 120.M.

**110.2.3 Special Approval.** All temporary construction shall conform to the structural strength, fire safety, means of egress, light, ventilation, energy conservation and sanitary requirements of 780 CMR as necessary to insure the public health, safety and general welfare.

**110.2.4 Termination of Approval.** The building official may terminate such special approval and order the demolition or removal of any such construction at the discretion of the building official.

**110.3 Exemptions.** A building permit is not required for the following activities, such exemption, however, shall not exempt the activity from any review or permit which may be required pursuant to other laws, by-laws, rules and regulations of other jurisdictions (*e.g.* zoning, conservation, *etc.*).

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, in the opinion of the building official, are not a threat to the public safety health or welfare and which retain less than four feet of unbalanced fill.

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4. Ordinary repairs as defined in 780 CMR 2.00. Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam, column or other loadbearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, mechanical system, fire protection system, energy conservation system or other work affecting public health or general safety.

**Note.** Also see 780 CMR 901.7.1 (Exceptions 1. and 2.) and M.G.L. 148, § 27A.

5. **Greenhouses.** A building permit or notice to the building official is not required for the construction of greenhouses covered exclusively with plastic film (in accordance with St. 1983, c. 671). (This exemption does not apply if the greenhouse is to be used for large assemblies of people or uses other than normally expected for this purpose.)

**110.4 Form of Application.** Applicants shall submit requests for building permits only on the uniform building permit application form contained in 780 CMR 120.P: *Standard Forms and Applications* or on a form that has been approved by the BBRS for such purpose (Municipal Building Permit Forms are acceptable, if, as a minimum, such Municipal Building Permit Forms contain all of the information presented in the sample Building Permit Form in 780 CMR 120.P: *Standard Forms and Applications*). The application for a permit shall be accompanied by the required fee as prescribed in 780 CMR 114.0. At a minimum, all applications shall:

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 definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in 780 CMR 110.7 and 110.8 and elsewhere in 780 CMR.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.

**110.5 By Whom Application is Made.** Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either. If application is made other than by the owner, the written authorization of the owner shall accompany the application. Such written authorization shall be signed by the owner, or shall grant permission to the

lessee to apply for the permit. The full names and addresses of the owner, lessee, applicant and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

**110.6.** The securing of a building permit by the owner, or the owner's authorized agent, to construct, reconstruct, alter, repair, demolish, remove, install equipment or change the use or occupancy of a building or structure, shall not be construed to relieve or otherwise limit the duties and responsibilities of the licensed, registered or certified individual or firm under the rules and regulations governing the issuance of such license registration or certification.

**110.7 Construction Documents.** The application for permit shall be accompanied by not less than three sets of construction documents. When 780 CMR 116.0 is applicable, only one set of construction documents need bear the original signature and original (wet) seal. The building official is permitted to waive, or modify the requirements for filing construction documents when the building official determines that the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to 780 CMR, specific information shall be given to establish such quality, and 780 CMR shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

Construction documents shall be drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the work will conform to the provisions of 780 CMR and relevant laws, ordinances, rules and regulations, as determined by the building official.

**110.7.1 Architectural Preparation of Construction Documents.** In accordance with M.G.L. c 112 § 60L, detached one- and two-family dwellings are not required to be prepared by a registered architect, except as modified by 780 CMR 110.7.3.

**110.7.2 Engineering Preparation of Construction Documents.** In accordance with M.G.L. c 112, § 81D *et seq.*, the design of any structural member which is not prescriptively identified in 780 CMR requires the services of a registered professional engineer. A building official shall require engineering plans, specifications, calculations, and/or details of sufficient clarity to indicate that such engineering work will conform to the provisions of 780 CMR and relevant laws, ordinances, rules and regulations.