



BOH Forms:#63 Emergency Shelter Checklist

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

This **Checklist** highlights many of the steps needed to focus on essential health and safety in Mass Care/Sheltering situations. The checklist is designed to be used in tandem with the Region 1 **SOG: Housing**. BOXES CAN BE CHECKED WITH the CURSOR.

Definitions

- **Congregate Mass Care Shelters** are established during or just before an emergency in a safe location that operates 24 to provide all necessary life-sustaining services for a population that is displaced or evacuated for some reason until they can return home or be transitioned to their new normal. Lead: EMD/Towns/State
- **Warming/Cooling/Personal Care Sites** operate only during certain hours, usually during the day, with the purpose of providing short-term respite support such as HVAC, charging stations, beverages, snacks, internet. Lead: EMD/BOH
- **Reception Centers** open for a short-time as triage centers to receive and process evacuees or migrants and assign them to longer term shelter operations, other housing, or medical care based on their needs and available resources. Lead: EMD/Towns/State
- **Homeless Shelters** are temporary accommodations for individuals and family groups who are unhoused or about to be without housing. They were never intended to be a permanent solution for people in transition.
- **Family/Migrant Shelters** are temporary accommodations for family groups who need housing and support services while they are processed, stabilized and integrated into a community or helped with to make other choices.
- **Non-Congregate Shelters** (Hotels) are operated to house individuals/families when an appropriate Mass Care congregate shelter is not available.
- **Alternative Care Sites** focus on providing limited or special medical care often for a specific condition such as a massive Covid outbreak when normal medical support facilities and resources are overwhelmed or not available.
- **Temporary Emergency Shelter** 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. § 501(c)(3) that may, on occasion, provide temporary overnight accommodation to a limited number of individuals for a limited period of time.
- **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

Note: Congregate Mass Care Shelter (as opposed to homeless/emergency shelter)s are under the control of the local Emergency Management Director and MEMA. Emergency Shelters may be under the oversight of the local Board of Health and/or DPH. Shelters that are owned, managed or funded by DPH/State are considered State operated/owned.

Housing Code Exemptions – Based on the new Housing Code May 12, 2023.

410.002(B) The provisions of 105 CMR 410.000 shall not apply to any residence:

- (1) Otherwise required to conform to minimum habitation standards specified in other chapters of the State Sanitary Code, or otherwise exempt by statute; (Rec Camps, Workcamps, etc.)
- (2) **Used exclusively as a temporary overnight shelter; (NOTE: not this is not defined)**
- (3) **Owned by an agency of the Commonwealth; (likely include shelters funded by State)**
- (4) In any hospital, convalescent, nursing home, or rest home licensed by the Department of Public Health in accordance with the provisions of M.G.L. c. 111, § 51 or 71, unless regulations pertaining to such facilities require compliance with 105 CMR 410.000; or
- (5) On a federal military base or where enforcement is otherwise pre-empted by federal law

Except for Federal Operations these facilities are likely NOT exempt from Disease Reporting & Surveillance.

Homeless Shelter Exemptions

410.460: Homeless Shelters All homeless shelters shall comply with 105 CMR 410.000 with the following exceptions/requirements:

- A) provide a **bathroom door** capable of being closed to afford privacy as required by 105 CMR 410.110(A), provided entry into the room is designed to block the view from an adjacent room or common area.
- B) comply with the toilet and **bathroom ratios** established in 105 CMR 410.110(E).
- C) have a lock with a striker mechanism or provide **keys** to all occupants, as required by 105 CMR

410.270(A)(3) and (B).

(D) **minimum square footage** requirements established in 105 CMR 410.420(D), provided the space should be configured to provide at least six feet head-to-head separation between bed occupants, wherever feasible. 105 CMR: DEPARTMENT OF PUBLIC HEALTH 410.460:

(E) comply with the installation of **screens on doorways** required by 105 CMR 410.540(C).

(F) comply with the **inspection requirement** in 105 CMR 410.550(F), provided they establish **pest management policies** that include periodic inspection for pest infestation.

BOH and Shelters Based on the new Housing Code May 12, 2023.

Note: State sponsored shelters are likely exempt from BOH Enforcement.

- **Church Emergency Shelters:** probably exempt from the Housing Code but still must be safe and sanitary under the MGL Nuisance Chapter/Sections; not exempt from the Food or Title 5 Codes unless they are State supported/managed.
- **Homeless Shelters:** likely subject to most of Housing Code for pests, wastes, but not sizes, etc.
 - Subject to Food Code as Temp Non-Profit.
- **Boards of Health are often tasked with running/supporting a local shelter and should always conduct inspections to ensure the health and safety of the residents and staff.**

Emergency Shelter BOH Quick Checklist

Inspection (Refer to the Housing SOP and Housing Inspection Form for Details)

- Remember safety first. Leave & call 911 immediately if threatened or take a police officer along.
- Wear sturdy clothing/boots and have PPE available in case of hazards such as molds, etc.
- Bring a flashlight and inspection form.
- Identify yourself and ask permission to enter.
- Highlight any immediate health and safety issues such as lack of heat in the winter, lack of drinking water, hazardous steps/railings, lack of proper sanitation, filth, and garbage, etc.

Emergency Shelter BOH Inspection Checklist – Safety First

- Is the Location safe** (Not subject to flooding, falling trees, or other risks)
- Is the Facility safe** (Building, Fire, BOH)
 - Exits marked and accessible
 - Smoke/CO alarms
 - Handrails
 - ADA Compliant –3 ft walkways, 20 – 40 sf/person, ADA bathroom and ramps
 - Clean and well organized**
- Is the Water/Ice safe** (test if not a PWS); hot water 110⁰F-130⁰F; soap; and disposable hand towels
- Is the Food safe** (PIC must be knowledgeable, adequate reheating (not crockpots), refrigeration, dishes)
- is the Air safe** (no molds, chemicals, toxins, smoke, etc.)
- Is there adequate Sanitation** (public sewers or adequate septic system)
- Is the Lighting adequate and safe?** (Is there backup lighting for power outages?)
- Is the HVAC adequate and safe** (heat, ventilation, air conditioning) 64⁰F 11:01 pm- 6:59 a.m.; 68⁰F 7:00 am- 11:00 p.
- Are there enough toilets & sinks with privacy for men and for women?** (Goal is 1 toilet/sink/20 people)
- Are there enough showers?** (1/15 people)
- Do they have enough garbage receptacles?** (Are they emptied and cleaned frequently?)_
- Do they have enough medical waste receptacles?** 105 CMR 480.000
- Is the facility free from pests?**
- Are children adequately supervised and separate from other adults?**
- If food prepared onsite, is the Kitchen adequate, clean, and inspected?**
- Does the bed arrangement provide at least 6 feet head-to-head?**
- Can women, men, and families be provided separate areas?**

Is there a laundry plan and/or laundry facilities? May use disposable bed linens and towels

Misc.

- Property owners are always the responsible party with very few exceptions.
- HIPPA only applies when paying/providing medical services, but never share medical information.
- BOH/staff are mandatory reporters for evidence of child/elder abuse. If in doubt, report to Child or Elder Services.
- Official service animals must be accommodated, not pets.**

Berkshire Public Health Alliance Housing Inspection Form

1 Fenn Street, Pittsfield, MA 01201 – Alliance@berkshireplanning.org

105 Code of Massachusetts Regulations (CMR) 410.000:

Minimum Standards of Fitness for Human Habitation, State Sanitary Code, Chapter II

Address	Unit #	City/Town
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Date: _____ **Time:** _____ **Total # Unit Occupants:** _____ **Total Unit Occupants <6 Yrs. Old:** _____

Occupant Name:	Occupant Phone #:
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Owner Name:	Owner Phone #:
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Owner Address:	City/Town:	Zip Code:
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# Dwelling/ Rooming Units in Dwelling:	# Stories:	Floor Level of Unit:
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# Sleeping Rooms:	# Habitable Rooms:
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Homeless Shelter?	Yes	No
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This inspection report is signed and certified under the pains and penalties of perjury.

Inspector Name, Signature, Title

If violations are observed and checked, describe them fully on Page 4.

	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s) *May Denote 410.630: 24/hrs.	Violation Observed *Denotes critical violations that are an immediate danger to occupants and the public health as noted in 410.630(A)			Responsible Party	
						Owner	Occupant 410.240*
Exterior, Yard & Porch	Locks	270*					
	Posting, ID, Exit signs/emergency lights	310, 400, 410					
	Handrails, steps, doors windows, roof	500*, 510, 520*, 500*, 530					
	Rubbish—storage and collection	560*					
	Maintenance of Area	570*					
Common Areas & Entry	Illumination, windows	220, 300*, 530,					
	Egress	260*					
	Handrails	520*					
Interior Halls & Stairs	Floors, walls ceilings	500*					
	Hallways, railings, stairs	520*					
	Light, windows	220, 300*, 530, 540					
Bedroom 1	Location (circle): Front Rear Middle		Left	Middle	Right	Floor Level of Unit	
	Ventilation	220					
	Ceiling height/Minimum Square Footage	420					
	Windows, screen	530, 540					
	Lights/Outlets	140*, 300*					
Bedroom 2	Location (circle): Front Rear Middle		Left	Middle	Right	Floor Level of Unit	
	Ventilation	220					
	Ceiling height/Minimum Square Footage	420					
	Windows, screen	530, 540					
	Lights/Outlets	140*, 300*					
Bathroom	Toilet, sink, shower, tub, door	110*, 120, 140*					
	Smooth, impervious	110*					

	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s) *May Denote 410.630: 24/hrs.	Violation Observed *Denotes critical violations that are an immediate danger to occupants and the public health as noted in 410.630(A)	Responsible Party	
				Owner	Occupant 410.240*
	surfaces				
	Lights, outlets, ventilation	140*, 220, 300*			
	Floors/walls	110*			
Kitchen	Sink, stove, oven; good repair, cabinets, shelving, countertops impervious and smooth, space for a refrigerator	100*			
	Lights, outlets, ventilation, windows, screens	220, 430, 530, 540			
	Ceiling height	420			
	Floor	100*			
Living room and Dining Room	Lights, outlets, ventilation	220, 235*, 300*			
	Ceiling height	420			
	Windows/screens	530, 540			
Basement	Maintenance	500*			
	Watertight	500*			
	Illumination	300*			
Water	Source (circle): Public Private				
	Not Potable	130*			
	Quantity, pressure	130*			
	Responsible for paying MGL ch 186 s 22, metering	130*			
Hot Water	Fuel Type (circle): Natural Gas Oil Electric Other		Temp.: ____ °f	Location taken:	
	Quantity and/or pressure insufficient or temperature above or below required temps Sinks - 110 F min, 130 F max Bath/shower 110 F min – 120 F max	150*			
	Venting of water heater	170*			
Heating	Type (circle): Forced Hot Water Forced Hot Air Steam Electric Other: _____				
	Temp.: ____ °f Location taken:				
	Impermissible portable units or space heaters (e.g. fuel supply located less than 42 inches from burner, unvented gas burning units)	160 160(C)*			
	Minimum temperatures not maintained in every Habitable room and every bathroom during heating season (5/31 – 9/15) 7 am to 11 pm: 68 F Note: measure 5 feet from wall, 5 feet from floor	180*			
Venting, metering	170*, 200, 210				

	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s) *May Denote 410.630: 24/hrs.	Violation Observed *Denotes critical violations that are an immediate danger to occupants and the public health as noted in 410.630(A)	Responsible Party	
				Owner	Occupant 410.240*
Electrical	Type (circle): 110 220 Amp:				
	Metering and access	200			
	Insufficient amperage, temporary wiring,	320			
Drainage, Plumbing	Type (circle): Public Private				
	Insufficient or unmaintained Sanitary drainage system	130*, 235, 300*			
Smoke & CO Detectors	Not in required locations or operational	330*			
Pests	Pests (rodents, skunks, cockroaches, insects)	550*, 570*			
	Structural maintenance and elimination of harborage	500*, 540			
Asbestos	Damaged, friable, holes, cracks, tears	250*			
Lead Paint	Licensed Code Enforcement Lead Determinators offer determination for pre-'78 unit with a child < 6	410*, 470 105 CMR 460.00*			
Curtailment	Curtailment without reasonable notice or temporary emergency	003			
Access	Less than 48 hours' notice to the occupant for non- emergency repairs	003			
Laundering	Laundering between individuals (Bed linens/towels/blankets)	230			
	Laundering frequency (Bed linens/towels/blankets/pillo w & mattress covers)				
	Mattress not cleaned or replaced when not in good condition.				
Other					

	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s) *May Denote 410.630: 24/hrs.	Violation Observed *Denotes critical violations that are an immediate danger to occupants and the public health as noted in 410.630(A)	Responsible Party	
				Owner	Occupant 410.240*

CITY/TOWN Address

CORRECTION ORDER

Issued under the provisions of 105 Code of Massachusetts Regulations (CMR) 410.000:
Minimum Standards of Fitness for Human Habitation, State Sanitary Code, Chapter II

Date:

To: (Name of Owner, LLC, and/or Property Manager)
(Mailing address of Owner, LLC, or Property Manager)

An inspection was conducted at your property located at (Insert address: street number, street name, street type unit # if applicable and town.) on (Insert date). Be advised that an agent of the Local Health Authority has determined certain portions of this residential property to be in violation of the State Sanitary Code, 105 Code of Massachusetts Regulations (CMR) 410.000, *Minimum Standards of Fitness for Human Habitation, State Sanitary Code, Chapter II*. The following violations of 105 CMR 410.000 were identified:

Regulatory Cite:	Description	Condition Deemed to Endanger or Materially Impair Health or Safety? Yes/No <i>(105 CMR 410.630 (A))</i>	Timeframe for Compliance

You are hereby **ORDERED** to correct these violations within the noted timeframe, pursuant to 105 CMR 410.640. Failure to comply may result in court action.

You have a right to request a hearing before the (insert Local Health Authority). To request a hearing, you must submit a written request to the Local Health Authority within seven days after the day this order was served. If you request a hearing, all affected parties will be informed of the date, time, and place of the hearing, as well as their right to inspect and copy all records concerning the matter to be heard. You have the right to be represented at the hearing. Conditions may exist which will allow the occupant of the residence to exercise legal rights outlined in the *Notice of Occupant's Legal Rights and Responsibilities* issued by the Department of Public Health Community Sanitation Program (CSP).

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

Kel-li é un dokumentu legal inportanti. El pode afeta bus direitu. Bu debe tene-l traduzidu.

Ky është një dokument ligjor i rëndësishëm Përmbajtja e tij mund të ndikojë në të drejtat tuaja. Dokumenti duhet të përkthehet.

هذه وثيقة قانونية مهمة. وقد تؤثر على حقوقك. فينبغي عليك ترجمتها.

这是一份重要的法律文件。它可能会影响到您的权利。您应该将它翻译出来。

這是一份重要的法律文件。它可能會影響您的權利。您應該將其翻譯為個人首選的語言版本。

Це важливий юридичний документ. Він може вплинути на ваші права. Вам потрібна його перекладена версія.

Đây là một tài liệu pháp lý quan trọng. Tài liệu này có thể ảnh hưởng tới các quyền của bạn. Bạn cần được dịch tài liệu này.

Este é um documento legal importante. Ele pode afetar seus direitos. É aconselhável traduzi-lo.

Это важный юридический документ. Он может повлиять на Ваши права. Вам необходимо иметь его переведенную версию.

Kani waa dukumiinti sharci ah oo muhiim ah. Wuxuu saameyn kartaa xuquuqahaaga. Waa in lagu tarjuma.

Hii ni hati muhimu ya kisheria. Inaweza kuathiri haki zako. Inapaswa kutafsiriwa.

Sa a se yon dokiman legal enpòtan. Li ka gen enpak sou dwa w. Ou ta dwe bay tradui l.

នេះគឺជាឯកសារច្បាប់ដ៏សំខាន់មួយ។ វាអាចនឹងប៉ះពាល់ដល់សិទ្ធិរបស់អ្នក។
អ្នកគួរតែឱ្យគេបកប្រែឯកសារនេះ។

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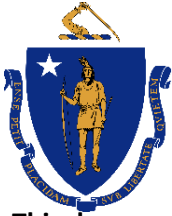
این یک سند حقوقی مهم است. ممکن است بالای حقوق شما تأثیر بگذارد. شما باید آن را ترجمه کنید.

Este es un documento legal importante. Es posible que afecte sus derechos. Debería traducirlo.

Il s'agit d'un document juridique important. Il peut affecter vos droits. Vous devriez le faire traduire.

Your Name, title
Agency Name

Attachment: Inspection Form
Certified Mail, return receipt # to Owner/regular mail to occupants



The Commonwealth of Massachusetts

Department of Public Health

Notice of Occupants’ Legal Rights and Responsibilities

This document summarizes some of the legal options that you may have when the owner of a property you live in has not fixed certain problems in your home, as required by the state Housing Code (105 CMR 410.000). This is not legal advice. Talk to an attorney before you decide to withhold your rent or take other action described here.

Safe and Healthy Rental Housing:

Rental housing in Massachusetts must meet minimum standards to protect the health, safety, and well-being of occupants. The Housing Code, [105 CMR 410.000](#), *Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II)*, is the state regulation that sets these minimum standards. The Massachusetts Department of Public Health, Bureau of Environmental Health’s [Community Sanitation Program](#) (CSP) issues this regulation, but the standards are enforced by local health departments.¹ CSP works with local health departments and the public to provide training and technical assistance about the Housing Code. For more information, please see [mass.gov/lists/housing-community-sanitation](#).

Your Responsibility to Keep Your House Safe and Healthy

The Housing Code also has requirements that people living in rented homes or apartments need to meet. There are some problems like pests, mold, and keeping exits clear, that might need the owners and occupants to work together to fix the problem. For example, occupants need to make sure there is no food or garbage left out that could attract pests or keep their belongings out of exit hallways. If the local health department is doing an inspection, either by your request or for another issue, the local health department may tell you there is something that you need to fix. The local health department may issue you an order to correct and give you a certain amount of time to fix the problem.

Your Right to Safe and Healthy Housing and Protection from Retaliation

If you think that conditions in your home are unsafe or unsanitary and may violate the Housing Code, you should contact your local health department. They will conduct free inspections of your home and will order your landlord to fix any violations of the Housing Code. You can find contact information for your local health department by calling your city or town hall or visiting their website. City/town websites are listed at: [mass.gov/lists/massachusetts-city-and-town-websites](#).

Your landlord is not allowed to raise your rent or try to evict you just because you have made a complaint to them or to the local health department about the violations. This is called retaliation, and you may be able to sue the landlord for damages if this happens (M.G.L. c.186, s.18 and c.239, s.2A).

Your Right to a Hearing

You may ask for a hearing in front of your local Board of Health. You must do this in writing and within the timeframes below. If you send a written request on time to the local health department, a hearing will be held within 14 calendar days. **If you do not make a written request within the timeframes below, you lose the right to a hearing.** The chart below shows the reasons you may request a hearing, and the timeframe you have to send the request.

Reason You May Request a Hearing	Number of Days to Make the Request in Writing
Your home was not inspected	30 days from the day you contacted health department
The inspector did not find violations you think exist	30 days from the last inspection by the health department
The inspector did not issue an order to correct violations	30 days from the last inspection by the health department
The inspector did not enforce the order to correct	45 days from when the owner received the order to correct

Within **five days** after the hearing, the local health department is required to issue a final decision on your complaint (105 CMR 410.840). If you do not agree with the decision, or at any point throughout the process, you can file an appeal in housing court.

Your Options if an Owner Does Not Fix the Problems

If your landlord does not fix violations of the Housing Code in your home, you may have some options as described below. These are not your only options, but they are common actions that tenants take in these situations. Before taking legal action, contact an

¹ Depending on your city or town, this may also be called a Local Board of Health (BOH), Local Health Authority, or Inspectional Services Department. This is the local code enforcement authority responsible for enforcing the regulations.

attorney to protect yourself. If you cannot afford an attorney, **you may be eligible for free legal aid services.** Go to masslrf.org to find available options for free legal advice. To find additional information on tenant legal rights and responsibilities, visit: masslegalhelp.org/legal-tactics or madeuptocode.org.

Option 1: Go to Court

If your landlord does not fix the problems that the local health department ordered them to fix, or if you believe there are problems in your home that may be in violation of the Housing Code, you may also ask a court in your area to order your landlord to correct the problems.

To file a complaint, contact the Housing or District Court Clerk in your region. To find the closest Housing or District Court go to mass.gov/orgs/housing-court/locations or mass.gov/orgs/district-court/locations. These courts deal with cases about residential housing including eviction, property damage, and Housing Code enforcement. For help filing a complaint, you can contact Court Service Centers at mass.gov/info-details/learn-about-court-service-centers.

You can request that the court order the landlord to:

Fix the Problem: You or the local health department may file a petition in Housing or District Court to order the owner to fix the violations of the Housing Code (M.G.L. c. 111, s. 127 A, C).

and/or

Refund Rent You Have Paid: You can file a complaint requesting that your landlord pay back all or part of the rent you paid during the time that there were Housing Code violations. You can claim either 1) Breach of Warranty of Habitability or 2) Unfair and Deceptive Practices (M.G.L. c. 93A), or both.

For both claims, you will need to prove that your home had Housing Code violations, and that the owner knew about the violations and did not fix them. Breach of Warranty can also be filed by the local health department.

Option 2: Withhold Rent Until Repairs are Made

If your landlord does not correct *certain* housing code violations, you may be able to hold back some or all of your rent payment until they make repairs (M.G.L. c. 239, s. 8A). **Save the rent money you withhold.** A judge may require you to pay all or some of it back. If they do and you don't have this money, you may be evicted. If you withhold rent and your landlord tries to evict you from your home, you will need to prove, at a minimum, that:

- The violations may endanger or materially impair the health, safety, or well-being of a tenant;²
- The rental property owner knew about the violations before you started withholding your rent; and
- You did not cause the violations.

Option 3: Make the Repairs Yourself

State law allows you to use your rent money to pay for certain repairs (M.G.L. c. 111, s.127L), and not pay that amount in rent to your landlord. You cannot withhold more than 4 months' rent in a 12-month period to pay for repairs. If you withhold some or all your rent and use it to make repairs and your landlord tries to evict you from your home, you will need to prove:

- The local health department or court determined that the violations may endanger or materially impair the health, safety, or well-being of a residential tenant;²
- The landlord was issued an Order to Correct those violations; and
- The owner did not start the repairs (or to sign a contract for work) within 5 days after getting the Order and did not complete repairs within 14 days after receiving the notice of violations.

Option 4: End your Lease Early and Move

If you meet certain conditions, you may be able to end your lease or rental agreement and move out within a reasonable time. Contact an attorney to find out more about this option. If you cannot afford an attorney, **you may be eligible for free legal aid services.** Go to masslrf.org to find available options for free legal advice.

² These are serious violations which include problems such as not having heat, hot water, electricity or gas, or exits that are blocked.