

BRPC Public Health Program



September 21, 2023



BRPC
Berkshire Regional Planning Commission

New Housing Code Orientation

BRPC Public Health Program

Berkshire Public Health Alliance

Berkshire-Hampden Training Hub



Logistics: Virtual

Housekeeping

○ Introductions:

- BRPC Public Health Program – Sandra Martin
- DPH Community Sanitation -
 - **Scott Koczela and Katharine Dagle**

○ Questions anytime



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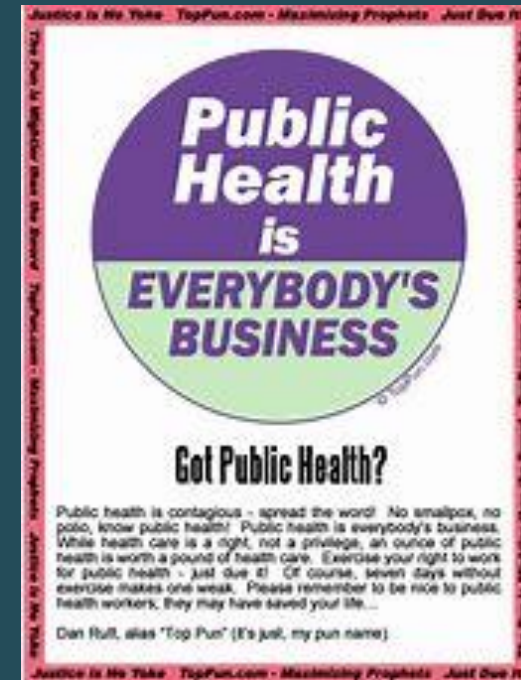
Objectives:

- Define Public Health
- Explain basic responsibilities of BOH
- Review the New Housing Code





Where does BOH get its Authority?



Authority directly from the State...

(Note may also have additional authority from local laws)

- In MA, Boards of Health (BOH) serve as the local arm of, and have **concurrent powers** with, both the:
 - MA Department of Public Health (DPH)
 - MA Department of Environmental Protection (DEP)



MassDEP

Commonwealth of Massachusetts
Department of Environmental Protection



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Massachusetts General Law (M.G.L.)

- The M.G.L. is a codification of laws enacted by the state legislature (State Senate & State House of Representatives).
- M.G.L. chapter 111 addresses matters of public health. The general structure, powers and duties of the boards of health can be found there, as well as legislation on other matters of public health.



Code of Massachusetts Regulations (CMR)

- **Regulations:** The CMR is a collection of regulations promulgated by various agencies of the Commonwealth of Massachusetts.
- **Force of Law:** Regulations approved by an authorized agency according to a procedure established by the legislature are the same as laws.
- **Numbered by Agency:** The Code is organized by executive cabinet agency. In citations, the number before the "CMR" refers to the issuing agency, and the numbers after refer to a specific chapter or section (105 CMR refers to DPH and 310 to DEP).



State Sanitary Code

- **The State Sanitary Code** is a series of public health regulations promulgated by DPH pursuant to M.G.L. c. 111, §127A.
- **BOH have primary enforcement** authority over most State Sanitary Code regulations. DPH has the power to enforce the Sanitary Code if the local BOH fails, after reasonable notice & a reasonable period of time, to enforce the Code.
- **Doesn't apply to Federal/State facilities:** Unless specifically exempted by statute, the Code applies to all persons & businesses w/in the State, except federal or state-owned facilities.



State Sanitary Code Organization

- Chapter I: General Administrative Procedures
- **Chapter II: Housing – New Housing Code May 2023**
- Chapter III: Farm Labor Camps
- Chapter IV: Recreational Camps for Children
- Chapter V: Public/Semi-public Swimming Pools
- Chapter VI: Family Type Campgrounds
- Chapter VII: Bathing Beaches
- Chapter VIII: Medical or Biological Waste
- Chapter IX: ?
- Chapter X: Retail Food Establishments
- Chapter XI: Indoor Skating Rinks



Many Responsibilities of the BOH

- Disease Surveillance, Case Mgmt.
- Title 5 / Wastewater
- Recreational Camps
- **Housing, Motels, Inns**
- Emergency Planning/Response
- Hazardous Wastes
- Solid Waste & Recycling
- Food: Retail, Restaurants, Temp.
- Private Wells and Springs
- Nuisances & Complaints
- Public Beaches, Pools, Hot Tubs
- Septage / Garbage Haulers
- Lead Issues and Children
- Community Well Being
- Ice Rinks (105 CMR 675.00, 2004)
- Smoking / Air Quality / Loud Sounds
- Mobile Home Parks
- Body Art
- Tanning Facilities
- Raw Milk along with Ag.Dept.
- Farm Labor Camps (105 CMR 420.00, 2004)
- License Funeral Directors, Piggeries, Kennels
- Issue emergency pesticide permits at schools
- Approve utility shut offs for non-payment.
- Green Initiatives
- Healthy Communities Planning
- Wellness programs such as active living or healthy eating.
- Prevention Programs such as Lyme, EEE
- Beavers; Rabies; Animals & Vectors
- Manage BOH Office; Records, Meetings, Staff



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Nuisances & Complaints



Public Health Nuisances: M.G.L. c. 111

- Regulations Relative to Nuisances M.G.L. c. 111 §123
- Abatement by Owner M.G.L. c. 111 §124
- Service of Order for Abatement M.G.L. c. 111 §125
- Removal of Nuisance by Board M.G.L. c. 111 §127A Adoption of State Sanitary Code
- License noisome trades M.G.L. c.111, s.151. 3.
- Assign location for slaughterhouses or other noxious or offensive trade. M.G.L. c.111, s.143.
- **Nuisances are situations, in the opinion of BOH, injurious to the Public Health**
- **Often Housing Related:** Noise, smells, dust, pest harborage, contamination, water quality, trash, mold, diseases, chemical releases, beaver dams,



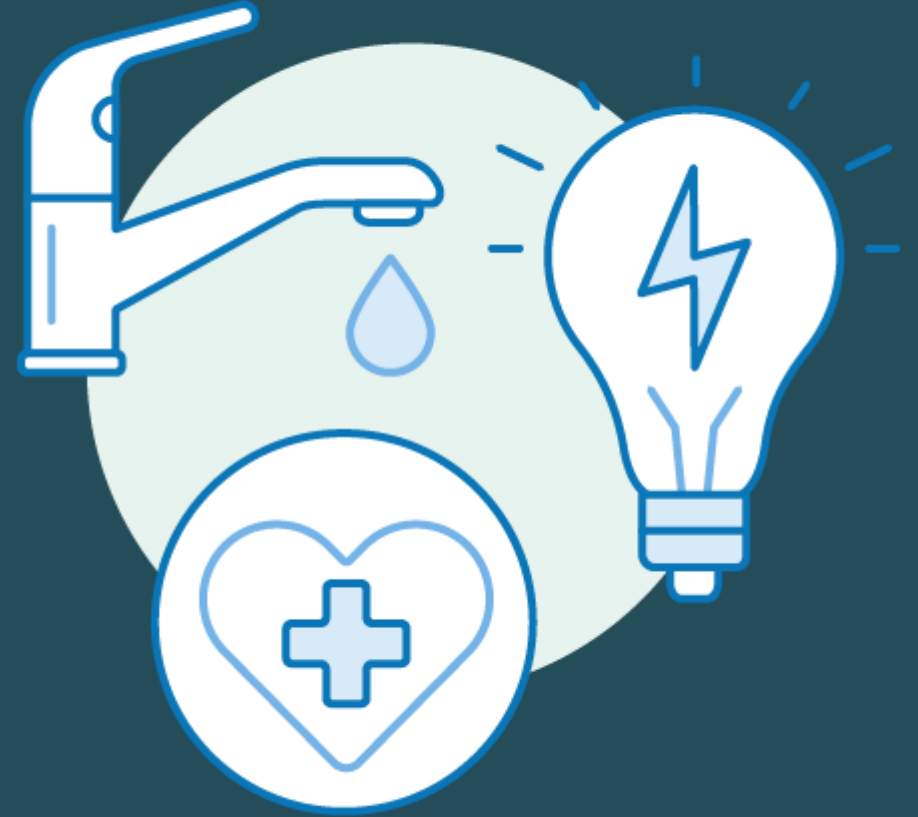
Nuisance Complaints

- **Inspect:** BOH required to examine “all nuisances, sources of filth and causes of sickness” w/in the city or town. (most are housing complaints)
- **Remove:** BOH must remove, prevent or destroy the nuisance or cause of sickness (M.G.L. c. 111, §122).
- **Condemn:** BOH may condemn nuisances and clean or tear down a nuisance (M.G. .L. c. 111, §125).
- Can lien the property owner for any costs incurred.





Housing



Types of Housing

Except exempted in Chapter II, the Housing Code applies to all types of housing including:

- Single & multi-family
- Trailers or tents
- Rental or Owner Occupied
- Rooming houses
- Dormitories
- Hotels & motels
- Temporary Housing
- Alternative Housing
- **ALL places where people live/sleep**



Housing is Regulated by:

- **Local Laws and Regulations**

- Local Zoning and Bylaws – local Zoning Officer
- Local Board of Health Regulations - BOH

- **State/Fed Environmental Codes**

- local Conservation Com., BOH, & state DEP

- **State Building Code** – local Building Inspector

- **State Housing Code** – local Board of Health Inspector

- **State Fire Regulations** – local Fire Inspector

- **State and Federal Laws** on Discrimination and ADA Accessibility



DPH Housing Code

- Chapter II of the State Sanitary Code (105 CMR 410.000, 2023) sets forth the **minimum** standards for housing in MA. *New May 2023*
- **Safe Housing:** Purpose is to protect public health, safety and the well-being of occupants and the general public.
- **Training:** BOH inspector should have MAPHIT housing training.



Exemptions in the Housing Code

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 for Children, Family Campgrounds regulated by other Codes**
- **(2) Used exclusively as a temporary overnight shelter;**
- (3) Owned/operated by an agency of the Commonwealth; **(Parks, Migrant Shelters)**
- (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



Housing Code Definitions

- **Residence** means every building or structure used for, or intended for, human habitation
- **Alternative Housing** a single family, owner-occupied residence, whether mobile or permanent, that is approved by the board of health pursuant to 105 CMR 410.710 to alter standards
- **Temporary Emergency Shelter** any building, facility, or space therein designed and used primarily as a church that may, on occasion, provide temporary overnight accommodation to a limited number of individuals for a limited period
- **Temporary Housing** 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 that is intended to be occupied by a single family or household for intermittent periods of time not to exceed 90 cdays.



New Housing Code Changes

1. Temporary Housing up to 90 days (can't legally rent substandard housing)
2. Alternative Housing – variances required (owner occupied only) Still must meet:
 - Zoning Code (location and use)– Zoning Officer
 - Building Code (safety) – Building Inspector
 - Septic Title 5 if no sewer connection - BOH
 - Potable water may also be an issue if no public water supply available – BOH.
3. Heating Season can be changed by Board of Health, if needed
4. Homeless Shelters - New Exemptions in Churches
5. Excessive Moisture instead of chronic dampness
6. Pests: Landlords must do pre-rental pest inspections (insects and wildlife.)
7. Kitchens must have refrigerator/freezer unless lease says tenant supplies.
8. Deep closets need lighting.



Housing Code Enforcement

- **Inspections:** Local BOH may enforce the housing code by conducting inspections on own initiative or upon request/complaint, issuing correction orders & enforcing compliance.
- **Order to Correct or Condemn:** If BOH determines a dwelling has become a nuisance, is unfit for human habitation or may be a cause of sickness or accident to the occupants or the public, they may issue a written condemnation order requiring occupants to vacate, requiring the premises to be put in a clean condition, or torn down or requiring compliance with the Code (M.G.L. c. 111, §127B).
- **Receivership:** BOH/Town with help from AG can have property cleaned up and sold to pay expenses.



BOH has Discretion to:



- Not apply Codes to temporary structures such as tents occupied less than 30 days that don't endanger the Public Health.
- Allow Temporary Housing for 90 days and may allow renewals.
- Permit Alternative Housing based on local needs and conditions that don't meet all Code requirements.
- Change the heating season dates.

DPH Contact Information

For questions or guidance related to 105 CMR 410.000, please contact:

- Department of Public Health, Community Sanitation Program
- CommunitySanitation@mass.gov
- 617-624-5757
- Scott Koczela, CSP Environmental Analyst
- Scott.F.Koczela@mass.gov
- 617-448-3373
- Katharine Dagle, CSP Senior Housing Specialist Trainer
- Katharine.dagle@mass.gov
- 774-509-8833
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Questions or more Information

alliance@berkshireplanning.org

