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TO: Heads of Fire Departments and Building Departments

FROM: Peter J. Ostroskey, State Fire Marshal

Charles Borstel, Commissioner, Division of Professional Licensure

DATE: April 2, 2018

SUBJECT: APPLICATION OF M.G.L. C. 148 S. 26C FOR EXISTING NONCOMPLIANT APARTMENT BUILDINGS

As a result of inquiries from several fire and building officials about the existence of older apartment buildings that apparently lack adequate fire protection, the Department of Fire Services and the Division of Professional Licensure are jointly providing the following guidance:

The Issue:

What are the fire protection requirements for older apartment buildings with 6 or greater units that:

- (1) Are not located in a high-rise building (over 70' in height);
- (2) were built prior to the effective date of the State Building Code, January 1, 1975; and
- (3) have not undergone any alterations that would trigger enhanced fire protection under the State Building Code?

The Law:

In general, these particular buildings were subject to the provisions of M.G.L. c. 148, s. 26C. Said statute, last amended by c. 527, sec.1 of the Acts of 1989, states: "**Apartment houses containing six or more dwelling units**, hotels, boarding or lodging houses, or family hotels which are **not** regulated by section twenty-six A or twenty-six B shall be equipped with automatic smoke or heat detectors as provided by **the rules and regulations of the board of fire prevention regulations**". (emphasis added).

The provisions of s. 26C applied retroactively to larger, older apartment buildings built and/or not altered prior to January 1, 1975, the effective date of the State Building Code, 780 CMR. In accordance with the enabling legislation, the law was approved by the governor as of November 17, 1989 and is enforced by the head of the fire department (see c. 527, secs. 3 and 4, Acts of 1989) and includes the following specific compliance deadlines:

- a. Communities with a population greater than 100,000: 5 years from effective date of law.
- b. Communities with a population of 50,000 to 100,000: 3 years from effective date of law.
- c. Communities with a population of less than 50,000: 1 year from effective date of law.

In summary, building owners should have equipped such residential buildings with automatic smoke and/or heat detectors as provided by the technical provisions of the State Fire Code, as of the stated deadlines, which have all since expired.

The Technical Requirements:

The technical requirements for complying with M.G.L. c. 148, s. 26C were, for many years, found in the State Fire Code, (527 CMR 24.00) and the newly revised Code, 527 CMR 1.00, effective January 1, 2015. It is noted that the BFPR recently removed the language regarding these particular buildings, since it was believed to be unnecessary as the compliance deadline had long since expired (over 25 years ago) and the technical installation requirements could be found in the State Building Code.

If it is discovered that an older building that meets the criteria of M.G.L. c. 148, s. 26C does not feature the installed/approved detectors required by the law, it is recommended that the Head of the Fire Department order compliance by requiring, at a minimum, the last technical requirement which is found in 527 CMR 1.00: 13.7.4.5 (the edition published on January 1, 2015). This provision required the installation of "detectors, alarms, pull stations, notification and monitoring [to be installed in accordance with] the building code. In addition to the requirements of the building code, interconnected smoke detectors are required and provided in Table 13.7C shall be installed in all common areas..."

In summary, the building must be equipped with:

- Single- and multi-station interconnected smoke alarms within each dwelling unit;
- Manual pull stations;
- Hard wired and interconnected smoke detectors in the common areas and hallways;
- A fire alarm system (panel) which is monitored; and
- Notification throughout the building.

All devices must be installed to satisfy the requirements of NFPA 72.

Such enforcement action should also be coordinated with the local building official, since such activity also triggers a building permit and compliance with certain technical provisions of the State Building Code, 780 CMR.

Finally, it should be noted that the provisions of M.G.L. c. 148, s. 26C are unique since the law required the mandatory retroactive installation of fire protection in these older residential structures in accordance with the statutory deadlines, even if the buildings had not undergone any alterations or renovations.

If you have any further questions please call the Code Compliance Helpdesk at (978)567-3375 or contact your local building official.



Peter J. Ostroskey



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