



RULES AND REGULATIONS

Regulatory Authority: Devens Enterprise Commission

Agency Contact: Peter C. Lowitt

Phone: 978.772.8831 ext 3313

Address: 33 Andrews Parkway, Devens, MA 01434

Massachusetts Register Number 1211

Effective Date: June 2012

974 CMR 1.00: ADMINISTRATION

1.14 : Enforcement

1. Right to Inspect. The DEC, its staff, and consultants shall have the right to enter all properties at Devens at reasonable times, for the purpose of observing and investigating construction and/or operations on the site in regard to enforcement of the Regulations or the By-Laws.

2. Enforcement Powers. The DEC's enforcement powers include:

- (a) withholding of building and occupancy permits;
- (b) power to assess penalties for violations of the Reuse Plan, By-Laws, or 974 CMR in amounts no more than \$300 per day per violation, provided that each day such violation continues shall constitute a separate offense;
- (c) power to institute actions in Court to compel the removal, alteration, or relocation of any structure that violates the Reuse Plan, By-Laws, or 974 CMR;
- (d) zoning enforcement powers;
- (e) enforcement powers available to a zoning board of appeals;
- (f) power to require security for the construction of ways and municipal services to a subdivision that was approved by the DEC;
- (g) powers available to enforce the subdivision control and lotting sections of the By-Laws and the Regulations;
- (h) powers available to the DEC to enforce the Historic District Acts;
- (i) powers provided to the DEC to make and enforce reasonable public health regulations including, but not limited to, the issuance of permits and the assessment of fines related to the violation of the By-Laws and 974 CMR including the removal and transport of garbage or other offensive substances, atmospheric pollution, disposal of cesspool and septic-tank waste, [illicit connections or discharges to the drainage system](#), and the construction, maintenance, and alteration of certain sewage disposal systems; and
- (j) other powers expressly and implicitly conferred on the DEC pursuant to St. 1993, c. 498.

3. Complaint Process.

- (a) Within 14 days of receipt of a written complaint, the Director or Building Official shall investigate, inspect the location, and determine if a violation exists. If no violation is found, the Director or Building Official shall make a written response to the complainant within 14 days explaining the finding.
- (b) If a violation exists, the property owner and offending party shall be notified in writing of the violation and given a specified period of time to correct or eliminate the violation. The complainant shall receive a copy of the notice. At the end of the specified time, the Director or Building Official shall re-inspect and determine whether the violation has been corrected or eliminated. If not, the Director or Building Official shall notify the property owner and offending party in writing that the

violation still exists and may commence the assessment of fines. After continued violation and with the consent of the DEC, Court action may be taken.

(c) If the public health or safety is endangered, the Director shall seek immediate correction and may, with the consent of the DEC, cause a complaint to be filed in Superior Court or in District Court in accord with MGL Chapter 40: Section 21D, Noncriminal Disposition. Alternatively, the DEC may correct the problem and file a complaint in Superior Court to recover the costs of repairs.

4. Wetlands Enforcement Orders.

(a) **Process.** Enforcement Orders for work in the wetlands conducted without an Order of Conditions or done improperly after the issuance of an Order of Conditions may be issued by the DEC. The goal of enforcement is to secure prompt and continued compliance with 974 CMR 4.06 and the Order of Conditions. The DEC oversees work under Superseding and Final Orders issued by DEP and can issue enforcement orders under them.

(b) **Ratification of Enforcement Orders.** The policy of the DEC is to issue Enforcement Orders after a vote at a regularly-scheduled meeting of the DEC, unless the violation is of a very serious or emergency nature. If the Order is issued prior to a vote of the DEC, to remain in effect, said Order must be ratified by the DEC at its next meeting. The Order shall be delivered to the applicant by hand or by certified mail, and shall contain specifics of the violations, required actions, and deadlines for response. Further, it is the role of the DEC to enforce DEP Orders as well as local orders. The DEC shall promptly notify the DEP of all enforcement action taken.

[Rules and Regulations Table of Contents](#) [Home](#) [Search](#) [Next Section](#) [Previous Section](#)