

## **110.R7: CERTIFICATION**

### **OF INSPECTORS OF BUILDINGS, BUILDING COMMISSIONERS AND INSPECTORS**

### **LOCAL**

NOTE: 780 CMR 110.R7 is unique to Massachusetts.

#### **110.R7.1 GENERAL PROVISIONS**

**110.R7.1.1 Title.** 780 CMR 110.R7.

**110.R7.1.2 Definitions.** Any terms not defined in 780 CMR 110.R7 shall assume the definition of the term as used elsewhere in 780 CMR.

**REGISTRANT.** Any individual registered with the BBRS as a building official in the capacity of an inspector of buildings/building commissioner or local inspector.

**110.R7.1.3 Scope.** 780 CMR 110.R7 shall control all matters relating to qualifications and certification of all building officials engaged in or to be engaged in the administration and enforcement of 780 CMR; categories of certified building officials; procedures for application, issuance, denial and revocation of certifications; approval of training and/or educational programs offered to meet the requirements for certification; maintenance of certification through continuing education; application fees for certification; and enforcement of 780 CMR 110.R7. 780 CMR 110.R7 establishes standards and procedures for certification and requires all persons performing duties with respect to the inspection of building construction for any political subdivision within the Commonwealth to be certified as provided in 780 CMR 110.R7.

**110.R7.1.4 Powers and Duties.** The BBRS, working through its administrator and other staff, shall have the following responsibilities in addition to all others provided in 780 CMR and 780 CMR 110.R7.

**110.R7.1.4.1.** Upon recommendations from the Building Official Certification Committee (“BOCC”), established under 780 CMR 110.R7.1.5, to issue certifications to individuals deemed qualified as provided for in 780 CMR 110.R7.

**110.R7.1.4.2.** To maintain accurate records of all applications for certification and any official action thereon and to make such records available for inspection by the public at all reasonable times.

**110.R7.1.4.3.** To suspend or revoke a certification upon the establishment of grounds for discipline pursuant to 780 CMR 110.R7.4.1.5.

**110.R7.1.4.4.** Any person aggrieved by any notice, action, ruling or order of the BBRS, or the BOCC, with respect to 780 CMR 110.R7, may have a right to a hearing as provided for by law.

**110.R7.1.5 Inspector Certification Advisory Committee.** The BBRS has established the Inspector Certification Advisory Committee, known as the BOCC. The BOCC shall be supported by such staff of the BBRS as may be required for the effective operation of 780 CMR 110.R7.

**110.R7.1.5.1 Powers and Duties.** The BOCC shall have the responsibility to advise and to recommend to the BBRS on all items relating to the certification of building officials, including, but not limited to:

1. Issuing certificates.
2. Reviewing applicant credentials.
3. Maintaining applicant and certified inspector records.
4. Hearing complaints and appeals pertaining to inspector certification.
5. Reviewing and approving all courses of study, seminars, and other educational programs as deemed necessary, for continuing education requirements.
6. Monitoring all appointments to assure compliance with 780 CMR 110.R7.
7. Considering reciprocity with other states (upon petition of the BOCC on forms provided for such purpose).

**110.R7.1.5.2 Make-up of the Committee.** The BOCC shall consist of 11 members appointed by the BBRS as follows:

1. One member of the BBRS or his or her designee.
2. Nine members who are active building officials consisting of:
  - a. One member from each of the four Municipal Building Officials Associations (Southeastern Building Officials Association, Building Officials of Western Massachusetts, Massachusetts Building Commissioners and Inspectors Association, and MetroWest Building Officials Association).
  - b. Four members at large to be appointed by the BBRS, all of whom shall be recommended by the Board of Directors of the Massachusetts Federation of Building Officials.
3. One member from academia who is an educator of construction at the college level (e.g., architectural, civil, structural) to be appointed by the BBRS.
4. One member of the Massachusetts Municipal Association.

**110.R7.1.6 Categories of Certification.** Categories of certification for building officials are as follows:

**110.R7.1.6.1 Inspector of Buildings or Building Commissioner.** An individual certified as an inspector of buildings/building commissioner shall perform the duties as defined in 780 CMR and M.G.L. c. 143, as applicable.

**110.R7.1.6.2 Local Inspector.** An individual certified as a local inspector shall perform the duties as defined in 780 CMR and M.G.L. c. 143, as applicable.

**110.R7.1.6.3 Alternate Inspector of Buildings/Building Commissioner.** An alternate inspector of buildings/building commissioner shall be certified prior to appointment.

**110.R7.1.7 Building Official Appointments.**

**110.R7.1.7.1. Permanent Appointments.** No individual shall be permanently appointed to the position of inspector of buildings, building commissioner or local inspector in a municipal enforcing agency for which a certification requirement has been established by 780 CMR 110.R7, unless that individual has been deemed qualified and certified in that category by the BOCC.

EXCEPTION: Conditional appointments may be made pursuant to 780 CMR 110.R7.1.7.4.

**110.R7.1.7.2 Reporting by Appointing Authority.** Immediately following appointment, the clerk of each city or town shall report to the BBRS, the name, title and status of each new employee who is appointed as an inspector of buildings, building commissioner or local inspector. Said report shall be provided on forms as prescribed by the BBRS for said purpose and shall be submitted in attestation under the pains and penalties of perjury that said new employee meets or exceeds the minimum qualifications as defined by M.G.L. c. 143, § 3 and 780 CMR, as applicable.

**110.R7.1.7.3 Historical Note.** Any individual employed as inspector of buildings, building commissioner or local inspector and who was in office on November 12, 1992 and who was qualified in accordance with M.G.L. c. 143, § 3 to be in office at time of hire, and who presented acceptable evidence of these facts to the BBRS, shall be deemed certified in the category held on said date, and shall be provided with a certificate by the BBRS.

**110.R7.1.7.4 Conditional Appointments.** Individuals who meet or exceed the experience requirements pursuant to M.G.L. c. 143, § 3 and 780 CMR, but who are not certified under the provisions of 780 CMR 110.R7 may be appointed on a conditional basis only. If so appointed these requirements shall be met:

1. Immediately upon appointment, the city or town clerk shall report the conditional appointment to the BBRS in accordance with 780 CMR 110.R7.1.7.2.
2. Within the first six months of employment the conditional appointee shall make application to take the examination(s) required for the appropriate category of certification.
3. Within one year following the first six months of employment a conditional appointee who is appointed as an inspector of buildings/building commissioner shall attain a passing score on all of the examinations required for that category of certification.

4. Within six months following the first six months of employment a conditional appointee who is appointed as a local inspector shall attain a passing score on all of the examinations required for that category of certification.
5. In accordance with 780 CMR 110.R7.1.7.4.1, a conditional appointee may petition the BOCC in writing for an extension of time to comply with the examination schedule of 780 CMR 110.R7. Upon establishment of cause, the BOCC may grant an extension as it may consider appropriate.
6. Conditional appointees shall notify the BBRS of any change in the status of their employment, within one month of such change.
7. Any individual conditionally appointed as an inspector of buildings/building commissioner shall first be certified as a local inspector.

**110.R7.1.7.4.1 Requests for Exam Schedule Extension.** Upon written petition to the BOCC, any conditional appointee unable to comply with the examination schedule as cited in 780 CMR 110.R7.1.7.4 may for cause, be granted an extension of time in order to comply. Petitions shall be forwarded to the clerk of the BOCC on forms for such purpose, and addressed to the office of the BBRS. The conditional appointee shall state all reasons to substantiate the request for an extension of time. Conditional appointees who have not attempted the examination schedule as herein defined during the prescribed period shall not be granted an extension, and no conditional appointee shall be afforded more than three extensions of time beyond the prescribed period for the level of certification sought.

**110.R7.1.7.4.2 Notification.** The BOCC shall, within ten days of any action taken by the committee pursuant to 780 CMR 110.R7, notify the appointing authority in writing of such action.

**110.R7.1.7.4.3 Notice of Noncompliance.** Any conditional appointee who has not attained passing scores in all examinations required for certification as an inspector of buildings/building commissioner and/or local inspector and who exhausted extension time as afforded by 780 CMR 110.R7.1.7.4.1 shall be deemed to be in non-compliance with M.G.L. c. 143, § 3 and unauthorized to serve as a conditional appointee in the position for which they are not yet certified.

## **110.R7.2 REQUIREMENTS FOR INITIAL CERTIFICATION**

**110.R7.2.1 Application.** Any candidate for certification in any category of building official issued pursuant to 780 CMR 110.R7 shall submit an application to the BBRS, accompanied by the required application fee (if any), on forms provided for this purpose by the BBRS. The application shall include such information and documentation as the BBRS may require pursuant to 780 CMR 110.R7.

### **110.R7.2.2 Requirements for Certification as a Local Inspector:**

**110.R7.2.2.1 Pre-exam Approval.** All candidates shall meet or exceed the qualifications for the position of local inspector pursuant to M.G.L. c. 143, § 3 and 780 CMR prior to taking any examinations. The BOCC shall approve all candidates prior to taking any examinations and shall maintain a list of all qualified candidates for any and all city and towns appointing building officials.

**110.R7.2.2.2 Successful Examination.** All candidates shall attain a passing score in all examinations required for certification as either a Building Plans Examiner (identified as Exams 1B, 1C, 3B and 3C) or Building Inspector (identified as Exams 1A, 1B and 3B) as defined by the National Certification Program for Construction Code Inspectors (“NCPCCI”) or equivalent exam categories as approved by the BBRS for such purpose and as offered by the International Code Council (“ICC”).

**110.R7.2.2.3 Prior Approval for Examination as a Local Inspector.** No candidates shall be allowed to take said examinations without prior approval of the BBRS or the BOCC at the discretion of the BBRS.

### **110.R7.2.3 Requirements for Certification as an Inspector of Buildings/Building Commissioner.**

**110.R7.2.3.1 Pre-exam Approval.** All candidates shall meet or exceed the qualifications for the position of inspector of buildings/building commissioner pursuant to M.G.L. c. 143, § 3 and 780 CMR prior to taking any examinations. All candidates shall meet the examination requirements for certification as a local inspector pursuant to 780 CMR 110.R7.2.2.2, or hold a certification as a local inspector pursuant to 780 CMR 110.R7.2.2. The BOCC shall approve all candidates prior to taking any examinations and shall maintain a list of all qualified candidates for any and all city and towns appointing building officials.

**110.R7.2.3.2 Successful Examination.** All candidates shall attain a passing score in all examinations required for certification as a Certified Building Official as defined by the International Code Council (“ICC”) or equivalent exam categories as approved by the BBRS for such purpose and as offered by the ICC.

EXCEPTION: Candidates may choose to attend on-boarding training as approved by the BBRS and as periodically offered. Successful completion of all on-boarding training requirements, including attaining a passing score on any and all requisite examinations, may be substituted for completion of the Codes and Standards Module of the ICC certification examinations as identified above. Candidates who utilize this exception shall also attain passing scores on the ICC Legal and Management Module examinations as identified above and shall satisfy all Local Inspector certification requirements as established by 780 CMR. Candidates who utilize this exception will be issued a Massachusetts Inspector of Buildings/Building Commissioner certification (“MCBO”).

**110.R7.2.3.3 Prior Approval for Examination as an Inspector of Buildings/Building Commissioner.** No candidates shall be allowed to take said

examinations without prior approval of the BBRS, or the BOCC at the discretion of the BBRS.

**110.R7.2.4 Retired Persons.** Any person who has been duly certified in accordance with 780 CMR 110.R7 and who retires from service in good standing, may petition the committee to receive “retired status” certification. Upon approval said certification shall be denoted “retired” and shall not be deemed revoked. Revocation shall only be invoked for cause. Any person who has been approved for retired status certification and who wishes to reactivate said certification shall comply with the examination schedule as defined in 780 CMR 110.R7 for the level of certification sought.

### **110.R7.3 REQUIREMENTS FOR MAINTENANCE OF CERTIFICATION STATUS**

**110.R7.3.1 Continuing Education Requirements.** Within each three-year period following initial certification, the registrant to maintain certification shall complete 45 hours of continuing education credit acceptable to the BOCC. Conditional appointees as defined by 780 CMR 110.R7 shall attain at least one contact hour of education credit for each month of employment until such time as the conditional appointee has successfully completed the required examination schedule and is certified as prescribed.

**110.R7.3.1.1 Requirements for Energy Code Training.** Building officials shall be trained in the energy provisions of the 780 CMR every three years, corresponding with the adoption of the latest edition of the International Energy Conservation Code pursuant to M.G.L. c. 143, § 94 and policy of the BBRS.

**110.R7.3.2 Course Curriculum.** The BOCC may publish a list of acceptable educational programs, courses, seminars, and the like and may also accept educational activities in which registrants have participated after the fact, upon application and review of the course information. The BOCC shall assign credits to each educational/training event and shall issue policies and procedures, separate from 780 CMR 110.R7, relative to continuing education requirements.

**110.R7.3.3 Course Log.** Each certified individual shall maintain a record of his or her continuing education. Credit hours shall be reported to the BBRS or other approved agencies as prescribed by the policies and procedures of the BOCC, relative to continuing education. The BBRS shall maintain a record of each inspector’s progress towards completion of the 45-hour requirement. At the end of each three-year period, each inspector who has successfully attained his or her continuing education requirement shall be duly notified by the BBRS.

**110.R7.3.4 Rights and Privileges.** In accordance with M.G.L. c. 143, § 99, no building official attending BBRS required educational programs shall lose any rights relative to compensation or vacation.

### **110.R7.4 PROCEDURES FOR COMPLAINTS**

**110.R7.4.1 Complaints.**



**110.R7.4.1.1 Complaint Intake.** A complaint about a certified building official shall be in writing and shall be received and reviewed by the administrator, or his or her designee. The administrator may cause the complaint to be investigated further, dismissed for failure to assert a cognizable or actionable claim, or referred to the BOCC for a hearing on the merits. Actions taken pursuant to this section shall be left to the sound discretion of the administrator.

**110.R7.4.1.2 Notice of Hearing.** If the administrator refers a matter to the BOCC for hearing, reasonable notice of the hearing shall be provided to the certification holder. Mailing of the notice via first class mail to the address on record with the BBRS shall be deemed satisfactory notice to the holder. The notice of hearing shall contain:

1. The name of the complainant.
2. The date, time and place of said hearing.
3. The basis of the complaint.
4. Notice that the holder may review the Board's complaint file by appointment.

**110.R7.4.1.3 Hearing.** Hearings held pursuant to 780 CMR 110.R7.4.1 shall be conducted in accordance with M.G.L. c. 30A and 801 CMR 1.02:*Informal/Fair Hearing Rules*. Any party may be represented by legal counsel at such a hearing. At the hearing, the certification holder 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. Any person offering testimony at the hearing shall be sworn under oath. The BOCC may question any witness and include any records on file with the BBRS as exhibits. The BOCC may, at their discretion, conclude the hearing at any time and issue a recommended decision based on the evidence presented.

If a certification holder does not appear for the hearing, the BOCC may conduct a hearing and render a recommended decision based upon the evidence presented only after making a finding that the certification holder was provided reasonable and proper notice of the hearing as required by 780 CMR 110.R7.4.1.2.

**110.R7.4.1.4 Decisions and Discipline of Certification Holders.** The BOCC shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The decision of the BOCC shall serve as a recommendation to the BBRS and shall be promptly forwarded by the administrator to the full board for review. If after a hearing the BOCC finds that the holder has violated any provision of 780 CMR 110.R7.4.1.5, it may recommend suspension of a certification for a fixed period of time, revocation of a certification permanently, or a reprimand of the certification holder. Further, the BOCC may recommend that any order include appropriate remedial or disciplinary conditions.

Once forwarded to the BBRS, the board shall either adopt the recommendation in its entirety, adopt the recommendation with amendment, reject the recommendation in its entirety, or remand the matter to the BOCC further proceedings. A certificate

holder whose certification is revoked may apply in writing to the Board for reinstatement no sooner than one year from the date of the revocation.

**110.R7.4.1.5 Grounds for Discipline.** The following shall be grounds for discipline of a certification holder:

1. The holder has obtained a certification by fraud or misrepresentation;
2. The holder has aided or abetted in practice as a certified building official any person not authorized to practice as a certified building official under the provisions of 780 CMR 110.R7;
3. The holder has fraudulently or deceitfully practiced as a certified building official;
4. The holder has been grossly negligent or has engaged in misconduct in the performance of any of his or her duties;
5. The holder has failed to maintain continuing education requirements as specified in 780 CMR 110.R7;
6. The holder has been found to have failed to report an offer, or bribe, or other favor in a proceeding under 780 CMR 110.R7;
7. The holder has made a false or misleading statement to the BBRS, or has made a material omission in any submission to the BBRS;
8. The holder has failed to appropriately enforce the provisions of 780 CMR as prescribed by M.G.L. c. 143, § 3;
9. The holder has engaged in any conduct in violation of 780 CMR or any state or federal law rendering them unsuitable to be certified as a building official.
10. The holder has been found to have violated state ethics laws by the State Ethics Commission.
11. The holder failed to cooperate in an investigation being conducted by the BBRS or its administrator.

**110.R7.4.1.6 Appeal.** A decision made after a hearing shall be considered final when it is issued by the BBRS. Any party aggrieved by a final decision of the BBRS may appeal to superior court within 30 days of receipt thereof pursuant to M.G.L. c. 30A, § 14.

**110.R7.4.1.7 Employment of an Uncertified Individual.** In accordance with M.G.L. c. 143, § 3, no municipality may offer employment to, retain for employment or permanently appoint any individual who is not certified in accordance with 780 CMR 110.R7, except on a conditional basis in accordance with 780 CMR 110.R7.1.7.4.