



BOH Forms: #18 Housing Guide

Board of Health and Local Health Department Standard Operating Procedures (SOP)

This **Checklist** highlights many of the permitting requirements for owner-occupied housing, short and long-term rentals, ADU. The checklist is designed to be used in tandem with **MA Housing & Septic Codes**. **The BOH always has the final say on requirements.**

☐ State Sanitary Code, Chapter II Housing Code – 105 CMR 410.00 – Updated May 12, 2023

BOH regulates/inspects all types of Housing/Residences, including owner/tenant occupied; temporary/permanent; short/long term.

Except:

- State and Federal Facilities
- Institutional housing such as nursing homes and hospitals licensed/inspected by the State under stricter regulations.

BOH also regulates other types of Housing under other Codes such as:

- Farm Camps regulated under State Sanitary Code Chapter III - 105 CMR 420.00
- Recreational Camps for Children regulated under State Sanitary Code Chapter IV - 105 CMR 430.00
- Family Campgrounds regulated under 105 CMR 440.00
- Manufactured Housing Communities regulated under 940 CMR 10.00
- Onsite Septic System regulated under 320 CMR 15.00
- Wells regulated under 320 CMR 15.00 and local BOH Regulations

BOH can pass Local Regulations that allow them to permit all rental housing, including short-term rentals

☐ Definitions of Human Habitation Types

- **Accessory Dwelling Unit (ADU):** Permanent, smaller of 900 sf or half the main house size on a single-family lot which meets Housing Code and local regulations.
- **Alternative Housing:** Single-family, owner-occupied mobile or permanent residence approved by the BOH to reduce energy or environmental impact. This unit shall not be rented out and requires a special permit from the BOH to waive basic requirements and is considered a permanent occupancy unless the occupancy/conditions changes or it is ever offered as a rental.
- **Dwelling Unit:** Room or group of rooms intended for use by an individual, family, household for living, sleeping, cooking, eating
- **Farm Worker Housing:** Farm Labor Camps as per 105 CMR 420. means any tract of land, including all buildings, vehicles, and other structures located thereon, which contains sleeping facilities made available in connection with the employment of laborers in farm activities and living apart from the operator's household and which are occupied or intended for occupancy by two or more such laborers or members of their families.
- **Family Campground:** 3 or more camp spaces on a lot, usually operated for profit and open to the public under **105 CMR 440.00**
- **Housing:** Homes, Retreats, Hotels, Conference Centers, Camps, Dormitories, Shelters, and the like intended for human habitation
- **Housing Minimum Size:** 150 sf + 100 sf/additional person.
- **Lodging:** Typically rentals in hotels, motels, inns, B & Bs, dorms, assisted living units, rooming/boarding houses and the like.
- **Manufactured Housing Community/Trailer Park:** 3 or more units on a property as per M.G.L. c. 140, § 32F.
- **Multi-Family Housing:** Includes lots zoned single family with a main house & ADU under the Title 5 Code, as well as apartment buildings, condos, townhouses, etc. on a single lot.
- **Public Property:** Owned or controlled by a government entity. Housing is not allowed without permission on public property
- **Rental:** A dwelling unit rented for compensation to someone over 18 for sleeping and living purposes with or without a written lease. May or may not include family members who pay rent on a regular basis.
- **Residence:** Any structure used for or intended for human habitation and all other structures on the same lot.
- **Rooming House:** Residence with 1+ rented units to 4+ unrelated persons. Includes, hotels, dormitories, boarding houses, etc.
- **Short-term Rental (STR):** Residence rented for 15+ days in a year for less than 31 continuous days to one renter. Doesn't include month-to-month rentals. STRs must be registered with the State and locals and pay lodging taxes.
- **Temporary Housing 30:** A mobile structure on premises for less than 30 calendar days in a year that does not create a public health nuisance. Includes tents, trailers, vans, etc. Longer than 30 days requires a variance from the BOH. Unit can't be rented.
- **Temporary Housing 90:** A mobile or permanent structure providing shelter with living, sleeping, eating, cooking, sanitation for 1 household intermittent periods of time in a calendar year not to exceed 90 consecutive days without a variance from the BOH.
- **Temporary Housing/Shelter:** without Code compliant sleeping, living or cooking spaces. Short-term emergencies only.
- **Temporary Emergency Shelter:** Space owned by Federally qualified religious groups providing occasional short-term shelter.

☐ BOH Lodging/Housing Permits* under MGL. Ch 140, s.23 and 105 CMR 410.00 new Housing Code May 12 2023

All Housing/Residences meant for human habitation are regulated by the BOH. Structures of certain sizes and use are regulated by Building/Zoning Officers as well. **Note:** BOH routinely permit/inspect the following housing types and charge Permit fees:

- **Rooming House:** Hotels, Motels, Inns, Dormitories, Retreats, Conference Centers, large B&Bs and other short or long-term rentals with space for 4 or more persons rented for less than a continuous 32 days to one or more individuals.
- **B & Bs with 7 or more BRs** need a Food Permit as well as a Lodging Permit
- **Pre-Rental Housing Registration/Inspection:** Many BOH register and/or inspect rental housing to ensure safe housing.
- **Temporary Housing 90 – New.** Should have a Permit and may set Fees and other requirements.

- **Alternative Housing – New.** Requires Permit Application. May set Fees, other requirements. Variances must be in writing.

☐ **BOH Permitting using Local Regulations**

Note: Unless required by Local Regulations, BOH do not routinely issue permits but may inspect the following:

- **Tents, Trailers & Camp Sites used less than 30 days per year** in a single location. Can't be a Short-Term Rental (STR)
- **Rentals of Single-Family House/Apartment for 32+ days.** With local regulations, pre-rental or annual inspections can be done.
- **Owner Occupied Housing.** It is not common to permit or inspect unless there is a complaint.
- **Emergency Shelters.** Civil Defense/Emergency Shelters are usually not permitted but are inspected regularly by the BOH.

☐ **Mass Rental Housing Checklist: BOH may pass reasonable, more stringent requirements at any time.**

	Single Family or Owner Occupied or rented less than 14 days in yr.	Entire Single- Family Dwelling Rental for 32+ continuous days	Owner Occupied B & B: 1-6 BRs Reserved in Advance	Rooming Houses & Hotels: space for 4+ unrelated persons rented less than 32 continuous days.	Owner Occupied Large B & B: 7+ BRs	STR: Seasonal or Causal Lodging. Rooms or whole house rented 15+ days/yr.
Permits	No	Only if Local Regs	Lodging Permit	Yes	Lodging/Food	Only if local Regs.
Fees	No	Only if Local Regs	Yes if permitted	Yes	Yes	Only if local Regs.
Alternative Housing****	Requires written BOH permit	Shall not be rented.	Requires written Variance	Shall not be rented.	May require a variance	Shall not be rented
Inspections**	Complaints or Local Regulation	For complaints or Local Regulation	Complaints or Local Regulation	Yes	Yes	Complaints or Local Regulation
STR: State-Local Registration & Excise Tax	No	No	Probably Not	Yes	Yes	Yes, pay tax (14 days or less must still register)
Food Permit***	No	No	No	Yes, if food served.	Food Permit	Yes, if food served.
Public Health Orders****	The BOH has broad authority to pass local regulations; order mandatory isolation and quarantine, suspend evictions, require special sanitation at the owner's expense or restrict the use of housing or occupancy in emergencies.					

*All Permitted Housing should be on a public water supply or annually provide a complete potable water test as required by BOH.

**Inspections: *Note that the BOH must have the permission of the occupant or the occupant's agent to conduct an inspection.*

***Food Managers Training, Allergen Awareness Training and Consumer Advisories are good practices even if not required by the MA Food Code or the Board of Health whenever food is served to the public. BOH can require additional Food Employee training at any time. Every Food Establishment should have a Knowledgeable Person in Charge (PIC) at all times.

******Note:** Boards of Health may pass stricter local regulations to meet local conditions and set application and fee requirements.

☐ **Steps for Homeowners to take who have onsite septic systems and want to add BRs/Units/ADUs. 310 CMR 15:00**

Note: there are generally no variances for new construction unless the owner can show a hardship that makes strict enforcement manifestly unjust under maximum feasible compliance and the changes do not endanger the public health or environment. 15.414.

1. Contact Board of Health and Review Septic System file
 - Review Perc/Soil Evaluation Data for the lot to estimate possible septic system options. If there is no soil evaluation/perc data on file, owner must hire an Engineer to determine ESHG* and capacity of the system.
 - Note age of System. Repairs, Design Flows. Location. Last Inspection. Pumping Records.
 - Septic System Plans on file can indicate current system capacity.
 - Review floor plans; count current BR/Sleeping Areas and rooms using the existing septic system.
 - Under current Title 5, ADUs are considered part of one facility on one lot and need only provide a septic design for the total number of BR (can't use the number of rooms divided by 2 rule), but must have two tanks or a large shared 2-comartment tank, and SAS for the number of BRs on the whole lot called the facility in T5.
 - Type of Well. Location. Flow Rate/Capacity. Water Test Results.
2. Discuss Proposed Project. Increased Dwelling Units. Increased/proposed # BR/Sleeping Areas. All Units have at least 1 BR and a Kitchen/DR/LR, & Bathroom facilities to be considered a separate Dwelling Unit.
3. Hire a T5 System Inspector if system is to be re-used/upgraded to determine condition and size of system
4. Hire T5 Soil Evaluator if new deep holes/percs are required. All new construction/change of use requires 1 perc/2 deep holes in primary Field/SAS area and 1 perc/2 deep holes in SAS reserve area.
5. Determine what is needed to accommodate additional Dwelling Units/BRs
 - New Septic Systems are the easiest, but probably the most expensive choice.
 - Repaired, upgraded components such larger tank and/or extending lines or chambers to increase capacity
 - Composting Toilets and Greywater System may be proposed to increase capacity of existing system

- Innovative/Alternative System may be considered to increase capacity or reduce separation to ESHG*
 - Temporary modifications, tight tank, and other variances may be requested under maximum feasible compliance at the discretion of the BOH. Variances must be in writing and approved at a BOH meeting.
6. Talk to Building Inspector about project based on BOH data/findings and apply for any required permits.
 - Zoning, Building, Fire, Electrical, Highway, etc. permits likely required
 7. Apply to the BOH for needed permits.
 - Perc/Soil Evaluation Test
 - Disposal System Construction Permit (DSCP) – required for repairs, upgrades, new systems
 - Housing Permit if Temporary or Alternative Housing
 - Other permits as required (Pre-Rental Registration, Alternative/Temporary, etc.)

***Estimated Seasonal High Groundwater (ESHG):** Hydrogeologic properties & redoximorphic features indicating high groundwater.

☐ **Temporary/Alternative Housing Application – Based on the new Housing Code May 12, 2023.**

1. Applicant Name:
2. Applicant Phone Number, Email, Mailing Address:
3. Proposed Location/Site Address:
4. Owner of Property – written permission required. Deed Notices/Restrictions may be required.
 - a. Permit does not imply permission for Alternative Dwelling on a property without all local approvals:
 - i. Zoning Officials: Zoning and Residential Use
 - ii. Building Officials: Wood Stove Permits; Tent Permits (Fire Resistant label); maybe occupancy permit
 - iii. Electrical Officials: Electrical Connections: GFIs; Temporary Exterior Extension Cords must be approved
 - iv. Fire: Propane, Smoke Alarms, CO Alarms
 - v. DPW: Driveway Permits
5. Proposed Dates of Use (Winter months require heat):
 - a. Temporary Housing less than 30 days - nuisance regulations apply
 - b. Temporary Housing 30 – 90 days – housing code regulations apply
6. Proposed Number of Occupants with Ages (may not be suitable for small children)
7. Proposed Deed Restriction. Required for an Alternative Housing permit.
8. Type of Alternative or Temporary Housing:
 - a. Tents, Yurts, etc.
 - b. Mobile Structures: Trailer/RV/Tiny House
 - c. Permanent Structures (need Building and Occupancy Permits)
9. Type of Proposed Lodging/Structure
 - a. Square Footage/Floor Plan
 - b. Sleeping Accommodations/Layout
 - c. Cooking Facility/Layout
 - d. Weather Tightness/Construction/Materials
 - e. Heat Source/Plan, Smoke & CO Detectors
10. Potable Water Plan: Must be from an Approved/tested Source with current water test provided.
11. Power/Electricity Plan – may need an electrical permit
12. Septic Waste Disposal Plan: connect to public sewer, onsite system with capacity or upgrade to new septic system
 - a. Onsite Toilet Options:
 - i. Convert all toilets to composting/incinerating toilets (may not be used for greywater flows). This increases the capacity of an existing, compliant septic system by 50% or new septic systems by 50%. Existing 3 BR system could now have 4 BR. Existing 4 BR system could now have 6 BR.
 - ii. Note: existing privies cannot be used for any new construction requiring a building permit. Privies cannot be in groundwater. Hire a System Inspector or Soil Evaluation to determine ESHG*.
 - b. Greywater – Options
 - i. Public Sewer connection.
 - ii. Private Septic if there is adequate capacity for increased flow to an existing, compliant septic system. May need extra pumping and monitoring at the discretion of the BOH.
 - iii. Temporary Holding Tank: concrete, plastic, bladder with Pumper Contract – Requires a variance.
 - iv. Subsurface Greywater System constructed in compliance Title 5 310 CMR 15.00
 1. Must show that a fully compliant Title 5 septic system was or could be installed on the lot.
 2. System designed under Title 5 by a Registered Engineer or Registered Sanitarian.

3. Use Innovative/Alternative Design system to increase flow or manage greywater
4. Other options – ask for variances demonstrating full compliance is not possible or is unjust and the public health and environment are still protected.

13. Solid Waste Plan – for trash & recycling – where stored, how collected, where recycled/disposed.

☐ **Temporary/Alternative Housing Permit Conditions for BOH to Consider**

Permit Requirements/Conditions:

- ☐ May not cause a nuisance and must cease and desist when ordered to do so.
- ☐ Must allow the BOH to inspect with 24 hours' notice.
- ☐ Must remove Alternative/Temporary Dwelling in 10 days if ordered to do so. May request a hearing within 10 days
- ☐ Any changes to the use, services, or occupancy must first be approved by the BOH
- ☐ This Housing Unit may not be used as rental housing without special permission from the BOH
- ☐ Must Post Address that meets Code Requirements for size and durability at street and on the structures.
- ☐ Must comply with all other local regulations and requirements such as police, fire, zoning, building, DPW, etc.
- ☐ Alternative Housing Permit requires a public Hearing and Abutter notification, must include a Deed Restriction and be registered with Director Community Sanitation.