



THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

**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

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*  
**This regulation addresses periodic inspections of multi-family houses and eliminates the exemption from the construction supervisor license for solar work.**

REGULATORY AUTHORITY: C. 802 of Acts of 1972, as amended and MGL C. 143 Sections 93-100

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**Compliance with M.G.L. c. 30A**

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

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.*

**DHCD and MMA, 7/10/09**

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: August 11, 2009 Public Hearing

**FISCAL EFFECT -** Estimate the fiscal effect of the public and private sectors.

For the first and second year: \_\_\_\_\_

For the first five years: \_\_\_\_\_

**May reduce municipal inspection fee income. Minor licensing cost offset by gained knowledge and reduced risk.**

No fiscal effect: \_\_\_\_\_

**SMALL BUSINESS IMPACT -** State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

**Allowing third party inspections may increase work for building inspection firms. Minor cost of construction supervisor license should be offset by gained knowledge of cost savings methods and reduced risk.**

**CODE OF MASSACHUSETTS REGULATIONS INDEX -** List key subjects that are relevant to this regulation:  
**Periodic inspections of multi-family houses and elimination of exemption from the construction supervisor license for solar work.**

**PROMULGATION -** State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

**780 CMR 106 and 108.3.5.2.**

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

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

10/21/09

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: \_\_\_\_\_

1143

DATE: \_\_\_\_\_

11/13/09

EFFECTIVE DATE: \_\_\_\_\_

11/13/09

**CODE OF MASSACHUSETTS REGULATIONS**

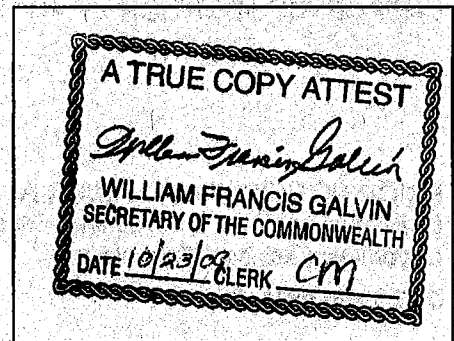
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Note: Pages to be inserted in the Commercial Code.

5, 6  
15 - 18

5, 6  
15 - 18



## TABLE OF CONTENTS - continued

<b>780 CMR 51.00 THROUGH 109.00</b> .....	501	120.I	Patio Covers .....	1009
<i>See Seventh Edition of Massachusetts Building Code for One and Two Family Dwellings</i>		120.J	Grading .....	1011
		120.K	Manufactures Housing Used as Dwellings ...	1015
		120.L	Manufactured Buildings, Manufactured Building Components and Manufactured Housing .....	1021
<b>780 CMR 110.00 SPECIAL REGULATIONS</b>		120.M	Swimming Pools, Spas and Hot Tubs .....	1025
Section		120.N	Private Sewage Disposal .....	1029
110.R1 Concrete Testing Laboratories Licensing .....	925	120.O	Sound Transmission .....	1031
110.R2 Concrete Field Testing Technician .....	929	120.P	Standard Forms and Applications .....	1033
110.R3 Manufactured Buildings, Building Components and Mobile Homes .....	931	120.Q	Recommended Fastening Schedule .....	1059
110.R4 Licensing Native Lumber Producers .....	945	120.R	Guidance for Selection of Foundation Material Classes .....	1063
110.R5 Construction Supervisors .....	947	120.S	Reference Data for Repair, Alteration, and Change of Use of Existing Buildings .....	1067
110.R6 (Reserved) .....	955	120.T	(Reserved) .....	1089
110.R7 Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors .....	967	120.U	Independent Structural Engineering Review ..	1095
		120.V	Energy Provisions .....	1097
<b>780 CMR 111.00 THROUGH 119.00 RESERVED</b>		120.W	Floor Protector Thermal Conductivity Calculations .....	1099
		120.X	Schedule of Fees .....	1101
<b>780 CMR 120.00 APPENDICES</b>		120.Y	Historic Structures .....	1105
120.A Employee Qualifications .....	981	120.Z	Design and Construction of Townhouses ...	1109
120.B Board of Appeals .....	983	120.AA	Stretch Energy Code .....	1110.1
120.C Group U Agricultural Buildings .....	985			
120.D Procedures for Establishing Temporary Emergency Use in Support of State Emergencies .....	987			
120.E Supplementary Accessibility Requirements ...	989			
120.F Rodent Proofing .....	991			
120.G Flood Resistant Construction and Construction in Coastal Dunes .....	993			
120.H Signs .....	1003			
			<i>The Index to the one- and two-family dwellings Code can be found on pages 1111 through 1120 which are included with 780 CMR 51.00 through 99.00. Those pages are not included with this basic/commercial Code 780 CMR 1.00 through 50.00.</i>	
			<b>INDEX to 780 CMR 1.00 through 50.00</b> .....	1121

780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS  
THE MASSACHUSETTS STATE BUILDING CODE

TABLE OF CONTENTS - continued

(PAGES 7 THROUGH 10 ARE RESERVED FOR FUTURE USE.)

demolition, removal, installation of equipment and the location, use, occupancy and maintenance of all buildings and structures, except as otherwise specifically provided for by statutory requirements or as provided for in 780 CMR 109.0.

**106.2 Applications and Permits.** The building official shall receive applications and issue permits for the construction, reconstruction, alteration, repair, demolition, removal or change in use or occupancy of buildings and structures; inspect the premises for which such permits have been issued and enforce compliance with the provisions of 780 CMR.

**106.3 Notices and Orders.** The building official shall issue all necessary notices or orders to ensure compliance with 780 CMR.

**106.4 Inspections.** The building official shall make such inspections as deemed necessary to ensure compliance with 780 CMR, or the building official may accept reports of inspection by qualified agencies or individuals, which reports shall be in writing and be certified by a responsible officer of such agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**106.5 Inspection and Certification of Specified Use Groups.** The building official shall periodically inspect and certify buildings and structures or parts thereof in accordance with Table 106. A building or structure shall not be occupied or continue to be occupied without the posting of a valid certificate of inspection where required by Table 106. A certificate of inspection as specified in 780CMR 106.5 shall not be issued until an inspection is made certifying that the building or structure or parts thereof complies with all the applicable requirements

of 780 CMR, and until the inspection fee, if a fee is required by the municipality, is paid.

**Exception.** Municipalities may revise or modify, or waive in part those fees for buildings and structures or parts thereof owned by the municipality, county or political subdivision thereof and for buildings and structures or parts thereof used solely for religious purposes.

**106.5.1 Annual Inspection of Any Premise Licensed by the Alcohol Beverage Control Commission - ABCC (per St. 2004 c. 304).** Any premise, licensed by the ABCC and from which alcoholic beverages are sold and are consumed on the premises, is required to be inspected annually and said annual certificate of inspection is to be signed by the Building Official and by the Head of the Fire Department.

**106.5.1.1 Issuance of a Temporary Certificate of Inspection of any Premise Licensed by the Alcohol Beverage Control Commission - ABCC (per St. 2004, c. 304).** For premises described in 780 CMR 106.5.1, a building official may issue a temporary certificate of inspection, signed by the head of the fire department; such temporary certificate of inspection shall be identified as effective to a date certain.

**106.5.1.1.2 Appeal of the Failure to Issue an Annual Certificate of Inspection of Any Premises Licensed by the Alcohol Beverage Control Commission - ABCC (per St. 2004 c. 304).** Failure by the building official to issue an annual certificate of inspection, signed by the head of the fire department, may be appealed in accordance with the requirements of 780 CMR 122.0.



780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS  
THE MASSACHUSETTS STATE BUILDING CODE

**TABLE 106**  
**REQUIRED MINIMUM INSPECTIONS AND CERTIFICATIONS FOR SPECIFIED USE GROUPS**  
(See 780 CMR 3.00 and 4.00 for complete description of use groups)

Use Group	Use Group	Use Group Description	Minimum Inspections	Maximum Certification Period
A-1	Assembly - Theaters over 400 capacity	With stage and scenery Movie Theater	Semi- Annual Semi- Annual	One Year One Year
A-1	Assembly - Theaters 400 or less capacity	With stage and scenery Movie Theater	Annual Annual	One Year One Year
A-2	Assembly - Night Clubs or similar uses	Over 400 capacity <sup>1</sup> 400 or less capacity <sup>1</sup>	Semi Annual <sup>1</sup> Annual <sup>1</sup>	One Year One Year
A-3	Assembly Lecture Halls, recreation centers, terminals, etc.	Over 400 capacity 400 or less capacity	Semi Annual Annual	One Year One Year
A-4	Assembly	low density, recreation & similar uses	Prior to issuance of each new certificate	Five Years
A-5	Assembly	Stadiums, bleachers, places of outdoor assembly	Prior to issuance of each new certificate	One Year
"A"	Special Amusement Buildings or portions thereof (780 CMR 413.0)	Special Amusement Buildings or portions thereof (780 CMR 413.7)	Annually prior to issuance of a new certification	One Year
E	Educational	Educational	Prior to issuance of each new certificate	One Year
E	Day Care	Child day care centers (see 780 CMR 4.00)	Prior to issuance of each new certificate	One Year
I-2	Institutional	Incapacitated - hospitals, nursing homes, mental hospitals, (see 780 CMR 4.00)	Prior to issuance of each new certificate	Two Years
I-3	Institutional	Restrained - prisons, jails, detention centers, etc.	Prior to issuance of each new certificate	Two Years
I-4	Institutional	Day Care Facility	Prior to issuance of each new certificate	One Year
R-1	Residential	Hotels, motels, lodging houses, dormitories, etc.	Prior to issuance of each new certificate	One Year
R-2 <sup>3</sup>	Residential	Multi family	Prior to issuance of each new certificate	Five Years
R-1	Residential Special Occupancy	Detoxification facilities (see 780 CMR 4.00)	Prior to issuance of each new certificate	Two Years
R-2	Residential Special Occupancy	Summer camps for children (see 780 CMR 4.00)	Annual	One Year
R-3 or R-4	Residential Special Occupancy	Group Residence and Limited Group Residence (see 780 CMR 4.00)	Annual	One Year
Any premise <sup>4</sup> that is licensed by the Alcohol Beverage Control Commission (ABCC) and from which alcoholic beverages are sold and consumed on the premises; per M.G.L. c. 10, § 74; also see 780 CMR 106.5.1, 106.5.1.1 and 106.5.1.1.2			Annual (per M.G.L. c. 10, § 74)	One Year (per M.G.L. c. 10, § 74)

**Notes applicable to Table 106.**

**Note 1.** When appropriate for A-2 USES, the Inspection for the Certificate of Inspection should be timed to satisfy the requirements of M.G.L. c. 10, § 74 (also see the bottom row of Table 106).

**Note 2.** Premises licensed (via the ABCC) to sell and serve alcohol on the premises include many other USES beyond A-2 USES.

**Note 3.** Inspections of buildings in this use group may be performed by a qualified third party acceptable to the Building Official, which includes, but is not limited to: registered professional engineers or architects or individuals with qualifications comparable to a building official as per 780 CMR 105.3 or 105.4.

**General.** It is the responsibility of building owners, as defined in 780 CMR 2.00, to meet the Table 106 inspection requirements for continued use or occupancy of the building.

The maximum certification period specified in Table 106 is intended to provide administrative flexibility. For those buildings and structures or parts thereof allowing more than one year maximum certification period, the building official may determine the length of validity of the certificate issued. For example, a building in the R-2 use group could be issued a certificate valid for one, two, three, four or five years.

**780 CMR 107.0 DUTIES AND POWERS OF THE STATE INSPECTOR**  
(Refer to M.G.L. c. 143 § 3A)

**107.1 The State Inspector.** In every city and town 780 CMR shall be enforced by the State Inspector of the Department of Public Safety, Division of

Inspections, as to any structures or buildings or parts thereof that are owned by the Commonwealth or any departments, commissions, agencies, or authorities of the Commonwealth. The state inspector shall have as to such buildings and structures all the powers of a building commissioner or inspector of

buildings. All buildings and structures owned by any authority established by the legislature and not owned by the Commonwealth shall be regulated in accordance with 780 CMR 106.0.

**107.2 Other Responsibilities.** The state inspector shall make periodic reviews of all local building inspection practices, provide technical assistance and advice to the local building officials in the implementation and application of 780 CMR, and report in writing his/her findings to the building officials.

**107.3 Review by the Commissioner of Public Safety.** The Commissioner of the Commonwealth of Massachusetts, Department of Public Safety shall establish districts which shall be supervised by a state inspector of the Division of Inspections. The Commissioner may review, on his own initiative, or on the application of any state inspector, any action or refusal or failure of action by any building official the result of which does not comply with the uniform implementation of 780 CMR; and may reverse, modify or annul, in whole or in part, such action except with respect to the specialized codes, provided that an order or action of the Commissioner shall not reverse, modify, annul, or contravene any order, action, determination, interpretation or any decision by the BBRS or the State Building Code Appeals Board.

**107.4 Reports.** The state inspector shall file with the BBRS reports of his periodic reviews and recommendations for improvements of building inspection practices. The format and due dates for these reports shall be determined by the BBRS.

## 780 CMR 108.0 RULES AND REGULATIONS

**108.1 Rule Making Authority.** Under authority granted by St. 1984, c. 348 as amended, M.G.L. c. 143, §§ 93 through 100, the BBRS is empowered in the interest of public safety, health and general welfare, to adopt and promulgate rules and regulations, and to interpret and implement the provisions of 780 CMR to secure the intent thereof.

**108.2 Amendments and Promulgation of Rules.** In accordance with the provisions of M.G.L. c 143, § 97, any person may propose amendments to 780 CMR (refer to 780 CMR 120.P for the proper Form for Code change proposals). Public hearings shall be held at least once each calendar year at times and locations as determined by the BBRS, and at such other times and places as the BBRS may determine, to consider petitions for such amendments. Amendments adopted by the BBRS shall be binding and have the full force and effect in all cities and towns.

**108.3 Activities Requiring Licenses, Registration or Certification.** The following activities require

special license, registration, certification and/or other approval of the BBRS. The referenced special regulations pertaining to such activities are made part of 780 CMR 35.00.

**108.3.1 Testing Laboratories.** A testing laboratory, branch laboratory and/or project laboratory shall not test concrete and/or concrete materials for use in structures subject to construction control (780 CMR 116.0) and/or controlled materials (780 CMR 17.00) unless licensed by the BBRS in accordance with 780 CMR 110.R1: *Concrete Testing Laboratories Licensing.*

**108.3.2 Field Technicians.** A person shall not engage in the activities of field testing of concrete for use in structures subject to construction control (780 CMR 116.0) and/or controlled materials (780 CMR 17.00) unless such person is licensed in accordance with 780 CMR 110.R2: *Concrete Field Testing Technician Licensing.*

**108.3.3 Manufactured Buildings.** No individual, organization or firm shall be engaged in the construction of manufactured buildings for use in the Commonwealth of Massachusetts unless approved to construct same by the BBRS in accordance with 780 CMR 110.R3: *Manufactured Buildings, Building Components and Mobile Homes.*

**108.3.4 Native Lumber.** No individual, organization or firm shall engage in the production of native lumber for use in structures within the Commonwealth of Massachusetts unless registered by the BBRS in accordance with 780 CMR 110.R4: *Use of Native Lumber.*

### 108.3.5 Licensing of Construction Supervisors.

**108.3.5.1.** Except for those structures governed by Construction Control in 780 CMR 116.0, effective July 1, 1982, no individual shall be engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by any provision of 780 CMR, unless said individual is licensed in accordance the Rules and Regulations for Licensing Construction Supervisors as set forth in 780 CMR 110.R5: *Construction Supervisors.*

All persons engaged in the supervision of the field erection of a manufactured building shall be licensed in accordance with 780 CMR 110.R5: *Construction Supervisors.*

**Exception.** Any Home Owner performing work for which a building permit is required shall be exempt from the licensing provisions of 780 CMR 108.3.5; provided that if a Home Owner engages a person(s) for hire to do such work, that such Home Owner shall act as supervisor. This exception shall not apply to the field

erection of a manufactured buildings constructed pursuant to 780 CMR 35.00 and 780 CMR 110.R3. For the purposes of 780 CMR 108.3.5, a "Homeowner" is defined as follows: Person(s) who owns a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a one or two family dwelling, attached or detached structures accessory to such use and/or farm structures. A person who constructs more than one home in a two-year period shall not be considered a home owner.

**Note:** Any Licensed Construction Supervisor who contracts to do work for a home owner shall be responsible for performing said work in accordance with 780 CMR 110.R5: *Construction Supervisors* and all reference standards and/or manufacture's recommendations, whether or not the licensed contractor secured the permit for said work.

**108.3.5.2 Exemptions from Construction Supervisor License Requirement.** A construction supervisor's license is not required for:

1. construction of above ground swimming pools, the erection of signs, the erection of tents; insulating of the building thermal envelope and the insulating of other systems or portions thereof, required by 780 CMR;
2. projects which are subject to construction control (780 CMR 116.0);
3. agricultural buildings which are not open to the public or otherwise made available for public use;
4. Massachusetts registered engineers and Massachusetts registered architects provided such engineers and/or architects comply with the Construction Supervisor oversight requirements set forth in 780 CMR R5 generally and 780 CMR R5.2.12, as applicable;
5. the practice of any trade licensed by agencies of the commonwealth (see M.G.L. c. 112, §81R), provided that any such work is within the scope of said license, including, but not limited to wiring, plumbing gas fitting, fire protection systems, pipefitting, HVAC and refrigeration equipment.

**108.3.5.3.** No municipality shall be prohibited from requiring a license for those individuals engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition in those categories of building and structures for which the BBRS does not require a license, provided that those municipalities which have established licensing requirements for construction supervisors prior to January 1, 1975, may maintain their existing licensing

requirements.

**108.3.6 Registration of Home Improvement Contractors.** In accordance with the provisions of M.G.L. c. 142A, no home improvement contractor, or organization or firm shall be involved in the improvement of any existing building unless said home improvement contractor has registered with the BBRS in accordance with the rules and regulations for the registration of Home Improvement Contractors as set forth in 780 CMR 110.R6: *Registration and Enforcement of Home Improvement Contractor Program.*

**108.3.7 Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors;** Except as allowed for conditional appointees, no individual shall perform the duties of a municipal inspectors of buildings, building commissioners or local inspectors unless certified by the BBRS as set forth in 780 CMR 110.R7: *Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors.*

**108.4 Enforcement.** Whoever violates the provisions of 780 CMR 108.0 or any rules and regulations promulgated hereunder, or who falsifies or counterfeits a license, registration or certification issued by the BBRS, or who fraudulently issues or accepts such a license, registration or certification shall be punished as provided in 780 CMR 118.0 and/or shall be subject to any other penalty provided for by law.

#### 780 CMR 109.0 APPROVAL

**109.1 Approved Materials and Equipment.** All materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

**109.2 Used Materials and Equipment.** Used materials, equipment and devices which meet the minimum requirements of 780 CMR for new materials, equipment and devices shall be permitted; however, the building official may require satisfactory proof that such materials, equipment and devices have been reconditioned, tested, and/or placed in good and proper working condition prior to approval.

**109.3 Minor Modifications.** / Wherever there are practical difficulties involved in carrying out minor provisions of 780 CMR, the building official shall have the authority to grant modifications for individual cases, provided the building official shall first find that special individual reasons make the strict letter of 780 CMR impractical and the modification is in compliance with the intent and purpose of 780 CMR and that such modification does not affect health, life, fire safety, means of egress, or structural requirements. The details of actions granting modifications shall be recorded and