

**§4594-D. Standards for facilities constructed or altered between January 1, 1991 and January 1, 1996**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits. [PL 1989, c. 795 (NEW).]

B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [PL 1989, c. 795 (NEW).]

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [PL 1989, c. 795 (NEW).]

[PL 1989, c. 795 (NEW).]

**2. Facilities attested.** This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1991 but before January 1, 1996 or when the estimated total costs for remodeling, enlarging or renovating an existing building exceed \$100,000 and the remodeling, enlarging or renovating is begun after January 1, 1991 but before January 1, 1996.

[PL 2011, c. 322, §6 (AMD).]

**3. Application.** Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to these places constructed on or after January 1, 1991 but before January 1, 1996 must meet the standards of construction. [PL 2011, c. 322, §6 (AMD).]

B. Except for repairs undertaken in accordance with the rules adopted pursuant to subsection 4, when the proposed remodeling or renovation substantially affects that portion of the building normally accessible to the public, places of employment or public accommodation remodeled or renovated on or after January 1, 1991 but before January 1, 1996 must meet the following 5 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.29.3 tactile warnings on doors to hazardous areas;

(4) Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E; and

(5) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b). [PL 2011, c. 322, §6 (AMD).]

[PL 2011, c. 322, §6 (AMD).]

**4. Rules.** The commission may adopt, alter, amend and repeal rules designed to make buildings under this section accessible to, functional for and safe for use by persons with physical disability in accordance with subsection 3, and may adopt, alter, amend and repeal rules designed otherwise to enforce this section.

[PL 1993, c. 349, §10 (AMD).]

**5. Certification; inspection.** The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans meet the standards of construction required by this section. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built.

[PL 1989, c. 795 (NEW).]

**6. Training, education and assistance.** The commission and the Office of the State Fire Marshal shall, as necessary, develop information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, design professionals, code enforcers, building contractors and other interested parties.

[PL 1989, c. 795 (NEW).]

**7. Mandatory plan review; certification; inspection.** Builders of the following newly constructed facilities must submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3:

- A. Restaurants; [PL 1989, c. 795 (NEW).]
- B. Motels, hotels and inns; [PL 1989, c. 795 (NEW).]
- C. State, municipal and county buildings; and [PL 1989, c. 795 (NEW).]
- D. Schools, elementary and secondary. [PL 1989, c. 795 (NEW).]

Fees for reviews are established by the Office of the State Fire Marshal.

No building permit may be issued by the municipal authority having jurisdiction to issue these permits unless the Office of the State Fire Marshal approves the plans and certifies that the facility covered by the mandatory plan review meets the standards of construction required by this section; if, however, no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation that the plans meet the standards of construction.

If officials of the municipality in which the facility is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that the facility be inspected for compliance with construction standards before the municipal officials permit the facility to be occupied.

[PL 1993, c. 410, Pt. X, §2 (AMD).]

**8. Voluntary plan review.** Builders of facilities not governed by subsection 7 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3. Fees for this review may be assessed by the Office of the State Fire Marshal.

[PL 1989, c. 795 (NEW).]

**9. Waivers; variance.** Builders of facilities governed by subsection 7 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If the representative of the Office of the State Fire Marshal determines in cases covered by mandatory plan review that compliance with this section and its rules is not technologically feasible or would result in excessive and unreasonable costs without any substantial benefit to persons with physical disability, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance.

Requests for waivers or variances for buildings covered by mandatory plan review are heard by a designee of the Office of the State Fire Marshal. A decision must be provided in writing to the party requesting the waiver or variance.

[PL 1993, c. 450, §1 (AMD).]

**10. Appeals.** Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for such further action as the court may direct.

[PL 1993, c. 410, Pt. X, §3 (AMD).]

**11. Report.**

[PL 2015, c. 102, §9 (RP).]

**SECTION HISTORY**

PL 1989, c. 795 (NEW). PL 1991, c. 99, §26 (AMD). PL 1993, c. 349, §10 (AMD). PL 1993, c. 410, §§X2,3 (AMD). PL 1993, c. 450, §1 (AMD). PL 2011, c. 322, §6 (AMD). PL 2015, c. 102, §9 (AMD).

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