

CITY OF NEW BEDFORD, MASSACHUSETTS  
INSPECTIONAL SERVICES

REVISED

CEASE AND DESIST ORDER

DATE: MAY 18, 2016

To: ANTHONY R. DECOSTA  
1861 SHAWMUT AVE.  
NEW BEDFORD, MA. 02747

*True Copy*  
*Constable*  
*5/18/16*

Re: Violations existing at:  
1861 SHAWMUT AVE. PLOT 124 LOT 27  
NEW BEDFORD, MA. 02747

Pursuant to the provisions of the New Bedford Zoning Ordinances and the Massachusetts State Building Codes, you, as Owner, agent, lessee, or operator of the above premises are hereby ordered to **CEASE AND DESIST** all operations of the business located at the above address on or before 10:00 A.M., Friday May 20, 2016.

This cease and desist order is issued as a result of the following violations of the City of New Bedford Ordinances and Massachusetts State Building Code:

1(a) You have failed to obtain a building permit for any structures associated with, or the operation of, A-1 Asphalt Co., Inc. in violation of New Bedford Ordinance Chapter 6 (Buildings and Other Structures) Sections 6-28 (c) permit, 6-32 (a+ b) Certificate of occupancy, Chapter 9 (Comprehensive Zoning) Sections 5000 (Administration and Procedures), 5100 (Administration), 5110 (Permits), 5120 (Enforcement), 5130 (Penalties), M.G.L Chapter 40 A §7, and any and all prior ordinances which require a building permit.

1(b) You failed to obtain the required permit for a contractor's yard, specifically including but not limited to Section 105.3 subsection 3 which states in part that an applicant must "Indicate the use and occupancy for which the proposed work is intended" in violation of the Massachusetts State Building Code IBC Massachusetts Amendments 780 CMR Sections 105-105.8

2. The rock and concrete crushing operations and the crushing and recycling of other materials are not permitted activities in a contractor's yard as defined in the Code of Ordinances. The Code of Ordinances defines a contractor's yard as "land used for the storage of commercial construction equipment, materials, and supplies and for the parking of registered commercial vehicles."

**YOU MUST CEASE AND DESIST ALL OPERATIONS UNTIL A BUILDING PERMIT IS OBTAINED**

The operation of A1 Asphalt is in violation of the ordinances and has resulted in substantial quality of life issues to the neighbors located in the proximity to A1's operation, including but not limited to the following: Equipment on the A-1 site are crushing and recycling materials making noise and vibrating the ground and homes in this area. Dust and dirt are constantly settling on neighbor's properties, vehicles, and inside their homes making it impossible

to open the windows or enjoy their yards and making it dangerous for children to play. These are a few of the quality of life issues that have resulted in your violation of the City of New Bedford Ordinances.

You are also notified that inspection will be made on or after the cease and desist date ordered above and on an ongoing basis thereafter to ascertain whether or not this order has been complied with. You will be subject to the penalties established by the revised municipal ordinances of the City of New Bedford and the Massachusetts State Building Code if you are not in compliance with this order. This order may be appealed to the Board of Appeals, Room 303, Municipal Building, within thirty (30) days of receipt of this Order.

Notice is hereby given that violations of the Zoning and Building Sections of the Municipal or State Codes, as amended, exist on the above mentioned premises. The violations are as follows and specifically are violations of the following sections of the aforementioned codes and amending ordinances:

### VIOLATIONS

<u>Sections</u>	<u>Chapter 9 Comprehensive Zoning</u>	<u>Reference</u>
2200	Use Regulations	New Bedford Zoning Ordinance
2210	General	New Bedford Zoning Ordinance
2230	Table of Use Regulations Appendix A (D) Industrial #1	New Bedford Zoning Ordinance
2230	Table of Use Regulations Appendix A (D) Industrial #11	New Bedford Zoning Ordinance
2230	Table of Use Regulations Appendix A (D) Industrial #12	New Bedford Zoning Ordinance
2230	Table of Use Regulations Appendix A (D) Industrial #13	New Bedford Zoning Ordinance
2230	Table of Use Regulations Appendix A (D) Industrial #14	New Bedford Zoning Ordinance
2230	Table of Use Regulations Appendix A (D) Industrial #15	New Bedford Zoning Ordinance
2230	Table of Use Regulations Appendix A (D) Industrial #18	New Bedford Zoning Ordinance
5000	Administration and Procedures	New Bedford Zoning Ordinance
5100	Administration	New Bedford Zoning Ordinance
5110	Permits	New Bedford Zoning Ordinance
5120	Enforcement	New Bedford Zoning Ordinance
5130	Penalties	New Bedford Zoning Ordinance
5220	Powers	New Bedford Zoning Ordinance
5222	The Board of Appeals may not grant use variances	New Bedford Zoning Ordinance
<u>Sections</u>	<u>Chapter 6 Buildings and Other Structures</u>	<u>Reference</u>
6-28 (c)	Permit	New Bedford Zoning Ordinance
6-32 (a+b)	Certificate of Occupancy	New Bedford Zoning Ordinance

M.G.L Chapter 40 A §7, and any and all prior ordinances which require a building permit.

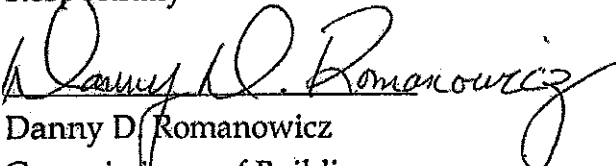
Failure to comply may result in a fine of \$1000.00 and imprisonment for not more than a year or both for each such violation. Each day during which a violation exists shall constitute a separate offense.

(M.G.L. Chapter 143 Section 94). Alternatively, you may be fined under the following City Ordinance:

Section 5130 Penalties. The penalty for violation of any provision of this Ordinance, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the Planning Board acting as site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

New Bedford Ordinance Chapter 9 Comprehensive Zoning

Respectfully

  
Danny D Romanowicz  
Commissioner of Buildings

#### PROOF OF SERVICE

On May 18, 2016 I served a copy of the above CEASE AND DESIST ORDER upon  
The within name ANTHONY R. DECOSTA

In the following manner: Delivered by Constable

Dated: 5/18/2016

Cc: City Solicitor

General file

Building Commissioner

**2200. - USE REGULATIONS.**

**2210. General.** No structure shall be erected or used or land used except as set forth in Section 2230, "**Table of Use Regulations**", unless otherwise provided by this Ordinance or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a lot, except in accordance with Section 2330.

Symbols employed below shall mean the following:

Y - A permitted use.

N - An excluded or prohibited use.

BA - A use authorized under special permit from the Board of Appeals as provided under Section 5300.

CC - A use authorized under special permit from the City Council as provided under Section 5300.

PB - A use authorized under special permit from the Planning Board as provided under Section 5300.

**2220. Applicability.** When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

**2230. Table of Use Regulations.** See Appendix A.

(Ord. of 12-23-03, § 1)

19. Motor vehicle general repairs	N	N	N	N	CC	CC	N	CC	N	Y	N
20. Motor Vehicle body repairs	N	N	N	N	N	N	N	CC	N	N	N
21. Motor vehicle light service	N	N	N	N	CC	CC	CC	CC	N	CC	N
22. Restaurant	N	N	N	N	Y	Y	Y	N	SP	Y	Y
23. Restaurant, fast-food	N	N	N	N	BA	BA	BA	N	N	BA	BA
24. Business or professional office	N	N	N	N	Y	Y	Y	N	Y	Y	Y
25. Medical offices, center, or clinic	N	N	N	N	BA	BA	BA	N	BA	BA	Y
26. Bank, financial agency	N	N	N	N	Y	Y	Y	N	Y	Y	Y
27. Indoor commercial recreation	N	N	N	N	Y	Y	Y	N	N	Y	Y
28. Outdoor commercial recreation	N	N	N	N	BA	BA	BA	N	BA	BA	BA
29. Wireless Communications Facilities	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
30. Theatres and auditoriums	N	N	N	N	PB	PB	N	N	N	N	PB
31. Convention Centers	M	M	M	M	PB	PB	PB	PB	PB	N	PB

<b>D. Industrial</b>	<b>RA</b>	<b>RB</b>	<b>RC</b>	<b>RAA</b>	<b>MUB</b>	<b>PB</b>	<b>IA</b>	<b>IB</b>	<b>IC</b>	<b>WI</b>	<b>KHTOD</b>
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1. Earth removal	N	N	N	N	N	N	N	N	N	N	N
2. Manufacturing	N	N	N	N	N	N	Y	Y	Y	Y	N
3. Light manufacturing	N	N	N	N	N	N	Y	Y	Y	Y	Y
4. Research, development or testing laboratories and facilities	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
5. Biotechnology facilities	N	N	N	N	N	Y	Y	Y	Y	Y	Y
6. Medical devices manufacturing	N	N	N	N	N	Y	Y	Y	Y	Y	Y
7. Fish processing	N	N	N	N	N	N	N	N	N	Y	N
8. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	N	N	N	N	N	N	Y	Y	Y	Y	N
9. Transportation terminal	N	N	N	N	N	N	Y	Y	Y	Y	Y
10. Water freight terminal	N	N	N	N	N	N	N	N	N	Y	N

<p>11. Businesses engaged in the sale, distribution or storage of grain, petroleum products, building materials and industrial machinery provided that such businesses shall be primarily reliant upon a waterfront location or shall be in direct support of an industrial use which requires a waterfront location</p>	N	N	N	N	N	N	N	N	N	Y	N
<p>12. Businesses engaged in the sale, distribution or storage of grain, petroleum products, building materials and industrial machinery</p>	N	N	N	N	N	N	CC	N	N	N	N
<p>13. Businesses engaged in salvaging, dismantling and reprocessing of scrap and waste materials including building materials, motor vehicles, machinery and equipment, paper, rags or any other discarded material, provided that such business shall be primarily reliant upon a waterfront location</p>	N	N	N	N	N	N	N	N	N	Y	N

14. Junkyard or automobile graveyard	N	N	N	N	N	N	N	N	N	N	N
15. Contractor's yard	N	N	N	N	N	N	Y	Y	N	N	N
16. Low-level radioactive or nuclear waste facility	N	N	N	N	N	N	N	N	N	N	N
17. Tire recycling & re-treading	N	N	N	N	N	N	N	N	N	N	N
18. Batch asphalt & concrete plants	N	N	N	N	N	N	N	CC	N	N	N

(Ord. of 12-23-03, § 1; Ord. of 12-8-05, §§ 2-4; Ord. of 3-16-11, § 1; Ord. of 10-8-13, § 2; Ord. of 1-20-15, § 3; Ord. of 3-26-15)



SECTION 1000. PURPOSE, AUTHORITY, AND DEFINITIONS.

a radius of 1 mile from any property used as a pawnbroker establishment. No permit previously granted shall be revoked or subject to new conditions due solely to the location of any school, child care facility or Church within the circumscribed area subsequent to the special permit being granted.

(Ord. of 6-18-13, § 1)

**4740A. Measurement of Radius.** The radius distance shall be measured by following a straight line from the nearest point of the property parcel upon which the proposed pawnbroker establishment is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed establishment is to be separated. In the case of the distance between pawnbrokers establishments such distances shall be measured between the closest points of the buildings in which such uses are located.

(Ord. of 6-18-13, § 1)

**4750A. Reserved.**

**SECTION 5000. ADMINISTRATION AND PROCEDURES.**

5100. ADMINISTRATION.

5200. ZONING BOARD OF APPEALS.

5300. SPECIAL PERMITS.

5400. SITE PLAN REVIEW.

5500. AMENDMENTS.

5600. APPLICABILITY.

5700. PLANNING MORATORIUM.

5800—8999. RESERVED.

9000. SEPARABILITY.

**5100. ADMINISTRATION.**

**5110. Permits.** This ordinance shall be administered by the Inspector of Buildings. Pursuant to the State Building Code, the Inspector of Buildings may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth and may request advisory reviews by other municipal boards and officials. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed with regard to size or shape or principal use except in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification.

(Ord. of 12-23-03, § 1)

- CODE OF ORDINANCES  
Chapter 9 - COMPREHENSIVE ZONING

SECTION 1000. PURPOSE, AUTHORITY, AND DEFINITIONS.

**5120. Enforcement.** The Inspector of Buildings shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Ordinance and of permits, special permits, variances, and site plan approval issued thereunder.

(Ord. of 12-23-03, § 1)

**5130. Penalties.** The penalty for violation of any provision of this Ordinance, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the Planning Board acting as site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

(Ord. of 12-23-03, § 1)

**State law reference—** Enforcement of zoning regulations and penalties for violations, M.G.L.A. c. 40A, § 7.

**5200. ZONING BOARD OF APPEALS.**

**5210. Establishment.** The Zoning Board of Appeals (sometimes referred to as the Board of Appeals herein) shall consist of five (5) persons who shall be appointed by the mayor and confirmed by the City Council. One member shall be appointed annually in the month of January to serve for a term of five (5) years or until a successor is duly appointed, confirmed and qualified. Vacancies shall be filled in the manner as provided for original appointments. All members of the Board shall be residents of the City. Each member shall be paid at the rate of twenty dollars (\$20.00) per meeting attended, but in no event shall any member receive in excess of five hundred dollars (\$500.00) in any fiscal year.

**5211.** In case of a vacancy, inability to act, or interest on the part of a member of the Board of Appeals, such member's place shall be taken by an associate member designated by the presiding member of the Board. There shall be five (5) associate members of the Board of Appeals, who shall be appointed by the mayor and confirmed by the City Council. Annually in the month of January, one member shall be appointed for a term of five (5) years. Vacancies shall be filled in the manner as provided for original appointments. All associate members of the Board of Appeals shall be residents of the City. Each associate member shall be paid at the rate of twenty dollars (\$20.00) per meeting attended, as a member replacing an absent member, and only when acting in that capacity according to the first sentence of this subsection; but in no event shall any associate member receive in excess of five hundred dollars (\$500.00) in any fiscal year.

(Ord. of 12-23-03, § 1)

**5220. Powers.** The Board of Appeals shall have and exercise all the powers granted to it by M.G.L.A. c. 40A, c. 40B, and c. 41 and by this Ordinance. The Board's powers are as follows:

**5221.** To hear and decide applications for special permits. Where specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 5300, or as otherwise specified.

**5222.** To hear and decide appeals or petitions for variances from the terms of this Ordinance, with respect to particular land or structures, as set forth in M.G.L.A. c. 40A, § 10. The Board of Appeals may not grant use variances.

**5223.** To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. c. 40A, §§ 7, 8 and 15.

**State Law Reference**—Inspectors of plumbing, M.G.L.A. c. 142, § 11.

**Sec. 6-26. Inspector of gas piping—Appointment; duties.**

The inspector of buildings shall appoint an inspector of gas piping and gas appliances in buildings, whose duty shall be the enforcement of the rules and regulations as provided in section 13 of Chapter 142 of the Massachusetts General Laws and the state building code.

(Code 1963, § 3-505A; Ord. of 10-8-92, § 7)

**State Law References**—Designation, etc., of inspector of gas piping and gas appliances, M.G.L.A. c. 143, § 30; gas fitting rules, M.G.L.A. c. 142, § 13.

**Sec. 6-27. Same-Inspection of gas appliances and gas piping.**

(a) No person shall construct, add or alter any portion of the gas piping of any building until a notice, on such forms as the building department shall prescribe, has been received at the office of the inspector of gas piping and appliances. All new installations of gas piping shall require inspection and shall be tested in such a manner as prescribed by the inspector.

(b) All replacements of gas piping or gas appliances (except wherein not more than one gas appliance is involved) shall require inspection and test as prescribed in subsection (a) above. A detailed sketch of the work, showing pipe sizes and applications to be installed may be required. When a test is required, the gas fitter shall notify the inspector when the work is ready for test. Upon completion of all other installations the gas fitter shall notify the inspector. New installations or extensions of existing installations shall not be permitted to be used until approved by the inspector, and so designated in a manner as the inspector shall prescribe.

(Code 1963, § 3-505A; Ord. of 10-8-92, § 1)

**Sec. 6-28. Examination of buildings generally; right of entry; permit.**

(a) The inspector of buildings shall cause to be examined all buildings in the course of erection or alteration.

(b) The inspector of buildings, or the representative of the inspector of buildings and any member of the board of appeals may enter any building or any premises and reasonable means of access shall be provided to all parts of buildings so far as may be necessary for the performance of duties under the terms of this chapter.

(c) No building shall be constructed, reconstructed, altered, repaired, removed or demolished, or changed as to the use or occupancy thereof, nor shall any equipment for which provision is made or installation of which is regulated by the building code, be installed or altered without first filing a written application with the building official and obtaining the required permit therefor, in accordance with the provisions of the state building code (780 CMR), sections 113, 114 and 115.

(d) Any violation of this section shall be punished by a fine of not less than fifty dollars (\$50.00) for the first violation, and of a fine of not less than one hundred dollars (\$100.00) for each subsequent violation. Said fine shall be paid directly to the city treasurer.

(e) No building permit shall be issued for any parcel of property unless the applicant first provides a clean municipal lien certificate showing no outstanding liens, (water, sewer, real estate taxes or betterments or otherwise) prior to being eligible for said building permit except in the event of an emergency or court ordered repair.

(Code 1963, § 3-512; Ord. of 5-12-83, § 1; Ord. of 10-8-92, § 1; Ord. of 10-24-02, § 1; Ord of 7-21-03, § 8)

(Ord. of 9-14-89, § 1; Ord. of 10-8-92, § 1)

**Sec. 6-30. Cessation of work in case of danger; closing sidewalks or streets.**

If the inspector of buildings considers that danger to life or property exists by reason of any defective work or work in violation of any provisions of law or ordinance, during the construction, alteration, repair, moving or demolition of any building, such officer shall order all work to cease and the building to be vacated forthwith and shall cause such work to be done in and about the building as in such officer's judgment may be necessary to remove all danger. In the interest of public safety the inspector of buildings may temporarily close the sidewalks or streets adjacent to said building.

(Code 1963, § 3-513; Ord. of 10-8-92, § 1; Ord of 7-21-03, § 9)

**Sec. 6-31. Record and report of departmental business.**

The inspector of buildings shall cause to be kept a record of the business of the building division of the inspectional services department and shall report building information to the commissioner of inspectional services. Said information shall be included in the inspectional services department's annual report.

(Code 1963, § 3-511; Ord. of 10-8-92, § 1; Ord of 7-21-03, § 10)

**Sec. 6-32. Certificate of occupancy.**

(a) It shall be unlawful for the owner to use or permit the use of any building or premises or part thereof hereafter erected or enlarged, or to use or permit the use of any building or premises or part thereof hereafter changed to a different use, until a certificate of occupancy shall have been issued to the owner by the inspector of buildings. Such certificate shall show that such building or premises, or part thereof and the proposed use thereof, are in conformity with the provisions of this chapter and of the building code.

(Ord. of 11-30-04, § 1)

(b) All certificates of occupancy issued by the inspector of buildings shall bear the signatures of the inspector of buildings, the commissioner of the public infrastructure department, the local building inspector, the city engineer, the wire inspector, the chief of the fire department, the chief plumbing and gas inspector, the chief sanitarian, the city planner, and the conservation commission, indicating that the building or premises complies with all the rules, regulations, laws, ordinances and codes administered and enforced by these departments, before such certificates of occupancy are issued and deemed effective.

(Ord. of 11-30-04, § 1)

(c) No certificate of occupancy shall be issued for any dwelling in a development until the developer has had the streets brought up to grade and paved.

(Ord. of 4-9-04, § 1)

**PART I ADMINISTRATION OF THE GOVERNMENT****TITLE VII CITIES, TOWNS AND DISTRICTS****CHAPTER 40A ZONING****Section 7 Enforcement of zoning regulations; violations; penalties; jurisdiction of superior court**

Section 7. The inspector of buildings, building commissioner or local inspector, or if there are none, in a town, the board of selectmen, or person or board designated by local ordinance or by-law, shall be charged with the enforcement of the zoning ordinance or by-law and shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of any zoning ordinance or by-law; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of any zoning ordinance or by-law. If the officer or board charged with enforcement of zoning ordinances or by-laws is requested in writing to enforce such ordinances or by-laws against any person allegedly in violation of the same and such officer or board declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of such request.

No local zoning law shall provide penalty of more than three hundred dollars per violation; provided, however, that nothing herein shall be construed to prohibit such laws from providing that each day such violation continues shall constitute a separate offense. No action, suit or proceeding shall be maintained in any court, nor any administrative or other action taken to recover a fine or damages or to compel the removal, alteration, or relocation of any structure or part of a structure or alteration of a structure by reason of any violation of any zoning by-law or ordinance except in accordance with the provisions of this section, section eight and section seventeen; provided, further, that if real property has been improved and used in accordance with the terms of the original building permit issued by a person duly authorized to issue such permits, no action, criminal or civil, the effect or purpose of which is to compel the abandonment, limitation or modification of the use allowed by said permit or the removal, alteration or relocation of any structure erected in reliance upon said permit by reason of any alleged violation of the provisions of this chapter, or of any ordinance or by-law adopted thereunder, shall be maintained, unless such action, suit or proceeding is commenced and notice thereof recorded in the registry of deeds for each county or district in which the land lies within six years next after the commencement of the alleged violation of law; and provided, further that no action, criminal or civil, the effect or purpose of which is to compel the removal, alteration, or relocation of any structure by reason of any alleged violation of the provisions of this chapter, or any ordinance or by-law adopted thereunder, or the conditions

of any variance or special permit, shall be maintained, unless such action, suit or proceeding is commenced and notice thereof recorded in the registry of deeds for each county or district in which the land lies within ten years next after the commencement of the alleged violation. Such notice shall include names of one or more of the owners of record, the name of the person initiating the action, and adequate identification of the structure and the alleged violation.

The superior court and the land court shall have the jurisdiction to enforce the provisions of this chapter, and any ordinances or by-laws adopted thereunder, and may restrain by injunction violations thereof.

1.00: continued

## SECTION 105 PERMITS

**105.1 Required.** It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a building or structure; or to change the use or occupancy of a building or structure; or to install or alter any equipment for which provision is made or the installation of which is regulated by this code without first filing an application with the *building official* and obtaining the required *permit*.

**105.2 Work Exempt from Permit.** Except for activities which may require a *permit* pursuant to other laws, by-laws, rules and the specialized codes of M.G.L. c. 143, § 96, a *building permit* is not required for the following activities:

1. One story detached accessory buildings used as tool or storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.
2. Fences not over six feet (1829 mm) high.
3. Retaining walls which retain less than four feet of unbalanced fill.
4. Greenhouses covered exclusively with plastic film. This exemption does not apply if the greenhouse is to be used for large assemblies of people or uses other than normally expected for this purpose.
5. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
6. Swings and other playground equipment.
7. Window awnings supported by an *exterior wall* that do not project more than 54 inches (1372 mm) from the *exterior wall* and do not require additional support of Groups R-3 and U occupancies.
8. Sidewalks and driveways.

**105.2.1 Emergency Repairs.** Where replacements and repairs governed by this code must be performed in an emergency situation, the *permit* application shall be submitted within the next working business day to the *building official*.

Note: Pursuant to the terms of the specialized codes of M.G.L. c. 143, § 96, this exemption might not apply to emergency repairs conducted under those specialized codes.

**105.2.2 Repairs.** Application or notice to the *building official* is not required for ordinary repairs to structures. A *permit* is required for work including but not limited to: the substantial cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements or mechanical systems or other work affecting public health or general safety under the jurisdiction of 780 CMR.

**105.3 Application for Permit.** To obtain a *permit*, the *owner* (*see* definition) or authorized agent shall file a *permit* application on a form furnished by the *building official* for that purpose. Standard application forms, along with application forms that some municipalities use, can be found at [www.mass.gov/dps](http://www.mass.gov/dps). Such applications shall:

1. Identify and describe the work to be covered by the *permit* for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended. If the work involves a care facility or residence licensed by a State agency, indicate the agency name and appropriate licensing regulation on the *permit*. For example: Department of Developmental Services, 115 CMR.
4. Be accompanied by *construction documents* and other information as required in section 107. *Construction documents* shall list any additional building features required by a Massachusetts state agency for its facilities that go beyond the requirements in this code.
5. State the valuation of the proposed work. The *building official* has authority to request from the applicant a detailed substantiation of the valuation.

1.00: continued

6. Be signed by the *owner* (see definition) or authorized agent.
7. Give such other data and information as required by the *building official* in accordance with this code.

**105.3.1 Action on Application.** The *building official* shall examine or cause to be examined applications for *permits* and amendments, and shall issue or deny the *permit*, within 30 days of filing. If the application or the *construction documents* do not conform to the requirements of this code and all pertinent laws (see note below) under the *building official's* jurisdiction, the *building official* shall deny such application in writing, stating the reasons therefore. The *building official's* signature shall be attached to every *permit*.

The following requirements, where applicable, must be satisfied before a building *permit* is issued:

1. Zoning: in accordance with M.G.L. c. 40A or St. 1956, c. 665.
2. Railroad Right-of-way: in accordance with M.G.L. c. 40, § 54A.
3. Water Supply: in accordance with M.G.L. c. 40, § 54;
4. Debris Removal: in accordance with M.G.L. c. 40, § 54
5. Workers Compensation Insurance: in accordance with M.G.L. c. 152, § 25C(6).
6. Hazards to Air Navigation: in accordance with M.G.L. c. 90, § 3SB.
7. Construction in coastal dunes, see section Appendix G: *Flood-resistant Construction*.

**105.3.2 Time Limitation of Application.** An application for a *permit* for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a *permit* has been issued; except that the *building official* is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

**105.4 Validity of Permit.** The issuance or granting of a *permit* shall not be construed to be a *permit* for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. *Permits* presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a *permit* based on *construction documents* and other data shall not prevent the *building official* from requiring the correction of errors in the *construction documents* and other data. The *building official* is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

**105.5 Expiration.** Every *permit* issued shall become invalid unless the work on the site authorized by such *permit* is commenced within 180 days after its issuance, or if the work authorized on the site by such *permit* is suspended or abandoned for a period of 180 days after the time the work is commenced. The *building official* is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

**105.6 Suspension or Revocation.** The *building official* is authorized to suspend or revoke a *permit* issued under the provisions of this code wherever the *permit* is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

**105.7 Placement of Permit.** The *permit* or copy shall be kept on the site of the work until the completion of the project.

**105.8 Notice of Start.** The *building official* may require to be notified at least one business day before the start of work.