



Massachusetts Department of Public Health

105 CMR 410.000: Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II)

Regulatory Revisions
2023

Amy Riordan/Paul Halfmann
Community Sanitation Program

DPH Mission

“To prevent illness, injury, and premature death, to assure access to high quality public health and health care services, and to promote wellness and health equity for all people in the Commonwealth. We also develop, implement, promote, and enforce policies to assure that the conditions under which people live are most conducive to health and enable people to make healthy choices for themselves and their families.”

These regulations establish the minimum housing standards which are set forth to protect the health and safety and well-being of occupants and the general public.

Agenda

8:15 Welcome

8:30-9:45 Overview Laws and Regulations, General Administration and Definitions

9:45-10:00 Break

10:00-11:30 Utility Requirements, Structural & Building Requirements, Health and Safety

11:30-12:00 Specific Housing – Type Requirements, Owner and Occupant Responsibilities

12:00-1:00 Lunch

1:00-2:30 Enforcement

2:30-2:45 Break

2:45-3:00 Wrap Up/Discussion Topics

General Administration

410.001 – 410.003

Purpose (410.001)

- Provides minimum standards to protect the health, safety, and well-being of occupants
- Provides enforcement procedures for boards of health to ensure compliance
- Facilitates the use of legal remedies available to occupants of substandard housing



Scope (410.002)

- Applies to all residences defined in 105 CMR 410.000
- Residences must also adhere to the State Building Code and all specialized codes
- Outlines exemptions of 410.000
- Duty of local health to identify violations and order correction of violations
- Regulations do not restrict the right of a person to seek relief in court

General Provisions (410.003)

- No owner shall allow occupancy, rent, or occupy as owner-occupant a non-compliant residence
- Owner responsible to provide and maintain all necessary equipment except where noted
- No owner or occupant shall remove or shutoff any service or equipment except for repair
- Owner may only remove owner installed optional equipment when the residence is vacant or prior to a new tenancy
- Occupant is required to allow access for repairs upon reasonable notice, 48 hours
- Occupant is responsible to keep their residence in a sanitary condition

New and Updated Definitions

410.010

General/Other

- **Affected Persons** – means the occupants if the owner is responsible for correcting the violation(s) and the owner if the person responsible for correcting the violation is the occupant.
- **Board of Health** – includes other legal entities
 - Municipal Health Department
 - Inspectional Services
 - Regional Organization
- **Compliance with Accepted Standards** – describes how standards are required to be met in order to meet the requirement of the code.
- **Owner's Representative** – means any adult person designated and duly authorized to act on the owner's behalf to effect compliance with the provisions of 105 CMR 410.000.
- **Residence** – means every building or structure used for, or intended for, human habitation and every other structure or condition located within the physical boundaries of the same lot. Residences include, but are not limited to, single or multi-unit structures, rooming houses, manufactured homes, homeless shelters, temporary housing, alternative housing, and condominiums.

Housing Types

- **Alternative Housing** – clarifies mobile or permanent housing that may not meet regulations, including all identified systems/requirements.
- **Bed and Breakfast** – a private owner-occupied house where rooms are rented and a breakfast is included in the rent, and all accommodations are reserved in advance.
- **Condominium** – means the land or the lessee's interest in any lease of such land which is submitted pursuant to M.G.L. c. 183A, the building or buildings, all other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which have been submitted pursuant to M.G.L. c. 183A.
- **Homeless Shelter** – means a residence operated by a service agency which provides temporary, overnight sleeping accommodations and offers transitional assistance to homeless individuals and families in need of permanent housing.
- **Manufactured Home** – means a structure, built in conformance to the National Manufactured Home Construction and Safety Standards, which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.
- **Manufactured Housing Community** – means any lot or track of land upon which three or more manufactured homes occupied for dwelling purposes are located, including buildings, structures, fixtures and equipment used in connection with the manufactured home and licensed under M.G.L c. 140 § 32B.

Housing Types

- **Rooming House** – means every residence or part thereof which contains one or more rooming units in which space is rented for compensation by the owner or operator to four or more persons not within the second degree of kindred to the person compensated, rental of which is based on a contractual agreement between owner and an individual or household for rent of a rooming unit and use of shared facilities. Rooming houses include, but are not limited to, boarding houses, hotels, motels, inns, lodging houses, bed and breakfast operations, dormitories, fraternity and sorority houses, hostels, and other similar residences.
- **Shared Facilities** – means facilities shared by more than one dwelling unit or rooming unit and placed so as not to require the passing through any part of another dwelling unit or rooming unit for access.
- **Temporary Housing** – means any structure used for human habitation which is:
 - (1) A mobile structure, including a tent, that is attached to the ground, to another structure, or to any utility system, on the same premises for less than 30 calendar days; or
 - (2) A mobile or permanent structure that provides basic shelter and contains at least one habitable room for living, sleeping, eating, cooking or sanitation that is intended to be occupied by a single family or household for intermittent periods of time not to exceed 90 consecutive days.
- **Temporary Emergency Shelters** – means any building, facility, or space therein designed and used primarily as a church or house of worship for religious services or instruction or related activities which is owned or operated by a religious organization and qualified for exemption under 26 U.S.C. section 501(c)(3) of the Internal Revenue Code that may, on occasion, provide temporary overnight accommodation to a limited number of individuals for a limited period of time.

Heating/Heating Systems

- **Fuel** – lists the types of fuels used in residential buildings.
- **Heating System** – lists the many types of systems that meet the requirements of the regulations.
- **Wood or Pellet Stove** – means a stove that burns wood, compressed wood pellets, or biomass pellets and is designed to radiate heat from the stove wall to provide heat to a room. A wood or pellet stove does not include the necessary vents, ducts, pipes, or radiators to distribute heat to the entire dwelling unit.

Toilets

- **Chemical Toilet** – means a self-contained toilet where material is held in a sealed tank, containing chemicals and deodorizers, which is emptied on a periodic basis.
- **Humus Composting Toilets** – means a self-contained system, approved in accordance with Title 5, consisting of a composter with a separate toilet fixture from which no liquid or solid waste materials are discharged to the surface or subsurface environment and from which a humus/compost-like end product is produced.
- **Incinerating Toilet** – means a self-contained waterless system that does not require connection to a sewer system or in ground septic system, except to dispose of graywater, approved in accordance with the plumbing code.

Trash/Refuse

- **Bulk Items** – clarifies items not included in rubbish when considering local requirements. Adds examples like a mattress, stumps, and furniture.
- **Rubbish** – means waste materials, including but not limited to, such material as paper, rags, cartons, boxes, wood, rubber, leather, tin cans, metals, machine or machine parts, mineral matter, glass, plastic bags and containers, crockery, dust, and the residue from the burning of wood, coal, coke and other combustible materials. Rubbish does not include garbage, yard waste, recyclable material, or bulk items which are defined separately.
- **Recyclables** – means any type of refuse designated by the local community through rules, regulations, or policies to be separated for recycling.
- **Refuse** – means discarded solid material resulting from household activities and shall include, but not be limited to, garbage, rubbish, recyclable materials, bulk items, or yard waste. Refuse shall not include items designated as household hazardous waste which require separate disposal.

Housing Conditions

- **Building and Structural Elements** – means any component of a residence including, but not limited to, the foundation, floors, walls, doors, windows, ceilings, roofs, gutters, soffits, siding, staircases, porches, decks, and chimneys.
- **Excess Moisture** – replaces the definition for chronic dampness and means the unwanted presence of moisture or water on permeable surfaces in a residence that occurs on a periodic, chronic or acute basis and presents a risk of mold growth.
- **Guard** – lists the subcomponents of a stairway guard system, includes newel posts, lower/upper rails, and balusters.
- **Handrail** – separates the component from the guard system and means the horizontal or sloping rail intended for grasping by the hand for guidance or support.
- **Means of Egress** – means a continuous and unobstructed path providing a route of exit from the dwelling unit to a public way.

Housing Conditions

- **Mechanical Ventilation** – means a system designed to remove air from a room or space to the outdoors by using a fan or other mechanical means and to provide active or passive make up air.
- **Natural Ventilation** – means air exchange provided by a non-mechanical means. Sources of natural ventilation include, but are not limited to, windows or doors in exterior walls that are intended to supply or remove air from any space.
- **Pest** – means any of the following that may cause disease, injury or other health risk to humans or pets, or act as a disease vector, or cause damage to property:
 - (1) Insects, including but not limited to, mosquitoes, bees, flies, ants, termites, cockroaches and bed bugs;
 - (2) Arachnids, including but not limited to, spiders, daddy long legs, scorpions, and ticks;
 - (3) Rodents; or
 - (4) Other unwanted animal life.
- **Pest Infestation** – means the recurrent presence of pests.
- **Potable Water** – means water from any source that has been approved by the Department of Environmental Protection or board of health.

Utility Requirements

410.100 - 410.320

Kitchen and Bathroom Facilities

- ✓ Refrigerator and freezer at least 11 cubic feet
- ✓ Cooktop and Oven at least 1.7 cubic feet



- ✓ Door capable of being closed
- ✓ Tub or shower
- ✓ Sink
- ✓ Toilet with a seat

Plumbing and Water



Privy*



Flush



Composting



Incinerating

* In no event may a privy be located within 30 feet of any building used for sleeping or eating, or of any lot line or street

Plumbing and Water

410.130 Potable Water/Sanitary Drainage

- Owner provides and maintains:
 - Potable water
 - Sewer hookup or onsite sewage disposal system
 - A lawful connection to a privately owned wastewater treatment facility

410.140 Plumbing Connections

- All systems installed and maintained in accordance with accepted plumbing standards



If the owner intends to separately bill the occupant for water or sewer the owner must be in compliance with MGL ch.186 section 22

Plumbing and Water: Temperature



Sinks 110F-130F

Bathtubs/Showers 110F-120F

Owner provides and maintains
a means to provide hot water
Sufficient for occupant needs



Heating

410.160 Heating Systems

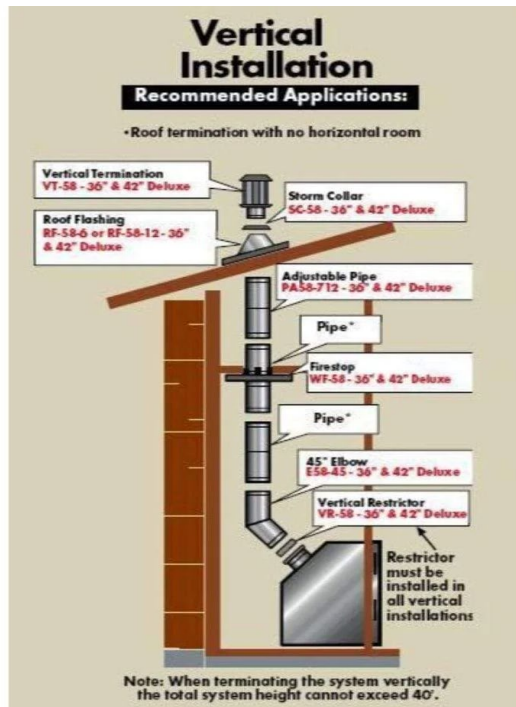
- Heating every habitable room and bathroom
- Temperatures in accordance with 410.180
 - At least 68°F (20°C) between 7:00 A.M. and 11:00 P.M.; and
 - At least 64°F (17°C) between 11:01 P.M. and 6:59 A.M.
- Does not meet the definition of heating system:
 - Fireplace
 - Wood/Pellet Stove
 - Portable Electric Space Heaters

- **Prohibited:**

- Parlor heaters with a fuel source within 42"
- Portable wick-type space heaters
- Unvented propane/gas not approved by Fire Code

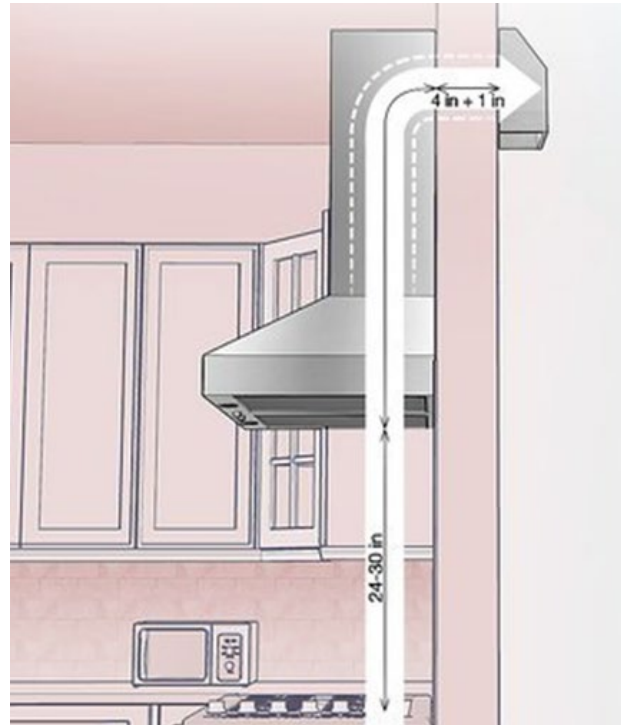


Heating: Venting



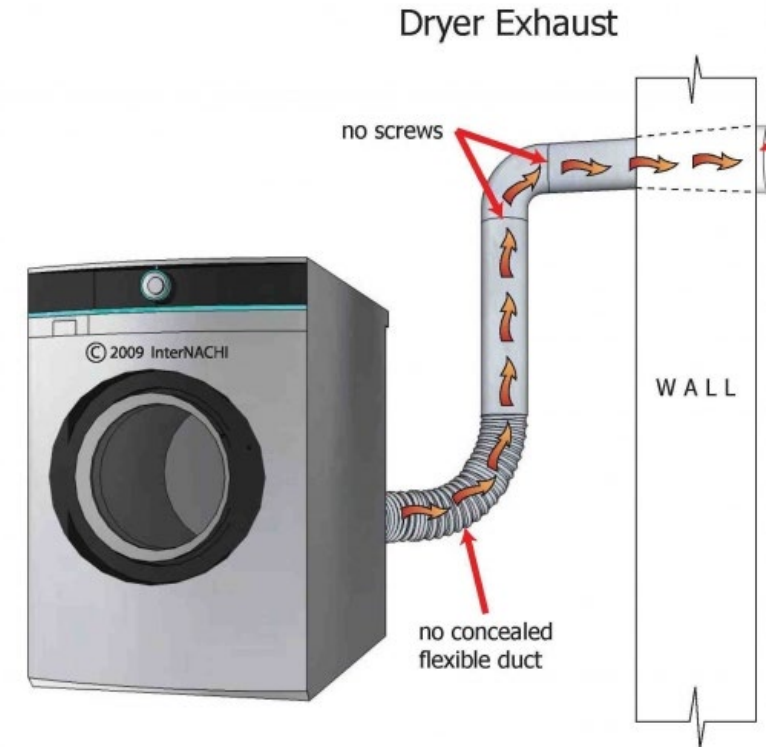
All devices combusting fuel must be vented to the outdoors

Exception: unvented propane/gas approved by the Fire Code



Electric/Gas dryers and Electric Range hoods must be vented to the outdoors

Exception: when listed and labelled as “ventless” by manufacturer



Heating Season



410.180: Temperature Requirements and
the Heating Season

Heating

410.210 Provision of Oil

- Owner provides oil used for heat and/or hot water unless:
 - ✓ Oil provided through a separate oil tank which serves only the occupant's unit
 - ✓ Written agreement clearly states the occupant provides



Electrical

410.300: Electricity Supply and Illumination

Electric light switches, or sensors, and fixtures are required if light from adjacent areas do not provide sufficient illumination for:

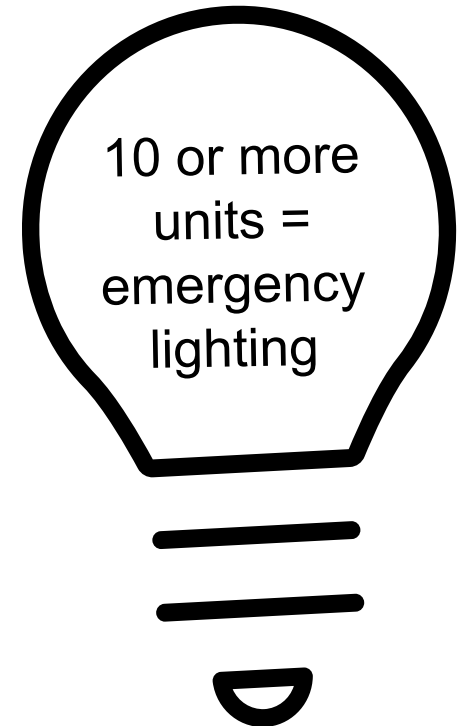
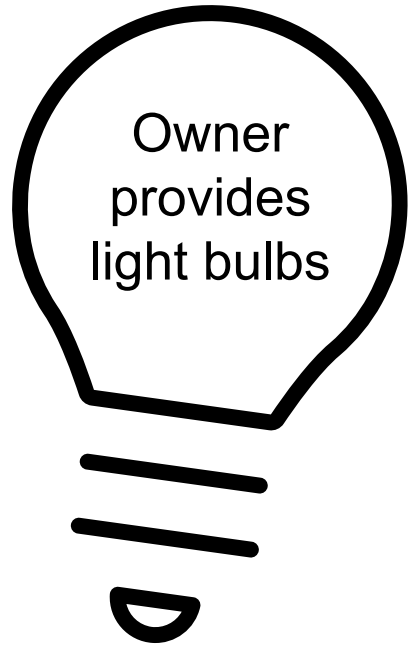
- Laundry, Pantry, Foyer, Hallway, Stairway, Closet, Storage, and Cellar

Electric light switches or sensors, and light fixtures in good working order shall be installed in the following spaces:

- Porch, Deck, Passageway, Exterior Stairway, Fire Escape

410.320 Electrical Service:

Extension cords connected to portable appliances or fixtures, that have an appropriate size rating for the anticipated load are not considered temporary wiring



Electrical



1 electric light fixture

2 wall outlets in addition to
cooktop and refrigerator



2 outlets OR 1 outlet and 1
light fixture



Bring It Home

- Heating Season
- Means of Egress, minimum of 2
(building code exemption)
- Hot water temperatures
- Minimum size requirements for ovens and refrigerators
- 2 outlets in kitchen in **ADDITION** to the refrigerator and oven/cooktop
- Owner responsible for providing lightbulbs
- Residences with more than one unit must always have light in common areas
- Extension cords are OK if they are used as designed (amperage wise)
- Bathroom facilities requirements

Structural and Building Requirements

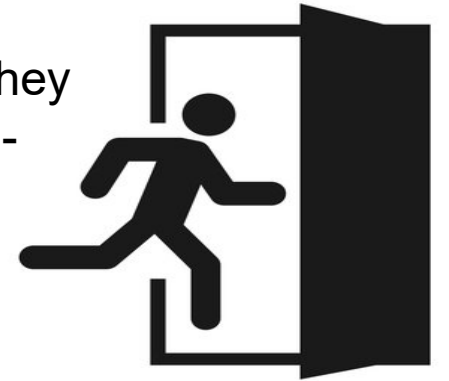
410.260, .420 & .530

Structural and Building Requirements



Every residence shall have a minimum of 2 means of egress

- Owner is responsible in multi-unit residence to maintain and keep free of obstruction
- Occupant responsible in single-unit residence
- Occupant responsible where they have exclusive access in multi-unit residence provided rental agreement clearly states responsibility



410.260 Means of Egress

Structural and Building Requirements

Can I live here?...It depends



No room or area may be considered habitable if subject to excess moisture

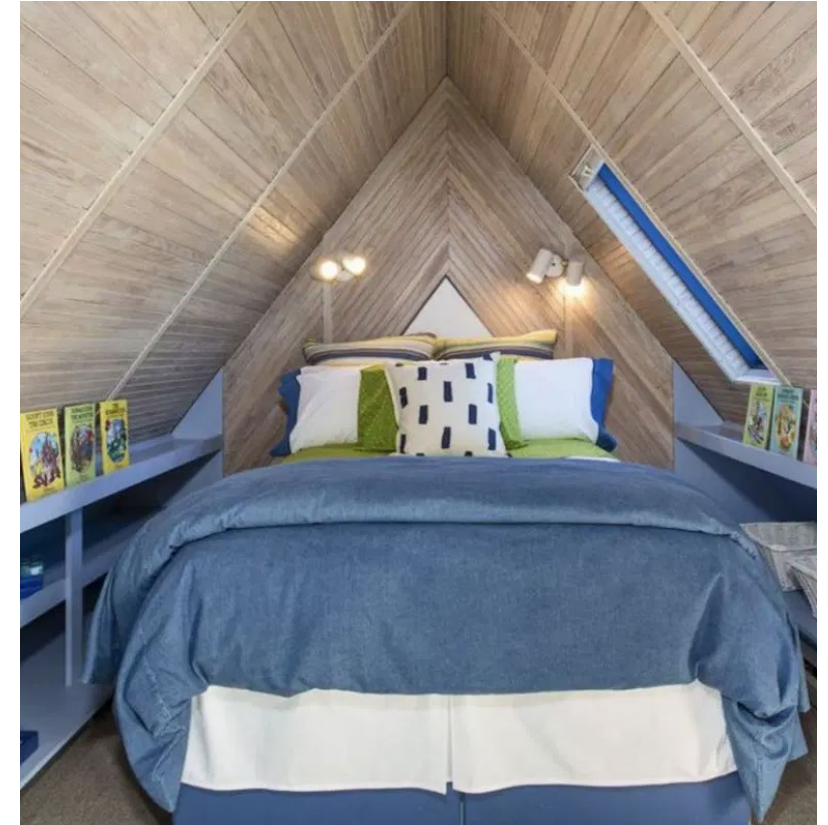
No room or area may be considered habitable where $\frac{3}{4}$ of the room's ceiling height is less than 7 feet

How many occupants can live here based on square footage?

150 square feet for the first occupant

100 square feet for each additional

Rooming Unit = 100 square feet when 1 occupant is living there



410.420 Habitability Requirements

Structural and Building Requirements

What makes
this
weathertight?

- ✓ Glass is properly sealed
- ✓ Opens and closes fully
 - ✓ Well fitted



451.530 Weathertight Elements



Bring It Home

- Rooming Unit = 100 sq feet
- Minimum of 2 means of egress
- Weathertight= Glass is properly sealed + opens and closes fully + well fitted

Health and Safety Requirements

410.220, .230, .550 & .560

Health and Safety Requirements: Pests

Owner's Responsibility:

- The owner is responsible for extermination
 - **Except** if in a single-family residence, where the owner has maintained the exterior of the residence.

Occupant's Responsibility:

- The occupant is responsible for extermination for a single-family
 - **Except** when the owner has failed to maintain the exterior of the building
- Allow access to all areas

Applicator's Responsibility:

333 CMR 13.00: Standard for Application

- ✓ 48 hour's notice
- ✓ Application date
- ✓ Names, EPS registration numbers, active ingredients
- ✓ Location to be treated
- ✓ Name and number of company applying pesticides



410.550 Elimination of Pests

Health and Safety Requirements: Ventilation

Excess
Moisture:
Chronic or
Acute

410.220 Natural and Mechanical Ventilation

- Habitable Rooms/Bathrooms
 - ✓ Boards of Health may require mechanical ventilation if natural ventilation is insufficient
 - ✓ Example – A window in a bathroom may not be sufficient ventilation in winter months and mechanical ventilation may be required to prevent excess moisture.
 - ✓ Shutoff unless designed to run constantly or barometrically controlled

- Flood or leak cleaned and dried w/in 48 hours



Health and Safety Requirements

410.560 Refuse



ment?

more units – owner
nsible for and pays for
collection

Sufficient receptacles?

Owner of any residence shall
provide

Dumpsters?

Located on an impervious
surface

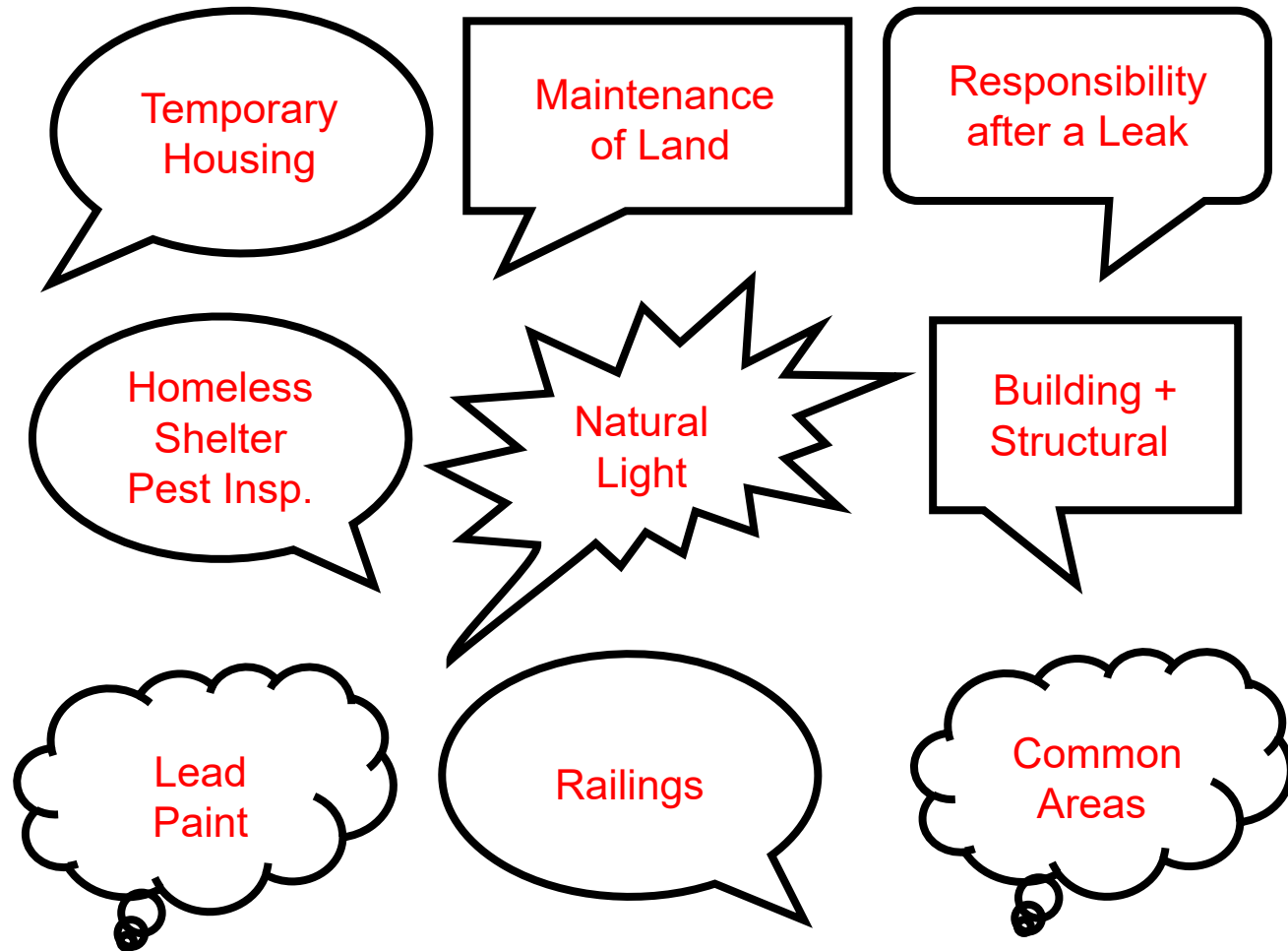
Health and Safety Requirements: Laundry



410.230 Owner's Laundering Responsibilities

- Bed linens/towels weekly and in between occupants
 - Blankets every 3 months and in between occupants
 - Pillows and Mattresses every 3 months
- * limited to properties that provide linens

Health and Safety Requirements





Bring It Home

- BOH may require mechanical ventilation if natural ventilation is not able to mitigate excess moisture
- Flood or leak cleaned and dried w/in 48 hours
- Pest elimination in single family is the responsibility of the occupant unless the owner has not maintained the residence
- Pesticide Applicators responsibility to inform the occupants and offer 48 hour's notice
- Occupant responsible for bags in "pay as you throw" communities
- Laundering responsibilities for properties providing linens

Specific Housing-Type Requirements

410.460 & .710

Homeless Shelters

0.460 Homeless Shelters

Ordinance issued 12/8/22

What is a shelter
Exempt from?



Providing a bathroom door capable of being secured for privacy

Meeting ratios for toilets and bathroom

Providing a lock with a striker mechanism for the main entry door

Meeting minimum square footage requirements for sleeping areas

Installing screens on doorways

Conducting a pre-occupancy inspection for pests, provided they establish a pest management policy

Which provides for periodic inspections

Alternative Housing

410.710 Permit Requirements for Alternative Housing

Owner must apply
Outline what will be used for
Alternative energy
ed restriction
Owner Occupied ONLY
Additional variance from other
Departments shall be obtained



Alternative Housing

410.710 Permit Requirements for Alternative Housing

BOH approves
alternative housing

Submit a copy to the CSP
owner records the permit
at the Registry of Deeds
owner gives a copy of
the deed to BOH
permit is effective once
the deed is recorded



Alternative Housing

410.710 Permit Requirements for Alternative Housing

Owner has a permit

Permit valid until

change of ownership or

modifications are made

resubmit the application if

modifications are made

OH may require an inspection

OH has the authority to revoke

the permit

send a copy of revocation/

modification to the CSP





Bring It Home

Homeless shelters exempt from:

- Providing a bathroom door capable of being secured for privacy
- Meeting ratios for toilets and bathroom
- Providing a lock with a striker mechanism for the main entry door
- Meeting minimum square footage requirements for sleeping areas
- Installing screens on doorways
- Conducting a pre-occupancy inspection for pests, provided they establish a pest management policy which provides for periodic inspections

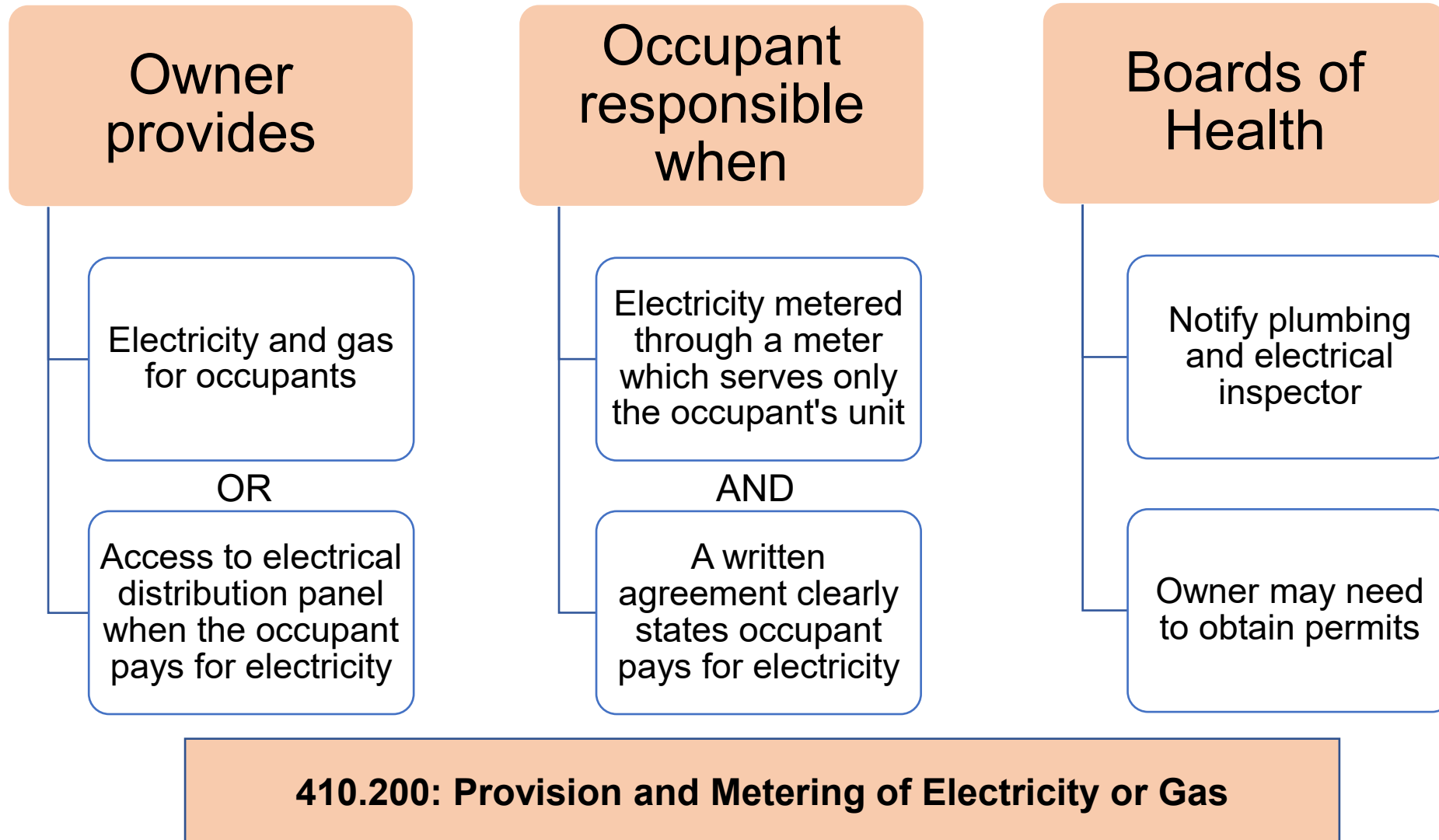
Alternative housing:

- Owners only apply for permits and owner occupied only
- Alternative energy outline
- Deed restriction
- Variances
- BOH approves

Owner and Occupant Responsibilities

410.200, .235, .240, .270, .400 & .410

Owner and Occupant Responsibilities



Owner and Occupant Responsibilities: Maintenance

410.235 Owner's Installation, Maintenance and Repair Responsibilities

Following repairs, the owner ensures:

- ✓ All debris is properly disposed of
- ✓ The area is clean
- ✓ All surfaces which were exposed to moisture have been dried

Rental properties built before 1978, must follow
Renovation Repair and Painting Regulations 454 CMR 24.00.

Rental property owners and their agents must be trained
and certified to do the work safely.

Unsafe renovation, repair, and maintenance work causes
childhood lead poisoning.

410.240 Occupant's Installation and Maintenance Responsibilities

Occupants of a Dwelling or Rooming
Unit where they have exclusive access:

- ✓ Keep clean
- ✓ Exercise reasonable care



Owner and Occupant Responsibilities: Locks

.270 Locks

er provides key for:

ain entry door
occupant's unit
as common to
e occupant

neless Shelters are exempt**



Owner and Occupant Responsibilities: Signage

Properties that are not owner-occupied shall post signage with the owner's name and if applicable:

- name, address, and telephone number of the president of the corporation

- name, address, and telephone number of the president of a corporation if the owner is a realty trust or partnership

- name, address, and telephone number of a property manager if they do not live within the residence





Bring It Home

- Owner responsible for providing electricity and gas for occupants or access to electrical panel when occupant pays for electricity
- Following repairs, owner ensures all debris is properly disposed, area is clean, and all surfaces exposed to moisture are dried
- Owner to Provide Notice of Occupant's Legal Rights and Responsibilities
- If owner doesn't live on site – post name, address and phone number of manager, must be checked every 12 hours
- Owner provides keys (homeless shelters exempt)
- Occupant responsible when electricity metered through a meter which serves only the occupant's unit, and a written agreement clearly states occupant pays for electricity
- Where occupants have exclusive access to dwelling or rooming unit, responsible for keeping area clean and exercising reasonable care.

Enforcement Procedures

410.600 - 410.950

Enforcement Procedures: Inspection

Requesting an inspection:

Health Department shall inspect a residence in common areas upon receiving a request orally, in writing, by telephone or electronic message regardless of whether:

- The occupant has previously notified the owner of the alleged conditions

- There is an eviction, litigation, or other dispute between the occupant and the owner

- The occupant requesting is anonymous or asks their name be kept confidential



Enforcement Procedures: Inspection Report

Inspection Report shall include:

the name of the inspector;
the date and time of the inspection or investigation;
the location of the residence inspected;
the need for an additional inspection by a specialized inspector;
a description of the conditions constituting violations;
a listing of the specific provisions of 105 CMR 410.000 and other applicable laws, ordinances, by-laws, rules or regulations that appear to be violated;
conditions Deemed to Endanger;
the signature of the inspector preceded by the following statement: "This inspection report is signed and certified under the pains and penalties of perjury."; and
a copy of *Occupant's Legal Rights and Responsibilities* issued by the Department.

Field Training & Audit Housing Inspection Form									
Agency Name, Address, Phone									
SSC 105 CMR 410.000: Chapter II, Minimum Standards of Fitness for Human Habitation									
Date	Time		# Occupants		# Children < 6 Years				
Address	Unit #		City/Town						
Occupant Name	Phone #								
Owner Name	Phone#								
Owner Address	City/Town		Zip Code						
# Dwelling/ Rooming Units in Dwelling	# Stories		Floor Level of Unit						
# Sleeping Rooms	# Habitable Rooms								
Inspector	Title								

Area or Element	Description of Violation	Code Section	if Violation will Endanger or Impair "	Date of Compliance
Exterior, Yard & Porch				
Common Areas & Entry				
Interior Halls & Stairs				
Bedroom 1	Location (circle): Front Rear Middle Left Middle Right			Floor Level of Unit:
Bedroom 2	Location (circle): Front Rear Middle Left Middle Right			Floor Level of Unit:
Bedroom 3	Location (circle): Front Rear Middle Left Middle Right			Floor Level of Unit:
Bedroom 4	Location (circle): Front Rear Middle Left Middle Right			Floor Level of Unit:
Kitchen				
Bathroom 1				

Page 1 of ____

Enforcement Procedures: Pests

Inspections:

be done in accordance with **105 CMR 410.620**

Examine all areas relevant to the type of pest:

Insects and Arachnids

Interior
Common areas
Adjacent units
Exterior

Termites

Interior
Common areas
Accessible attics, basements and crawl spaces
Exterior



Enforcement Procedures: Excess Moisture, Mold



Excess Moisture Inspections

- If an inspector discovers excess moisture or appearance of mold, they shall inspect potential sources such as:
 - Plumbing leaks
 - Structural defects
 - Improperly maintained mechanical or natural ventilation
 - Improperly maintained heating, air conditioning or ventilation ductwork
- Environmental testing shall not be required to determine the existence of excess moisture or mold
- When testing is conducted the results shall not be used as the sole determination of excess moisture or mold

Enforcement Procedures: Order to Correct

Every order shall:

be in writing
include a copy of the
inspection report
include a copy of
Occupant's Legal Rights
and Responsibilities

Every order shall include:

- A statement of violations and indicate if a condition may endanger or materially impair health or safety
- A notice of the right to a hearing
- A timeframe for repairs
- A statement to have translated
- A statement explaining that existing conditions may permit occupants to exercise legal rights



If inspection reveals no violations are found, the inspector sends a copy of the inspection report and stating no violations found to the occupant within 7 calendar days of the inspection

Enforcement Procedures: Correction Timelines

Violations are noted, BOH shall order
action:

Within 12 hours after the inspection, order the owner or occupant to make a good faith effort to correct violations listed in 410.630(A) within 24 hours of issuance of the order

Within 7 calendar days, order correction of any violation found in 410.630(A) within 30 calendar days of service of the order

No order shall exceed 30 calendar days for correction, no dates shall be extended beyond the original date, unless a hearing in accordance with 410.800-410.860 has been conducted



Enforcement Procedures: Finding Unfit

Inspection finds the home or
condition thereof is unfit

Issue a finding which includes a
statement of conditions

occupied:

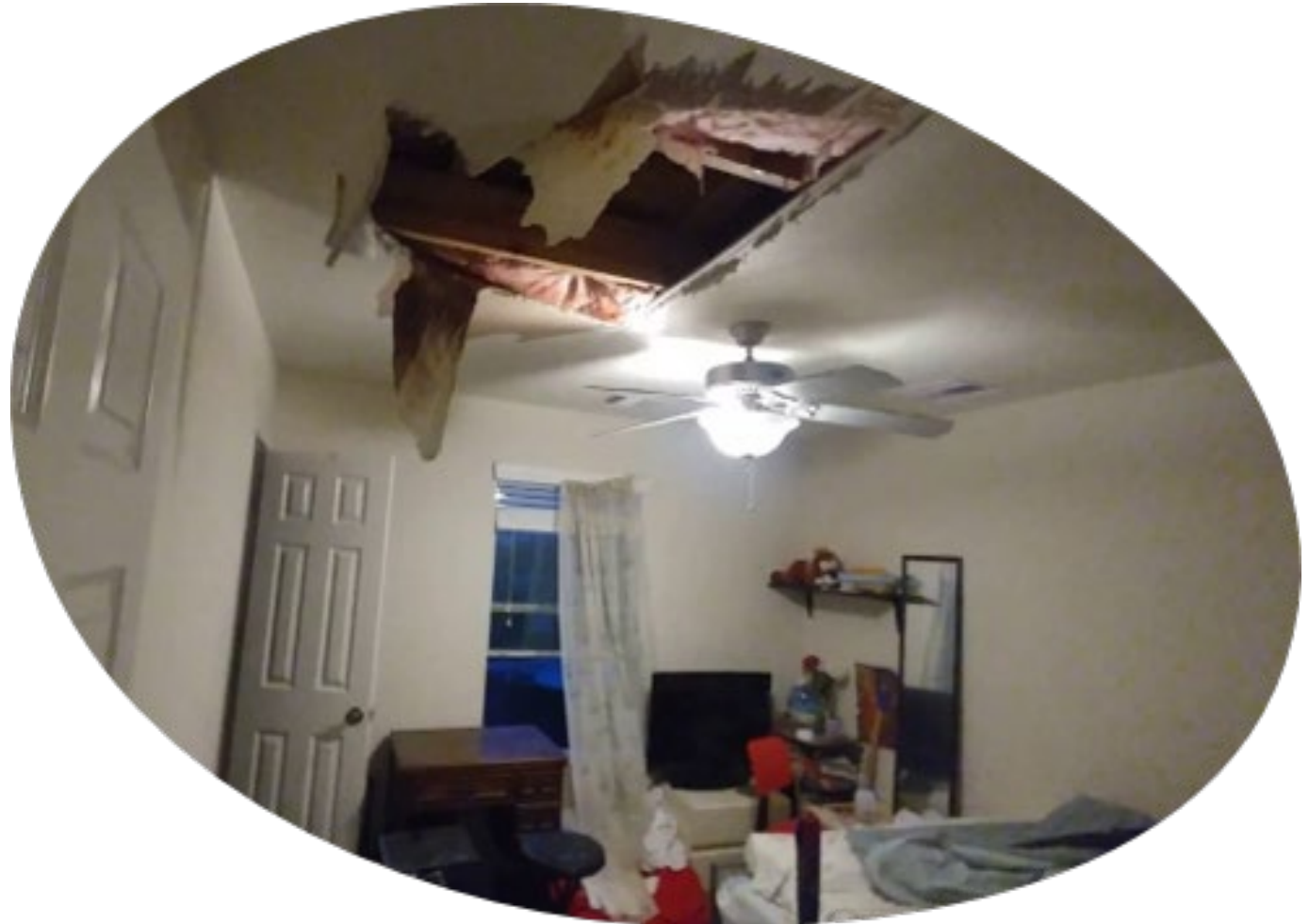
OH provides a written notice to
the owner and occupant

PRIOR TO ISSUING A FINDING

After service of the finding,

conduct a hearing within 5 days

everyone is given the opportunity
to be heard



Enforcement Procedures

Condemnation, Order to Vacate, Order to Secure

At the same time of issuing the finding, or any time after, the BOH may issue an order:

- Condemning the residence
- Vacating the residence and
- Securing the residence

If the residence that was ordered to be secured is unoccupied, and therefore no hearing was conducted, then the owner or any affected party shall have a right to a hearing

No residence that has been ordered vacated may be occupied without the written permission of the Board of Health

Demolition

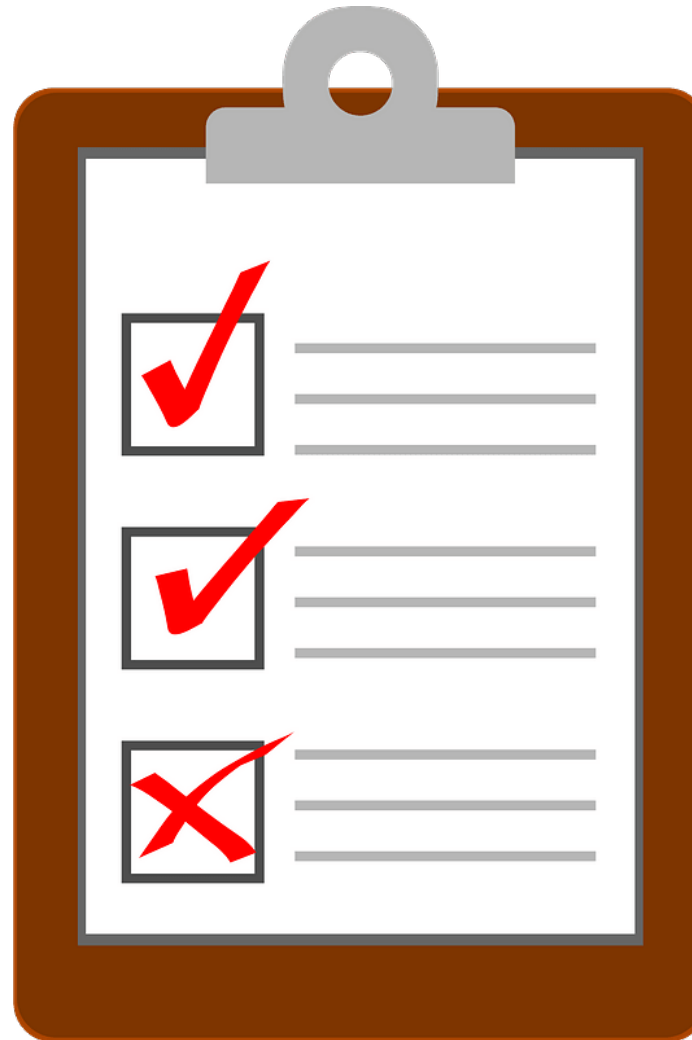
If one year after the issuance of an order to secure, compliance has not been achieved, the BOH has the authority to demolish provided the requirements of 410.800(A) have been met.



Enforcement Procedures: Reinspection

Reinspection

- ✓ 24 hours
- ✓ 7 days
- ✓ New violations
- ✓ Summary



Enforcement Procedures: Service of Orders

Person

✓ Owner

✓ Occupant

✓ Mortgagee

Posting 3 out of 5 consecutive
days within the residence's
municipality

Electronic Signature

Common area violation - More
than 3 units post in common
area



Enforcement Procedures: Right to Hearing

Following persons may request a hearing before Board of Health:

Anyone aggrieved by receiving an order and any affected person may request a hearing

Any person aggrieved by the failure of an inspector to:

- Inspect a residence

- Issue a report

- Find violations after violations are claimed to exist

- Issue an order to correct violations

- Enforce the provisions of the regulations (hearing request filed within 45 calendar days)

- Follow the provisions of the regulations in the approval of a variance (file within 30 calendar days from the date Board of Health approves the variance)



Enforcement Procedures: Hearing Process

BOH notifies the petitioner and affected parties

Hearing held within 14 calendar days from the receipt of the request

Failure to hold a hearing does not affect the validity of any order

Everyone is given the opportunity to be heard

BOH shall notify the petitioner and affected parties in writing of its decision to sustain, modify, or withdraw the order within 5 calendar days after the conclusion of the hearing



Enforcement Procedures: Variances

BOH may waive the enforcement of 410.000 when:

Enforcement would do manifest injustice

The applicant has proved same degree of protection can be achieved without strict application of the existing provision

Insurance is utilized, written confirmation from the insurance carrier confirming continuation of full coverage

The Board of Health's decision does not conflict with the spirit of the regulations

All affected parties are notified of date, location and time of hearing

All affected parties are given time to be heard

The petitioner is notified within 3 calendar days of the decision

Enforcement Procedures: Variances

BOH shall not waive the following:

Conditions deemed to endanger or materially impair health and safety

Alternative Housing requirements

Enforcement procedures found at 410.600-410.930

Submetering of water and sewer

Any regulatory provision governed by another agency

Any regulatory provision required by law

Enforcement Procedures: Variances

Any variance granted by the BOH shall be in writing and include:

the factors determining that
enforcement would be a manifest
injustice

the measure incorporated by the
petitioner ensure equal or greater
protection

the date of expiration of the variance

The variance shall be:

- ✓ Made available to the Director of the Community Sanitation Program
- ✓ Available to the public at all reasonable hours in the office of the clerk or Board of Health
- ✓ Provided to all occupants and attached to new rental agreements
- ✓ Filed by the owner in the registry of deeds for the county in which the residence is located

Enforcement Procedures: Condemnation



EMERGENCY CONDEMNATION AND ORDER TO VACATE Finding of Unfitness for Human Habitation and Determination of Immediate Danger

with M.G.L. c. 111, §§ 127A and 127B, 105 CMR 400.000: State Sanitary
I: General Administrative Procedures and 105 CMR 410.000: State Sanitary
imum Standards of Fitness for Human Habitation, John Doe, Health Agent for the
Board of Health, on _____ date conducted an inspection of a dwelling located
_____, Massachusetts. A copy of the inspection report is annexed hereto.

on, the Board of Health ("Board") finds that the dwelling is unfit for human habitation. Pursuant to
1 (D), the Board further finds that the conditions within the dwelling are such that the danger to the
of the subject dwelling is so immediate that no delay may be permitted in making this finding.

ing, which give rise to the emergency finding of unfitness and determination of immediate danger,
ulation i.e., inadequate egress (105 CMR 410.450), etc. It is essential that this order include a description
material facts and conditions upon which the emergency determination was made.)

all occupants are hereby ordered to vacate and the landlord/owner is ordered to secure the subject
dwelling within 48 hours of receipt of this order.

ng or portion thereof, which was ordered condemned and vacated s/he may be forcibly removed by
(MGL c. 111, §127B), or by local police authorities at request of the board of health.

omply with any order of the board of health may be subject to fines ranging from \$10-\$500. Each
failure to comply with an order shall constitute a separate violation.

not be occupied and the placard removed without the written approval of the board of health.

important legal document. It may affect your rights. You should have it translated.

igned _____
Local Board of Health

cc: Occupants
Lien Holders
Mortgage Holders
Building Inspector
Fire Department
Town Counsel

A residence can be placarded when:

- ✓ A written petition is not filed within 7 calendar days after an order to condemn has been issued
- ✓ After a hearing, the order of condemnation is issued

No one shall:

- ✓ Occupy a condemned residence without BOH approval
- ✓ Remove/deface a placard

Enforcement Procedures: Condemnation

When a residence is condemned . . .

Owner shall provide comparable, suitable housing for the occupant for the following time period, or whichever is shortest:

the remaining term of the lease or rental period

such time as the residence is deemed suitable for habitation by the Board of Health

such time as the occupant finds alternative, permanent housing and voluntarily terminates the tenancy

Claim for the expense incurred for demolition of residence by the Board of Health constitutes a debt due the municipality in accordance with M.G.L., c. 111, § 127B



410.900 Condemnation, Placarding and Vacating Residences


Enforcement Procedures



Failure to
Comply



Interference



BOH can
clean the
residence

Penalties

Correction of Violations by the BOH: Expense

Severability



Bring It Home

- Excess Moisture Inspections - Environmental Testing
- Time frame for Corrections - within 7 days order to correct within 30 days

Reinspection

- 24 hours after the date for compliance for violations listed in 410.640(A)
- 7 calendar days after the date for compliance of violations listed in 410.640(B)

Service

- Electronic signature is acceptable for service
- Posting 3 out of 5 days in paper of affected residence
- Variances
- Condemnation – Suitable Housing Responsibility - Owner

Wrap Up



Definitions

Wrap Up



Excess Moisture Inspections and Ventilation

Wrap Up

A photograph of a multi-story building under construction. The structure is primarily composed of light-colored wooden framing and sheetrock. Several window and door openings are visible, some with diagonal bracing. The building is set against a backdrop of green trees and a cloudy sky. A dark blue rectangular box with white text is overlaid in the center, and a grey rectangular box with dark blue text is in the bottom right corner.

Pest Inspections

Wrap Up

The background of the slide is a photograph of a building under construction. The wooden roof trusses and rafters are visible, showing a complex geometric pattern. A large, leafy green tree is on the left side, and a clear blue sky is in the upper right. A dark blue rectangular box is overlaid on the left side of the image, containing the word 'Variances' in white text.

Variances

Wrap Up



Alternative Housing

Wrap Up



Habitability

Wrap Up



Hot Water

Wrap Up

A photograph of a two-story house with green shingled siding on the upper floor and white horizontal siding on the lower floor. The house has a brick chimney on the left side and a large multi-paned window on the right. The house is surrounded by bare trees, suggesting a winter or late autumn setting. A dark blue rectangular box is overlaid on the center of the image, containing the word "Condemnation" in white text.

Condemnation

Wrap Up



Heating Season

Wrap Up

Regulatory Process

Following training, the Department will file the amended regulation with the Secretary of the Commonwealth for final promulgation

The regulations will become effective two weeks after filing

By April 2023 we anticipate the regulation being promulgated

The regulation may be viewed at mass.gov/amended410

Connect with DPH



@MassDPH



Massachusetts Department of Public Health



mass.gov/dph