

780 CMR 110.R5

CONSTRUCTION SUPERVISORS

(Note: 780 CMR 110.R5 is unique to Massachusetts)

780 CMR 110.R5 covers the licensing rules and regulations for construction supervisors as defined in 780 CMR.

780 CMR 110.R5.1 GENERAL

110.R5.1.1 Authority. As authorized by M.G.L. c. 143, § 94(g) and (i), the BBRS establishes the rules and regulations for Licensing Construction Supervisors.

110.R5.1.2 Definitions. Unless otherwise expressly stated in 780 CMR the following terms shall, for the purpose of 780 CMR 110.R5, have the meaning indicated in 780 CMR 110.R5.1.2.

BBRS. State Board of Building Regulations and Standards.

CONSTRUCTION SUPERVISOR. A person of good moral character who is deemed qualified by the BBRS and has acquired a license by methods herein prescribed in one or more of the following categories:

CATEGORIES OF LICENSE.

1. **Unrestricted Construction Supervisor License (UCSL).** An Unrestricted Construction Supervisor License allows an individual to directly supervise persons engaged in the construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by 780 CMR in respect to the following types of buildings and structures. (Such term shall also apply to persons supervising themselves.)

- (a) Buildings of any use group as defined by 780 CMR which contain less than 35,000 cubic feet (991 m³) of enclosed space;
- (b) One- and two-family dwelling buildings or any accessory building thereto, irrespective of size;
- (c) Buildings used for farm purposes;
- (d) Retaining walls less than ten feet (3048 mm) in height at all points along the wall as measured from the base of the footing to the top of the wall.

2. **Restricted Construction Supervisor License (RCSL).** A Restricted Construction Supervisor License allows an individual to directly supervise persons engaged in the construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by 780 CMR in respect to one- and two-family dwelling buildings and any accessory building thereto, irrespective of size. (Such term shall also apply to persons supervising themselves.)

A licensed construction supervisor

possessing at least a restricted category license shall be required for the installation of all manufactured one and two family homes as required by 780 CMR 51.00 through 99.00 and 780 CMR 110.R3, as applicable.

3. **Masonry Only Construction Supervisor License (MCSL).** A Masonry Only Construction Supervisor License allows an individual to directly supervise persons engaged in the construction, reconstruction, alteration, repair, removal or demolition involving the elements of fireplaces, chimneys, required means of egress stairs made of masonry, masonry retaining walls deemed to be a threat to public safety, health or welfare and that retain four feet or more of unbalanced fill, and other masonry structures for which a building permit is required, so long as such is not governed by construction control provisions of the Massachusetts Basic Building Code. Such term shall also apply to persons supervising themselves. (A masonry only license is not sufficient for the construction of masonry buildings. Supervision of such work would require possession of at least a restricted license, dependent upon the scope of work.)

4. **Roof Covering Construction Supervisor License (RCCSL).** A Roof Covering Construction Supervisor License allows an individual to directly supervise persons engaged in the installation, alteration, repair or removal of roof coverings as defined by 780 CMR on a building of any use group as defined by 780 CMR which contains less than 35,000 cubic feet of enclosed space. Such term shall also apply to persons supervising themselves. A Roof Covering License allows the licensee to work on or supervise work relating to the sheathing repair/replacement of up to 25% of the gross roof area and sistering 25% of the gross number of rafters in the roof.

5. **Window and Siding Construction Supervisor License (WCSL).** A Window and Siding Construction Supervisor License allows an individual to directly supervise persons engaged in the installation, alteration, repair or removal of windows and siding as defined by 780 CMR on a building of any use group as defined by 780 CMR which contains less than 35,000 cubic feet of enclosed space. Such term shall also apply to persons supervising themselves. A Window and Siding License does not allow the licensee to work on or supervise work relating to the structural elements of a building with the exception of sheathing repair/replacement of up to 25% of

the gross house exterior wall area and repair/replacement of damaged framing in window and door rough openings up to four feet wide.

6. Solid Fuel-Burning Appliance Installer Construction Supervisor License (SFCSL). A Solid Fuel-burning Appliance Installers License allows an individual to directly supervise persons engaged in the installation of solid fuel-burning appliances as defined by 780 CMR on a building of any use group as defined by 780 CMR which contains less than 35,000 cubic feet of enclosed space. Such term shall also apply to persons supervising themselves. A Solid Fuel-burning Appliance Installer Construction Supervisor License does not allow the licensee to work on or supervise work relating to any structural elements of a building with the exception of that required for installation of either the inlet or exhaust elements

7. Demolition Only Construction Supervisor License (DCSL). A Demolition Only Construction Supervisor License allows an individual to directly supervise persons engaged in the demolition or removal of single- and two-family residential building and accessory structures. Such term shall also apply to persons supervising themselves. (A Demolition Only Construction Supervisor License does not allow the licensee to work on or supervisor construction, reconstruction alteration or repair work relating to residential buildings. Such work would require possession of at least a restricted license, dependent upon the scope of work.)

HEARINGS OFFICER. The Hearings Officer is the person selected by the BBRS to carry out the disposition of complaints against licensed construction supervisors or other individuals or entities licensed, registered or certified under the provisions of 780 CMR.

LICENSED DESIGNEE. Any individual designated by the license holder to be present, in the absence of said license holder, during any of the periods stated in 780 CMR 110.R5.2.12. Such designee shall also hold a Construction Supervisor's License in the appropriate category (or better), but his name or license number need not be contained on the building permit application.

RECOGNITION. The approval by the BBRS of an application and related documents by one desirous of being licensed as a construction supervisor.

110.R5.1.3 Scope.

1. 780 CMR 110.R5 shall govern the testing and licensing of individuals who are found to possess the requisite qualifications to be licensed as a construction supervisor and to have charge or

control of construction, reconstruction, alteration, repair, removal or demolition of certain buildings or structures or parts thereof, as identified.

2. Except for those structures governed by Construction Control as regulated by the *Seventh Edition of the Massachusetts State Building Code*, 780 CMR 116.0 (the *Massachusetts Basic Building Code* for buildings other than one- and two-family dwellings), any individual directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving activities regulated by 780 CMR shall be licensed in an appropriate category according to 780 CMR 110.R5.2.

110.R5.1.4 Administration and Enforcement. The BBRS shall administer and enforce the provisions of 780 CMR 110.R5. The BBRS or those designated by it shall administer examinations, under 780 CMR 110.R5, of persons desirous of being registered as qualified to receive a license as a construction supervisor.

110.R5.1.5 Hearings Officer. The BBRS shall appoint a Hearings Officer or Hearings Officers and who shall serve at the pleasure of the Board. Hearings Officer(s) shall conduct hearings on behalf of the Board relative to complaints filed against CSL holders and shall issue corresponding decisions.

780 CMR 110.R5.2 REGISTRATION AND LICENSING

110.R5.2.1 Qualifications. Each applicant for license must prove to the Board that he or she possesses at least the minimum qualifications identified below for the category of license sought. Members of the Board of Building Regulations and Standards (BBRS) may consider other acceptable evidence if an applicant, for reasons beyond his or her control, is not able to provide letters of attestation as described.

1. **Unrestricted Construction Supervisor License (UCSL).** An Unrestricted Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in building construction or design under the supervision of an individual possessing an unrestricted construction supervisors license or a registered professional engineer or architect. Acceptable evidence in demonstration of this requirement shall be in the form of a letter of attestation by the licensed construction supervisor or registered professional engineer or architect indicating that the candidate possesses such minimum qualification and identifying specific projects (spanning a period of at least three years) in which the candidate was involved. Said letter shall be made part of the application to examine as described in 780 CMR 110.R5.2.6.

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. Failure to submit a renewal application and to acquire a license within this time period shall be cause for examination or reexamination.

110.R5.2.5 Fees. See 780 CMR 110.R5.3.5.

110.R5.2.6 Procedure for Obtaining a License.

110.R5.2.6.1 Application. Applications shall be submitted on forms supplied by the BBRS or its authorized agent.

110.R5.2.6.2 Forms. The applicable forms may be mailed to the appropriate testing agency as detailed in the Massachusetts Candidates Bulletin (MACS). 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 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 Notification of Examination Date. Upon receipt of a fully completed application, an examination date shall be set 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 Reprimand, Suspension or Revocation. The following shall be grounds for reprimand, suspension or revocation of a license:

- (1) the applicant made a false statement on their application for licensure;
- (2) a licensee made a false statement to the Board;
- (3) any violation of 780 CMR;
- (4) work was performed without a building permit in violation of 780 CMR 11.0 and 5111.0;
- (5) failure to fully cooperate with a Board investigation into a complaint;
- (6) failure to turn over a suspended or revoked license to the Board
- (7) failure to abide by a mandate or order of the Board
- (8) failure to properly supervise a project or be present at a work site as required by 780 CMR 110.R5.2.15.2.

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

110.R5.2.9.1 Complaints. All complaints relative to a licensee must be in writing on a form provided by the Board. Any person, including a

building official or the Board itself, may file a complaint. A complaint may allege wrongdoing against an HIC registration and a CSL holder on the same form if the issues giving rise to the filing of the complaint are reasonably related. All complaints must be received by the Board within three years of the date the parties entered into an agreement to perform the work requiring licensure pursuant to these provisions.

110.R5.2.9.1.1 Basis of Complaint. Work related to a specific building permit that is deemed to be in violation of *The Massachusetts Basic and/or One and Two-Family Dwelling Code*, 780 CMR 110R5 or the Home Improvement Contractor Registration Laws and/or regulations, 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.R5.2.9.2 Review and Investigation of Complaints. Every complaint filed shall be reviewed by the Board or its designee. If the reviewer determines that the complaint alleges plausible potential violations of 780 CMR by the licensee, a hearing shall be convened. The Board 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.

If a complaint alleges violations of the Home Improvement Contractor Act (M.G.L. c. 142A: *Regulation of Home Improvement Contractors*) and/or 780 CMR 110.R6 in addition to allegations pursuant to the provisions of 780 CMR 110.R5, one hearing may be held on all issues alleged provided that they all arise out of the same set of facts and circumstances.

Upon receipt of a complaint, the Board 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 attachments shall be mailed to the license holder with the acknowledgment letter

110.R5.2.9.3 Notice of Hearing. If the Hearings Officer or the Board determines that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the license holder. Mailing of notice to the address on record with the BBRS shall be deemed satisfactory notice to the license holder. The

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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 Board's complaint file by appointment.

110.R5.2.9.4 Hearing. Hearings convened pursuant to this chapter 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 Hearing Officer may question any witness and include any records kept by the Board as exhibits. The Hearing 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 Hearing 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 hearing 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 hearing officer may order the license holder to retake the CSL examination. Any license that is suspended or revoked shall be forwarded to the Board immediately. A person whose license is revoked may apply in writing to the Board 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 Board 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 Board 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 Board.

110.R5.2.10.1 Appeal to a Court. Any person aggrieved by a decision of the Hearings Officer or the Board 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. An Unrestricted or Restricted licensed holder 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 51.00 through 99.00, 780 CMR 110.R5 and all reference standards and/or manufacturer's recommendations, 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 dampproofing materials; and
 - g. Placement of backfill.

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

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 51.00 through 99.00.)
 - 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 (1219 mm) in height above grade.

The building official may require an unrestricted or restricted license holder 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.

Exception: Any homeowner performing work for which a building permit is required shall be exempt from the licensing provisions provided that if a homeowner engages a person(s) for hire to do such work, that such homeowner shall act as supervisor and shall be subject to all applicable provisions of 780 CMR 51.00 through 99.00 and 780 CMR 110.R5. This exception shall not apply to the field erection of manufactured buildings constructed pursuant to 780 CMR 51.00 through 99.00 and 780 CMR 110.R3. (See definition of "Homeowner" in 780 CMR 51.00.)

Note: Registered architects and/or professional engineers who secure building permits for and/or perform construction services for detached one- and two-family dwellings are not required to be licensed pursuant to 780 CMR 110.R5 provided that said registered architect or professional engineer secures such permit or performs such services under the responsibilities of his or her professional registration and supervises construction activities as prescribed by 780 CMR 110.R5.2.12.

Exception: An unrestricted or restricted licensed construction supervisor as defined shall be required for installation of manufactured one and two family homes as required by 780 CMR 110.R3.

Masonry Only Construction Supervisor License Holder (MCSL), Roof Covering Construction Supervisor License Holder (RCCSL), Window and Siding (Exterior Weather Protection) Construction Supervisor License Holder (WSCSL), or Solid Fuel-Burning Appliance Installer Construction Supervisor License Holder (SFCSL) shall be present on the job site at such times as deemed necessary to ensure compliance with the *Massachusetts Basic and/or One- and Two-Family Dwelling Code* and 780 CMR 110R5.

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. Any 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 construction, reconstruction, alteration, repair, removal or demolition of all detached one- and two-family dwellings or the field erection of any manufactured building shall be under the control of a licensed construction supervisor.

At a minimum, the license holder, as identified on the building permit application, or his or her licensed designee, shall be present on the building site to approve construction, reconstruction, alterations, removal or demolition involving the following work:

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

Note: If encountered in excavating for foundation placement, the licensed construction supervisor (or registered design professional) shall report the presence of groundwater to the building official and shall submit a report detailing methods of remediation.

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;

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- (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 and heat detectors and/or systems.
5. Special construction (including, but not limited to):
- (a) Chimneys;
 - (b) Retaining walls over four feet (1219 mm) in height above grade.

The building official may require the license holder or his or her licensed designee (or registered design professional) 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.

When required by the building official, at the completion of the work, prior to the issuance of a certificate of occupancy, the licensed construction supervisor, registered professional or homeowner, as applicable, shall submit a copy of the completed checklist contained in Appendix 780 CMR 120.P to the building official in verification that, to the best of his or her knowledge, the work has been executed in accordance with the provisions of 780 CMR.

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.R5.2.16 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 construction, reconstruction, alteration, installation repair, removal or demolition as regulated by the *Sixth Edition of the Massachusetts State Building Code*, 780 CMR 108.3.5, 780 CMR 51.00 through 99.00 and 780 CMR 110.R5 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 R5 shall include the pronoun "he" and/or "she."

780 CMR 110.R5.3 ADMINISTRATION

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

110.R5.3.2 Records of Licensees. The BBRS shall maintain a computer listing 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 Board shall determine whether an examination shall be required, or shall be oral or written and shall determine the content of the examination, if applicable.

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 this BBRS.

110.R5.3.5 Fees. Any and all fees charged for license fees, examination fees, renewal fees, and registration fees shall be determined by the Commonwealth and enforced by the BBRS. Examination fees shall be established from time to time as necessary.