

## 780 CMR SPECIAL REGULATION 110.R7

### CERTIFICATION OF INSPECTORS OF BUILDINGS, BUILDING COMMISSIONERS AND LOCAL INSPECTORS

#### FORWARD

Contained herein are the *RULES and REGULATIONS* for the certification of all inspectors of buildings, building commissioners and local inspectors (collectively referred to as building code enforcement officials) of the Board of Building Regulations and Standards (BBRS). In accordance with MGL. c. 143 §§3 and 94, the BBRS is authorized to adopt rules and regulations which govern the administration of such program.

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

**780 CMR 110.R7.1.1 Title:** *Special Regulation R7* entitled "Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors" (hereinafter collectively referred to as Building Code Enforcement Officials) is authorized and promulgated by the State Board of Building Regulations and Standards under the authority of MGL c. 143, §§ 3 and 94.

**780 CMR 110.R7.1.2 Definitions:** Any terms not herein defined shall assume the definition of the term as used elsewhere in this code (780 CMR)

**BBRS:** State Board of Building Regulations and Standards

**Registrant:** Any individual registered with the Board of Building Regulations and Standards (BBRS) as a

building code enforcement official in the capacity of an inspector of buildings/building commissioner or local inspector.

**780 CMR.R7.1.3 Scope, intent:** *Special Regulation* R7 shall control all matters relating to qualifications and certification of all building code enforcement officials engaged in or to be engaged in the administration and enforcement of this code (780 CMR), categories of certified building code enforcement 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 *Special Regulation* R7.

It is the purpose of *Special Regulation* R7 to establish standards and procedures for certification, and to require 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 *Special Regulation* R7.

**780 CMR 110.R7.1.4 Powers and Duties:** The BBRS, working through the Administrator and the Board staff, shall have the following responsibilities in addition to all others provided in 780 CMR and *Special Regulation* R7.

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

**780 CMR 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.

**780 CMR 110.R7.1.4.3** To suspend or revoke a certification provided for herein upon the establishment of good cause as defined by 780 CMR 110.R7.4.2.

**780 CMR 110.R7.1.4.4** Any person aggrieved by any notice, action, ruling or order of the Board, or the Building Official Certification Committee with respect to *Special Regulation* R7, may have a right to a hearing as provided for by law.

**780 CMR 110.R7.1.5 Inspector Certification Advisory Committee (Building Official Certification Committee):**

**780 CMR 110.R7.1.5.1:** There is hereby established in the BBRS the Inspector Certification Advisory Committee hereafter known as *the Building Official Certification Committee*. This Committee shall be supported by such staff of the BBRS as may be required for the effective operation of *Special Regulation* R7.

**780 CMR 110.R7.1.5.2 Powers and Duties:** The Building Official Certification Committee shall have the responsibility to advise and to recommend to the BBRS on all items relating to the certification of building code enforcement officials, including, but not limited to:

- a. issuing certificates
- b. reviewing applicant credentials
- c. maintaining applicant and certified inspector records
- d. hearing complaints and appeals pertaining to inspector certification
- e. reviewing and approving all courses of study, seminars, and other educational programs as deemed necessary, for continuing education requirements.
- f. monitoring all appointments to assure compliance with *Special Regulation* R7.
- g. considering reciprocity with other states (upon petition of the Building Official Certification Committee on forms provided for such purpose).

**780 CMR 110.R7.1.5.3 Make-up of the Committee:** The *Building Official Certification Committee* shall consist of nine members appointed by the BBRs as follows: (Terms of committee members are as established by lot at the March 31, 1993 meeting.)

- a. One member of the BBRs or his/her designee
- b. Six members who are active building officials consisting of:
  - One member from each of the three Municipal Building Official's Associations (Southeastern Building Officials Association, Building Officials of Western Massachusetts, Massachusetts Building Commissioners and Inspectors Association).
  - Three members at large to be appointed by the BBRs.
- c. 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.
- d. One member of the Massachusetts Municipal Association.

**780 CMR 110.R7.1.6 Categories of Certification:**

**780 CMR 110.R7.1.6.1 Categories of certification for building code enforcement officials are as follows:**

**780 CMR 110.R7.1.6.1.1 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 106, 780 CMR 5106 and MGL c. 143, *as applicable*.

**780 CMR 110.R7.1.6.1.2 Local Inspector:** An individual certified as a local inspector shall perform the duties as defined in 780 CMR 106, 780 CMR 5106 and MGL c. 143, *as applicable*.

**780 CMR 110.R7.1.6.1.3 Conditional appointment of a building code enforcement official:** A conditional appointee shall meet the requirements of 780 CMR 110.R7.1.7.4 through 780 CMR 110.1.7.6.3.

**780 CMR 110.R7.1.6.1.4 Alternate inspectors of buildings/ building commissioners:** An alternate inspector of buildings/building commissioner shall be certified prior to appointment.

**780 CMR 110.R7.1.7 Certifications required:**

**780 CMR 110.R7.1.7.1:** After November 12, 1992, 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 *Special Regulation R7*, unless that individual has been deemed qualified and certified in that category by the Building Official Certification Committee.

**780 CMR 110.R7.1.7.1.1 Conditional appointments:** Conditional appointments may be made pursuant to 780 CMR 110.R7.1.7.4, 1.7.5 and 1.7.6.

**780 CMR 110.R7.1.7.2 Reporting by appointing authorities:** 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 MGL c 143 § 3 and 780 CMR 105.3, 105.4, 5105.3 and 5105.4, as applicable.

**780 CMR 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.

**780 CMR 110.R7.1.7.4 Conditional Appointments:** After November 12, 1992, 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 *Special Regulation* R7 may be appointed on a conditional basis only.

**780 CMR 110.R7.1.7.5 Regulations for the Conditional Appointment of Building Code Enforcement Officials:**

**780 CMR 110.R7.1.7.5.1:** Any individual conditionally appointed as a building code enforcement official, on or after November 12, 1992 who is not certified in the appropriate category at the time of the conditional appointment; shall comply with the following:

- a. 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.
- b. 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 as identified in 780 CMR 110.R7.2.0.
- c. 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.
- d. 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.
- e. In accordance with 780 CMR 110.R7.1.7.6, a conditional appointee may petition the Building Official Certification Committee in writing for an extension of time to comply with the examination schedule of *Special Regulation* R7. Upon establishment of cause, the Building Official Certification Committee may grant such extensions of time as it may consider appropriate as detailed in 780 CMR 110.R7.1.7.6.

**780 CMR 110.R7.1.7.5.2:** Conditional appointees shall notify the BBRS of any change in the status of their employment, within one month of such change.

**780 CMR 110.R7.1.7.6 Requests for Extensions of Time to Comply with Examination Schedules:**

**780 CMR 110.R7.1.7.6.1:** Upon written petition to the Building Official Certification Committee, any conditional appointee unable to comply with the examination schedule as cited in 780 CMR 110.R7.1.7.5 may for cause, be granted an extension of time in order to comply. Petitions shall be forwarded to the clerk of said committee 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 (3) extensions of time beyond the prescribed period for the level of certification sought.

**780 CMR 110.R7.1.7.6.2:** The Building Official Certification Committee shall, within ten days of any action taken by the committee pursuant to *Special Regulation* R7, notify the appointing authority in

writing of such action.

## **780 CMR R7.2 Requirements for Initial Certification**

**780 CMR R7.2.1 Application:** Any candidate for certification in any category of building code enforcement official issued pursuant to *Special Regulation* 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 *Special Regulation* R7.

**780 CMR 110.R7.2.2 Building Code Enforcement Officials in Office as of November 12, 1992 (Historical Note):** Upon receipt of acceptable evidence as established by the BBRS, signed by the city or town clerk and the appointing authority in attestation that the applicant for certification was employed in the position of inspector of buildings, building commissioner or local inspector and met the qualification requirements of said position pursuant to M.G.L. c. 143, § 3 and 780 CMR as of the date of hire, the applicant shall be deemed certified in the applicable category and shall be issued a certificate. The certificate shall indicate the name of the individual and the category of certification and other information as may be deemed necessary by the BBRS.

**780 CMR 110.R7.2.3 After November 12, 1992, applicants for certification as a Building Code Enforcement Official shall meet the following requirements:**

**780 CMR 110.R7.2.4 Requirements for certification as a Local Inspector:**

**780 CMR 110.R7.2.4.1 Requirements for certification as a Local Inspector:** All candidates shall meet or exceed the qualifications for the position of local inspector pursuant to MGL c.143 § 3 and 780 CMR prior to taking any examinations. The Board of Building Regulations via the certification committee shall approve all candidates prior to taking any examinations. The certification committee shall maintain a list of all qualified candidates for any and all city and towns appointing building officials.

**780 CMR 110.R7.2.4.2:** 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).

**780 CMR 110.R7.2.4.3 Prior approval for examination as a Local Inspector:** No candidates shall be allowed to take said examinations without prior approval of the Board of Building Regulations and Standards or the certification committee at the Board's discretion.

**780 CMR 110.R7.2.5 Requirements for Certification as an Inspector of Buildings/Building Commissioner:**

**780 CMR 110.R7.2.5.1** All candidates shall meet or exceed the qualifications for the position of inspector of buildings\building commissioner pursuant to MGL c.143 § 3 and 780 CMR prior to any examinations. The Board of Building Regulations via the certification committee shall approve all candidates prior to taking any examinations. The certification committee shall maintain a list of all qualified candidates for any and all city and towns appointing building officials.

**780 CMR 110.R7.2.5.2:** All candidates shall meet the examination requirements for certification as a local inspector pursuant to 780 CMR 110. R7.2.4.2, or hold a certification as a local inspector pursuant to 780 CMR 110.R7.2.2.

**780 CMR 110.R7.2.5.3:** All candidates shall attain passing scores in all examinations required for certification as a **Certified Building Official** as defined by the Certified Building Official Program of the Council of American Building Officials (CABO) or equivalent exam categories as approved by the BBRS for such purpose and as offered by the International Code Council (ICC).

**780 110.R7.2.5.4 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 Board of Building Regulations and Standards or the certification committee at the Board's discretion.

**780 CMR 110.R7.2.6 Retired persons:** Any person who has been duly certified in accordance with *Special Regulation 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 herein defined in this regulation for the level of certification sought.

### **780 CMR 110.7.3 Requirements for Maintenance of Certification Status**

#### **780 CMR 110.R7.3.1 Continuing education:**

**780 CMR 110.R7.3.1.1:** Within each three year period following initial certification, the registrant shall complete 45 hours of continuing education credit acceptable to the Building Official Certification Committee. Conditional appointees as defined by these regulations shall attain at least one (1) 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 herein prescribed.

**780 CMR 110.R7.3.1.2:** The Committee may publish a list of acceptable educational programs, courses, seminars, and the like. The Committee may also accept educational activities in which registrants have participated after the fact, upon application and review of the course information. The Committee shall assign credits to each educational/training event. The Committee shall issue policies and procedures, separate from these regulations, relative continuing education requirements.

#### **780 CMR 110.7.3.2 Renewal of certificate:**

**780 CMR 110.R7.3.2.1 Term of certificate:** Each certified individual shall maintain a record of his/her continuing education. Credit hours shall be reported to the BBRS or other approved agencies as prescribed by the Committee's policies and procedures relative to continuing education. The BBRS shall maintain a record of each inspector's progress.

At the end of each three year period, each inspector who has successfully maintained his/her continuing education credit shall be duly notified by the BBRS.

**780 CMR 110.R7.3.3:** In accordance with M.G.L. c. 143, § 99, no building code enforcement official attending BBRS required educational programs, shall lose any rights relative to compensation or vacation.

## **780 CMR 110.R7.4 Procedures for Complaints**

### **780 CMR 110.R7.4.1 Complaints:**

**780 CMR 110.R7.4.1.1 Cause for complaint:** Any registrant who has been judged to have violated the provisions of *Special Regulation* R7 or 780 CMR by a competent court having jurisdiction or has been judged to have violated procedures as defined by the State Ethics Commission for acts pertinent to his\her performance as a certified building code enforcement official may be entitled to a hearing in accordance with M.G.L. c. 30A before the Building Official Certification Committee or subcommittee thereof in respect to retention of his\her certification.

**Exception:** The BBRs and\or members of the Building Official Certification Committee or sub-committee thereof, may convene hearings for those registrants who fail to attain continuing education credits as defined by 780 CMR 110.R7.7.3.

**780 CMR 110.R7.4.1.2 Hearings on complaints:** If a hearing is to convene, the committee shall give at least ten days notice to all those party to the complaint. The sending of notice to the address recorded on the records of the BBRs shall be deemed sufficient notice.

**780 CMR 110.R7.4.1.3 Notice of hearings:** The notice shall contain:

- a. The name of the complainant
- b. A copy of the complaint
- c. The date, time and place of said hearing.

The complete file of complaint shall be available for inspection at the office of the BBRs during regular business hours. Parties may present written or oral evidence to refute or mitigate any charge contained in the complaint and present witnesses in his/her behalf. In the event that the committee votes to take action against said certification pursuant to this hearing, the building code enforcement official, upon notice of the decision, shall immediately comply with said action.

**780 CMR 110.R7.4.1.4 Continuation of hearings:** the committee, in its discretion, may continue the date for hearing upon request by building official, the complainant or the committee itself.

**780 CMR 110.R7.4.1.5 Timing of decisions:** The committee shall make a decision within 15 days of the hearing. A written decision shall be issued within 30 days of the hearing date.

**780 CMR 110.R7.4.1.6 Decisions:** The decision shall be final and binding upon the building code enforcement official and the complainant.

**780 CMR 110.R7.4.1.7 Notice of action:** In the event that the committee votes to take action against said certification pursuant to this hearing, the building code enforcement official, upon notice of the decision, shall immediately comply with said action.

**780 CMR 110.R7.4.1.8 Appeal:** Any person aggrieved by a decision of the committee may appeal such decision to a court of law or equity in conformance with M.G.L. c. 30A, § 14.

### **780 CMR 110.R7.4.2 Revocation of certificates and alternative sanctions:**

**780 CMR 110.R7.4.2.1:** The BBRs, upon recommendation of the Committee, and subject to the requirements of Administrative Practices as defined by M.G.L. c. 30A, may suspend or revoke a

certification, or assess any other penalties as provided for by law, if it is determined that the registrant: (The following is not an exhaustive list.)

- a. Has obtained a certification by fraud or misrepresentation, or the person named in the certificate has obtained it by fraud or misrepresentation as judged by members of the Building Official Certification Committee following a hearing on such matters;
- b. Has aided or abetted in practice as a certified building code enforcement official any person not authorized to practice as a certified building code enforcement official under the provisions of *Special Regulation* R7 as judged by members of the Building Official Certification Committee following a hearing on such matters;
- c. Has fraudulently or deceitfully practiced as a certified building code enforcement official as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;
- d. Has been grossly negligent or has engaged in misconduct in the performance of any of his/her duties as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;
- e. Has failed, over a period of time, to maintain continuing education requirements as specified in *Special Regulation* R7 as judged by members of the Building Official Certification Committee following a hearing on such matters;
- f. Has been found to have failed to report an offer, or bribe, or other favor in a proceeding under *Special Regulation* R7 or other appropriate law of this or any other state or jurisdiction as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;
- g. Has made a false or misleading statement, or has made a material omission in any submission to the BBRS as judged by members of the Building Official Certification Committee following a hearing on such matters;
- h. Has failed to enforce the provisions of 780 CMR as prescribed by M.G.L. c. 143, § 3 as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters.

#### **780 CMR 110.R7.4.3 Violations and Penalties:**

**780 CMR 110.R7.4.3.1:** It shall be a violation of *Special Regulation* R7 on or after November 12, 1992, for any individual to represent himself/herself to be qualified for a position that the individual does not currently hold, or to use a title or otherwise represent himself/herself to be qualified for a position that the individual does not currently hold, or to use a title or otherwise represent himself/herself as certified or authorized to act under the 780 CMR if that individual does not possess a certificate, unless such person is appointed subject to the provisions of 780 CMR 110.R7 1.6.1.3. In addition to any other remedy available under law, such representation shall be deemed a violation of *Special Regulation* R7 and any other penalties as provided for by law.

**R7.4.3.2:** It shall be a violation of *Special Regulation* R7 on and after November 12, 1992, for any local enforcing agency to offer employment, to retain for employment or to permanently appoint any individual who is not certified in accordance *Special Regulation* R7, except on a conditional basis in accordance with 780 CMR 110.R7.1.6.1.3.

**780 CMR 110.R7.4.3.3** No person whose certification has been revoked in accordance with procedures established by *Special Regulation R7* shall approach the Board for certification or re-certification until a period of at least one year has elapsed from the date of revocation. (The date of revocation *shall be defined as the date that* appears on the written decision relating to the case.) Any person applying for certification or re-certification under these procedures shall be viewed as a first time candidate for certification and shall meet or exceed all applicable requirements of 780 CMR, *Special Regulation R7* and Massachusetts General Law pertaining to the certification process; including but not limited to minimum qualifications defined for the positions of inspector of buildings building commissioner and local inspector. In addition no person whose certification has been revoked in accordance with procedures established by *Special Regulation R7* shall approach the Board for certification or re-certification without first complying with the examination schedule as herein defined in *Special Regulation R7* for the level of certification sought. Upon review of the matter by members of the BBRS and\or members of the Building Official Certification Committee, certification may be issued or re-issued. However, the Board may permanently revoke a certification, for cause.