



Sprinkler Retrofit Requirements

Section 5
of Chapter 304
Acts of 2004
MGL c.148, s26G1/2

Sprinkler Retrofit Requirements Overview

1. Focus on retrofit provisions
2. Enforced by head of the fire department
3. Appellate Jurisdiction of the Automatic Sprinkler Appeals Board
4. Board's Interpretive document in context (2d. para)



Retrofit Sprinkler Requirements

1. Every building or structure, or portions thereof, of a **public assembly**,
2. Which **existed as of the effective date of the Law** (11-15-04) or for which an approved building permit was issued **before December 1, 2004**
3. With a capacity of **100 persons or more**
4. **Designed or used** for occupancy as a nightclub, dance hall, discotheque, bar, **or for similar entertainment purposes** shall be protected throughout with an adequate system of automatic sprinklers, in accordance with the state building code.



Enforcement Responsibilities

1. Existing buildings

- Head of the fire department
- In existence as of 11/15/04 or
- Approved building permit issued before December 1, 2004

2. New construction or substantial alterations

- Building Inspector
- Approved permits after December 1, 2004



What parts of a building need to have an “adequate system of automatic sprinklers?”

1. That **portion** of the building used or designed as a nightclub, dance hall, discotheque, bar, or for similar entertainment purposes **and**
2. All rooms, lobbies, and other spaces **connected** to said portion, including all means of egress and entrances.



What is an “Adequate System of Automatic Sprinklers?”

By statutory definition in the State Building Code:

1. A working automatic sprinkler system
2. Fire alarm system control equipment which provides notice of an emergency with a place of assembly
3. Adequate monitoring of, and reporting of any activation of the automatic sprinkler system and fire alarm equipment, in accordance with the State Building Code in effect at the time of installation of such system and equipment.



Board's Interpretation

1. The standards in the 6th Edition of the State Building Code. National Fire Protection Association) NFPA-13, 2002 Edition, entitled “Installation of Sprinkler Systems” and NFPA-72, 2002 Edition, entitled “National Fire Alarm Code.”
2. Verify compliance.
3. Alternative or modified design and installation methods under unique circumstances.





Statutory Compliance Timeline

(see Ch.304, s. 11, St.2004)

5/15/06 - Plans and specifications

11/15/07 - Installation



Automatic Sprinkler Appeals Board Recommended Actions

1. Preliminary determinations and notice of requirements and timelines
2. Issue an Order of Notice



Limited Extension Allowance (Up to 1 year)

1. Timely plan & specifications submittal
2. existing contract
3. Documentation that owner did not cause the delay of installation



Financial Incentives

1. Accelerated tax depreciation deductions
2. The Secretary of the Executive Office of Economic Affairs recommendations by 6-1-05



What is a nightclub, dance hall, discotheque or bar?

Not provided by statute:

- ✓ Heads of fire departments should use best and reasonable discretion
- ✓ Consistency, fairness, based upon specific factors that exist for the particular building.
- ✓ Some basic rules of statutory construction:
 1. The common and usual meaning of these terms,
 2. The legislative intent of the new statute should be considered.



Sprinkler Appeals Board Role

1. Statutory Appellate Jurisdiction
2. Authority to issue interpretations
 - (a) Through decision making process
 - (b) Issuance of reasonable interpretations pursuant to authority granted by M.G.L. c.6, s 201



Sprinkler Appeals Board Role: The Advisory in Context

“This document is not intended to be the final word on this matter or to be a substitute for a good faith reasonable interpretation of the statute by the head of the fire department.

In determining whether a building is subject to this law, the chief should make fair, consistent and well-reasoned determinations based upon the reading of the law and specific factors that exist for a particular building.”

Basis for Board's Interpretation

1. Legislative history:

- Rhode Island nightclub fire of 2-20-03
- Task Force, and the Legislative Joint Committee on Public Safety held hearings. (Board's participation)
- Identified establishments create potentially dangerous situation for occupants
- Examples: loud noise, low lighting levels, distraction caused by entertainment or dancing activity, crowded occupancy or a diminished capacity due to alcohol consumption.



Basis for Interpretation (cont.)

2. **“Nightclub” and “Dance Hall”**: A-2 use group classification found in the 6th Edition of the Massachusetts Building Code(780 CMR 303.3).
3. **Commentary documents relating to the A-2 use group definitions** used in the nationally recognized model code are characterized by the following factors:
 - a. No theatrical stage accessories other than raised platform;
 - b. Low lighting levels;
 - c. Entertainment by a live band or recorded music generating above-normal sound levels;
 - d. Later-than-average operating hours;
 - e. Tables and seating arranged or positioned so as to create ill defined aisles;
 - f. A specific area designated for dancing;
 - g. Service facilities primarily for alcoholic beverages with limited food service; and
 - h. High occupant load density.



Basis for Interpretation (cont.)

✓ Not necessarily A-2, but factors typical of “A-2 type” occupancies:

- Not all-inclusive
- Applied individually or in combination
- Unique characteristics of the building

✓ Not bound by classification of a particular building as an A-2 occupancy under the 6th Edition of the Building Code.

✓ Don't necessarily rely on A-2 classification

✓ Build prior to building code (1975)

✓ Changed use or design of building



Are there specific exemptions from the enhanced sprinkler requirements for certain existing buildings?

Buildings, structures or portions thereof “used **principally**” as:

- ➔ Houses of worship
- ➔ Restaurants
- ➔ Lecture halls
- ➔ Auditoriums
- ➔ State or local government buildings
educational function facility
- ➔ Or other similar places of
assembly



Are Such Places Totally Prohibited?

Temporary use may be allowed

“Temporary” – not often, regular or routine use

- By permit at reasonable discretion of head of fire department
- Terms & Conditions
- In consultation with building inspector



What About Combination Bars/Nightclubs/Restaurants ?

It depends.

1. If just temporary, use may allowed by permit
2. If regularly or routinely used as both, H of FD use best and reasonable discretion to determine if it is “principally” used or not.



Appeals Board Factors

Not necessarily all inclusive:

- **Regularly and routinely serve meals on a daily basis**
(typical establishment used principally as a restaurant)
- **More than just a restaurant?**
 - Bar area & bar tender for serving alcohol
 - Bar area capable of expansion into restaurant area
 - Continuously served alcohol after kitchen facilities closed
 - Live or recorded music for dancing/viewing purposes
 - Special entertainment (ex: theater, comedy, sports viewing)
 - Expectation of customers
 - Function facilities available
 - Entertainment license



Fraternal, Social or Non-profit organizations

- ✓ No specific exemptions
- ✓ Depends upon how the building is being “principally used”
 - Meetings only?
 - Regularly rented out for functions?
- ✓ Temporary use



Building Inspector's Role

- ✓ Sole jurisdiction of H of FD to enforce the retrofit provisions
- ✓ New and substantially altered buildings after 12/1/04 only enforced by building inspector
- ✓ Cooperation with building inspector is encouraged to assist in determining building classification
 - Plans and specifications to both the head of the fire department and the building inspector
 - Temporary use permits issued in consultation with building inspector
- ✓ Existing nightclubs, bars etc. not required to be retrofitted by 11/15/07
 - Maximum capacity violators



Filing Appeals

- ***Must be filed with 45 days*** after receiving service of notice of the head of the fire department's determination
- Requires submission of a application form and a copy of H of F.D. written determination.
\$100.00 filing fee
- Requires written explanation of relief requested



Sprinkler Appeals Board Hearings

Board hearings

- 5 member board
- Informal rules of evidence
- Requires presence of appellant and H of FD or designees/agent
- Be prepared!

