



# Commonwealth of Massachusetts

*The Office of Public Safety and Inspections*

*News from the Board of Building Regulations and Standards*

The Board of Building Regulations and Standards (BBRS) at their October meeting took action to clarify the 9th edition IBC, Mass. Amendment Section 310.5.1 language by removing the need for an automatic fire sprinkler system which is tied exclusively to a use involving five or fewer persons receiving custodial care occupying in single-family dwellings licensed Department of Developmental Services (DDS) meeting the requirements of 115 CMR 7.00 and licensed Department of Mental Health (DMH) meeting the requirements of 104 CMR 28.00. The BBRS clarified this use by itself does not require fire sprinklers. Since the current language in the IBC is somewhat confusing and contradictory, the BBRS voted to amend the language in subsection 308.3.4, Five or Fewer Persons Receiving Custodial Care as follows:

**308.3.4 Five or Fewer Persons Receiving Custodial Care.** A facility with five or fewer persons receiving custodial care shall not be governed by the Institutional Use Group but shall instead be governed by one of the following options:

1. Use Group R-3; or

2. 780 CMR 51.00: *The Massachusetts Residential Code* in conjunction with one of the following additional safety criteria:

a. The installation of a fire protection system in compliance with 780 CMR 903.3.1.3;

b. A valid license for the providers of custodial care issued by the Department of Developmental Services which requires full compliance with the safety requirements of 115 CMR 7.00: *Standards for all Services and Supports*; or

c. A valid license for the providers of custodial care issued by the Department of Mental Health which requires full compliance with the safety requirements of 104 CMR 28.00: *Licensing and Operational Standards for Community Services*.

While the newly amended language continues through the promulgation process, the BBRS delegated the DPL Commissioner or her designee the authority to grant variances without the need for a hearing for licensed DDS and DMH uses conforming to the newly voted requirements appearing in subsection 308.3.4.

The variance process for utilizing the updated subsection 308.3.4 language does require the local municipal building commissioner/ inspector of buildings to write a denial letter. For situations narrow to the need for fire sprinklers because of the current 9th edition, IBC amended language; the BCAB application will be different than the typical BCAB application, which involves a hearing. Applicants should email Patty Barry [Patty.Barry@mass.gov](mailto:Patty.Barry@mass.gov) to obtain the unique variance application. Questions or concerns about this process should be directed to Dan Walsh, 617-826-5236, or [dan.p.wash@mass.gov](mailto:dan.p.wash@mass.gov).

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