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Board of Building Regulations and Standards (BBRS)

October 12, 2021, Meeting

This was a virtual Microsoft Teams meeting.

Chairman Crowley opened the meeting @ approximately 10:05 a.m. and took roll call as follows.

Richard Crowley, Chair	√ present <input type="checkbox"/> absent	Kerry Dietz	√ present <input type="checkbox"/> absent
John Couture, Vice Chair	√ present <input type="checkbox"/> absent	Steve Frederickson	√ present <input type="checkbox"/> absent
Lisa Davey	√ present <input type="checkbox"/> absent	Kent Vinson	√ present <input type="checkbox"/> absent
Cheryl Lavalley**	√ present <input type="checkbox"/> absent	Layla D'Emilia*	√ present <input type="checkbox"/> absent
Michael McDowell	√ present <input type="checkbox"/> absent	Peter Ostroskey*	√ present <input type="checkbox"/> absent
Susan Gleason	√ present <input type="checkbox"/> absent	Patrick Woodcock*	√ present <input type="checkbox"/> absent

* Jen Hoyt participated as the designee for State Fire Marshal, Peter Ostroskey. Marshal Ostroskey participated in place of Jen Hoyt during the discussions and vote for the Base and Residential Codes Chapter 1. David Sullivan participated as the designee for Division of Occupational Licensure Commissioner, Layla D'Emilia. Ian Finlayson participated as the designee for Department of Energy Resources Commissioner, Patrick Woodcock.

General notes on format of these minutes

- These minutes represent general points discussed by Board members and/or attendees. The minutes are not intended to be a verbatim account of discussions.
- Votes are noted as **MOTION** by, seconded by, and whether it was a unanimous or split vote.
- Agenda topics, as numbered, may/may not be in the same order as they appear on the meeting agenda.
- The meeting agenda is listed as **EXHIBIT A**; others are listed sequentially as addresses during the meeting.

1. **BBRS Minutes.** On a **MOTION** by Michael McDowell, seconded by John Couture, it was unanimously **VOTED** by **ROLL CALL** to approve the minutes for the September 14, 2021, Board of Building and Regulations and Standards (BBRS) meeting with some typos corrected (**EXHIBIT B**). Jen Hoyt and Lisa Davey abstained.
2. **BCAB Minutes.** On a **MOTION** by, Kerry Dietz seconded by Michael McDowell, it was unanimously **VOTED**, by **ROLL CALL** to approve the August 24, 2021, and the September 2, 2021, Building Code Appeals Board (BCAB) minutes as submitted, (**EXHIBIT C**).

3. **Review\Vote** DOER IECC 2021 Code Amendments - for 10th edition CH13 and Res CH11 (**EXHIBIT D**). Ian Finlayson walked through the Base Code Chapter 13 proposed changes, and then the Residential Chapter 11 proposed changes to the 2021 IECC. The Chapter 13 proposed changes include allowing Stretch Code and IECC2021 Zero energy appendices – as optional compliance paths to achieve net-zero carbon as a compliance path. Remove MA source energy ASHRAE performance option – revert to existing site energy approach. Modify envelope backstop to allow the use of Vertical UA calculation and change formula. Reduce Commercial fenestration u-values closer to Residential levels. Modify Commercial EV ready wiring to 10% of spaces, with exceptions. C406 shifts from 3 out of 10 choices to 15 points from the C406 table of options (IECC2021 is 10 points). Max. HERS rating option update from 55 to 52 with incentives to include electric heat and PV retained for the low rise residential. PHIUS option updated from 2018 to 2021, ERI option updated to reflect new HERS levels under IECC2021. The Board discussed some concerns with the HERS folks making software changes in the past that alter how the energy code functions and that the Board can't control this from happening. Some expressed interest in having the HERS Index tied to a specific software version. Ian Finlayson talked about the HRES Index proposal being connected to the 2019 software version. The Board also discussed whether the proposed 10% EV spaces applied equally to ground parking lots and parking garages. Ian Finlayson suggested that 10% is intended to be applied the same for both types of parking arrangements.

The Chapter 11 proposed changes include: allowing the Stretch Energy Code as an optional compliance path, modifying EV ready wiring to 1 space per home, or 10% of multi-family spaces, with exceptions, HERS rating option update (from ERI 55 minus 5%) to HERS 52 and simplify language, simplify HERS rating incentives for clean energy (Table R406.5), PHIUS option updated from 2018 to 2021, Energy Star homes 3.1 option dropped, simplification of new section R408 optional requirements. Michael McDowell asked about solar hot water, and Ian Finlayson explained that the incentives for this renewable energy had been removed. State Building Inspector David Holmes suggested Section R404.4 should change from R3 to 1 and 2 family dwellings and change Town Home to Town Houses. The Board discussed sending the proposals to EAC. Most felt that because all of the highly technical energy provisions are now DOER's responsibility, the Board is in a position to make the decisions about adopting these proposals. On a **MOTION** by, Jen Hoyt seconded by Lisa Davey, it was unanimously **VOTED**, by **ROLL CALL** to table both proposals to give DOER time to make the changes discussed.

The Board took a 10-minute brake at 11:41 and resumed the meeting by taking Roll Call at about 11:54.

4. **Discuss\ Vote** 10th edition. Marshal Ostroskey informed the Board that he would site for himself for this agenda item. Dan Walsh explained that the Chapter 1 proposals displayed have been updated to include two proposals Michael McDowell would like the Board to consider (**EXHIBIT E**). In 102.6.1 Laws in Effect, Michael McDowell proposes that the Board does not adopt “unless proven otherwise” and use “shall be” instead of “has been.” He believes the language will cause some unintended consequences during enforcement situations. The discussion included the provision that applies to the entire building as opposed to the Occupancy Permit.

On a **MOTION** by, Michael McDowell seconded by John Couture, to strike “unless proven otherwise” in 102.6.1 the motion failed by an 8 to 3 **VOTE** by **ROLL CALL**. John Couture, Cheryl Lavalley Michael McDowell voted in the affirmative. Lisa Davey, Kerry Dietz, Steve Fredrickson, Susan Gleason, Kent Vinson, Dave Sullivan, Marshal Ostroskey, and Ian Finlayson voted in the negative.

On a **MOTION** by, Steve Fredrickson seconded by Michael McDowell, to use “shall be” and not “has been” in 102.6.1 the motion failed, 7 nos', 4 yes by a **ROLL CALL VOTE**. John Couture, Lisa Davey, Kerry Dietz, Susan

Gleason, Kent Vinson, Dave Sullivan, Marshal Ostroskey, voted in the negative. Steve Fredrickson, Cheryl Lavalley, Michael McDowell, and Ian Finlayson voted in the affirmative.

Next, the Board discussed 104.4 Inspections. Michael McDowell proposed to add, "If requested by the permit holder the building official must provide written documentation of the code section(s) found to be in violation." He explained that in some instances, building officials don't provide their determinations in writing so the holder of the building permit can understand the code issues. The discussion included putting the language in more than one location.

On a **MOTION** by, Michael McDowell seconded by Kerry Dietz, it was unanimously **VOTED**, by **ROLL CALL** to adopt in Section 104.4 "If requested by the permit holder the building official must provide written documentation of the code section(s) found to be in violation", and have staff add to any other part of chapter 1 that will make clear the need to provide determinations in writing. Staff confirmed this would also be added to the 1 and 2 Family Dwelling Code.

Next, the Board discussed two versions for 101.4.5 Fire Prevention. Both appear in the Base Code and the Residential Chapter 1 drafts. The first version was presented by OPSI State Building Inspector Gordon Bailey at the Board's August meeting and resulted from suggestions offered by Municipal and State Building Inspectors. The proposal amends the 9th edition language, and their recommended changes appear in red font.

101.4.5 Fire Prevention. "Reference to sections of the *International Fire Code* (IFC) for fire prevention requirements shall be considered reference to 527 CMR: *Board of Fire Prevention Regulations*. The fire official enforces the provisions of 527 CMR. Reference to **specific** sections of the *International Fire Code* ("*IFC*") for building code requirements are adopted **and enforced by the building official**, except that retroactive requirement of the *IFC* are not adopted. The *building official* enforces 780 CMR and all **specifically** adopted **construction requirements of the IFC**. Modifications, alterations, additions, or deletions to fire protection systems, **are including any and all** changes which affect the performance of the fire protection system, **are permitted pursuant to 780 CMR**. Such changes require a **building** permit **pursuant to 780 CMR** and **are may be** subject to other permitting requirements pursuant to applicable provisions of M.G.L. c.148,§ 27A."

The second 101.4.5 proposal is the most recent DFS proposal.

101.4.5 Fire Prevention. "Reference to sections of the *International Fire Code* (IFC) shall be considered reference to 527 CMR: *Board of Fire Prevention Regulations*. The fire official enforces the provisions of 527 CMR. Where 527 CMR does not regulate certain matters of fire prevention then the applicable language of the IFC shall be extracted into this code as noted below. Modifications, alterations, additions or deletions to fire protections systems are any changes which affect the performance of the fire protection system. Such changes require a building permit and are subject to other permitting requirements pursuant to applicable provisions of MGL Ch 148 27A".

Marshal Ostroskey explained his proposal resolves issues the ninth edition language has caused when 527 CMR needs to be considered first by users of the state building code. He spoke about some general laws that give 527 CMR authority to regulate the design and construction related to buildings and structures. Chairman Crowley talked about the importance of removing conflict between the State Building Code and 527 CMR. Board Counsel Kristina Gasson spoke about DOL, and DFS General Counsels have met about the DFS proposal. It's up to the Board which version it prefers.

On a **MOTION** by, Marshal Ostroskey seconded by Kent Vinson, it was unanimously **VOTED**, by **ROLL CALL** to adopt the 101.4.5 version proposed by DFS for the 10th edition.

On a **MOTION** by, Marshal Ostroskey seconded by Kent Vinson, it was unanimously **VOTED**, by **ROLL CALL** to adopt the 10th edition proposed Chapter 1 versions discussed today. Base Code and Residential Code and to put both Codes on the website. Marshal Ostroskey asked that staff make Technical Advisory Committees aware of today's decision by the Board related to Section 101.4.5 Fire Prevention.

5. **Discuss** 98 new Construction Supervisor Licenses (CSLs) issued in the month of September 2021. Board members acknowledged the number of newly issued CSLs.
6. **Discuss** other matters not reasonably anticipated 48 hours in advance of meeting. Kerry Dietz spoke about receiving messages about state employees having to provide vaccine verification and asked if board members are considered state employees for this purpose. Board Counsel Kristina Gasson explained that Board members are considered state employees, and when more information about providing individual verification is known, she will make sure everyone receives the information.
7. **Adjourn Session.** On a **MOTION** by Michael McDowell, seconded by Marshal Ostroskey, it was unanimously **VOTED** by **ROLL CALL** to adjourn the meeting @ approximately 12:58 p.m.

EXHIBITS:

- A. Meeting Agenda.
- B. September 14, 2021, Board of Building and Regulations and Standards (BBRS) meeting minutes.
- C. August 24, 2021, and the September 2, 2021, Building Code Appeals Board (BCAB) minutes.
- D. IECC2021 MA amendments redline Commercial Chapter, and IECC2021 MA amendments redline Residential Chapter.
- E. 10th 780 CMR Base code Chapter 1 DRAFT 10-12-2021 B and 10th 780 CMR Residential Chapter 1 Draft 10-12-2021 B.