

Safe and Sanitary Housing for Massachusetts Residents

Highlights of Chapter II of the State Sanitary Code

Overview

The Massachusetts Department of Public Health establishes regulations detailing the standards which must be maintained by the occupants and owners of housing. These regulations protect the health, safety and well-being of Massachusetts citizens and are found in Chapter II of the State Sanitary Code [105 CMR 410.000] entitled Minimum Standards of Fitness for Human Habitation.

The standards apply to every owner-occupied or rented dwelling, dwelling unit, mobile dwelling unit or rooming house unit in Massachusetts which is used for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit. These regulations have the force of law. Local boards of health have the primary responsibility for their enforcement.

This brochure summarizes those regulations in Chapter II which pertain to essential living needs and describe enforcement procedures. Following each summary is a citation to the regulation number which is used in the Sanitary Code.

For complete information, review Chapter II of the State Sanitary Code and check with your local board of health.

Summary of Standards

Kitchen Facilities

A kitchen must contain a kitchen sink, space and proper facilities for the installation of a refrigerator and, unless otherwise stated in the lease, a stove and oven in good repair. These facilities must be free from defects which make them difficult to clean, or which create an accident hazard. [410.100]

Bathroom Facilities

Bathroom facilities must include a toilet with a toilet seat and a bathtub or shower. These must be situated in a room which allows a person privacy, which is fitted with a door capable of being closed and which is not used for the purpose of living, eating, sleeping or cooking. In addition, a washbasin other than the kitchen sink must be located either in the room containing the toilet or near the entrance to that room. [410.150-410.152]

Water Supply

The owner must provide (i.e. supply and possibly pay for) water in a sufficient quantity and pressure so that the occupant's ordinary needs are met.

The water must come from the public water supply system or a source approved by the local board of health [410.180]. Effective 3/16/05, M.G.L. Chapter 186, section 15B will be amended by Ch. 417 of the Acts of 2004, allowing landlords to charge new tenants for water after installing meters that record the water usage of each apartment or single family home. It does not apply to tenancies in existence as of the effective date of this act, and also exempts tenants in public housing. A landlord may not charge the tenant separately unless the tenant has signed a written rental agreement explaining the separate charge for water submetering and billing. The Department of Public Health will further amend the regulations governing the State Sanitary Code to reflect this change.

Hot Water Facilities

Facilities for the heating of water must be provided (i.e. supplied and paid for) and kept in good working order by the owner. The owner must supply hot water in sufficient quantity and pressure to satisfy the normal use of all plumbing fixtures which generally require hot water to function properly. The temperature of the hot water is not to exceed 130° Fahrenheit (54° Celsius) nor fall below 110° Fahrenheit (43° Celsius). Under certain leases, an occupant may be required to provide the fuel for the heating of the water. [410.190]

Heating Facilities

The owner must provide (i.e. supply and pay for) and keep in good working order the facilities capable of heating every habitable room and every room containing bathroom facilities. [410.200]

Between September 15 and June 15, these rooms must be heated to a temperature of not less than 68° Fahrenheit (20° C) between 7:00 a.m. and 11:00 p.m. and 64° Fahrenheit (17° C) between 11:01 p.m. and 6:59 a.m., unless the occupant has agreed to supply the fuel under a written lease. [410.201]

The temperature may not exceed 78° Fahrenheit (25° C) during the heating season. The number of days per year during which heat must be provided may be increased or decreased through a variance granted locally by the board of health. [410.200 and 410.048]

Provision for Oil

The owner must provide the oil used for heating and/or hot water in each unit unless the oil is provided to the tenant in a separate oil tank, such arrangement having been made through a written lease. This only applies to tenancies created after 7/1/94. [410.355]

Lighting and Electrical Facilities

Every room other than the kitchen must be equipped with a minimum of either two separate wall-type convenience outlets or one electric light fixture and one wall-type outlet. [410.250]
Each kitchen must be furnished with a minimum of one electric light fixture and two wall-type convenience outlets. [410.251]

Every room containing a toilet, bathtub or shower must be equipped with a minimum of one electric light fixture. [410.252]

Electric light fixtures with switches must be located such that every laundry, pantry, foyer, hallway, stairway, closet, storage space, cellar, porch, exterior stairway and passageway are adequately lit for safe and reasonable use by the occupants. [410.253(A)]

The owner shall provide appropriate bulbs in all required light fixtures located in common areas. [410.253(B)]

The owner of a dwelling containing more than one dwelling unit shall provide and pay for light at all times for interior passageways, hallways and stairways intended for use by the occupants. In a dwelling with three or fewer dwelling units the light fixtures used to illuminate a common hallway may be wired to the electric service of a dwelling unit on the same floor and the occupant may be responsible for paying for such service if it is part of a rental agreement. [410.254(A)(B)]

No wiring shall lie under any floor cover nor shall it extend through a doorway, window or any other opening. [410.354]

Metering of Electricity and Gas

The owner shall provide and pay for the electricity and gas used in each dwelling unit unless each dwelling unit has a separate meter and a rental agreement provides for payment by the occupant. Nevertheless, the owner is responsible for maintenance of any wiring or piping for electricity or gas. [410.354]

Installation and Maintenance of Facilities

The owner must adhere to accepted procedures and standards such as the state plumbing and electrical codes when installing plumbing, heating and electric facilities and appliances and must maintain them free from leaks and obstructions. [410.351]

The occupant must adhere to accepted procedures and codes when installing washers, dryers, dishwashers, disposals, refrigerators, stoves and electrical fixtures and maintain them free from leaks and obstructions. [410.352(A)]

The occupant of a dwelling is responsible for maintaining all toilets, washbasins, sinks, showers, bathtubs, stoves, refrigerators and dishwashers in a clean and sanitary fashion. The occupant is also responsible for using these facilities and appliances properly and with care. [410.352(B)]

Asbestos Material Used as Insulation or Covering

The owner shall maintain all asbestos material which is used as insulation or covering on a pipe, boiler or furnace in good repair and free of defects such as holes, cracks, tears or looseness which may allow the release of asbestos dust or powdered, crumbled or pulverized asbestos material. The owner must correct any violations either by repairing or removing the asbestos material in accordance with detailed procedures outlined in the regulations. [410.353(B)(C)(D)] - [Asbestos abatement undertaken by the owner must be in compliance with all provisions of the regulations]

of the departments of Labor and Industries (453 CMR 6.00) and Environmental Protection (310 CMR 7.00).]

Smoke Detectors

The owner of a dwelling that is required by law to be equipped with smoke detectors must maintain them in compliance with regulations of the State Board of Fire Prevention. If a violation of these regulations is observed during an inspection of a dwelling, the board of health must notify the proper fire official. [410.482]

Exits

Exits must be located in every dwelling unit and rooming unit so that safe passage is assured all occupants in accordance with the Massachusetts State Building Code. [410.450]

Owners are responsible for maintaining common exits free from obstructions. Occupants are responsible for the maintenance of exits intended for their exclusive use. [410.451]

The owner of a dwelling is responsible for maintaining all means of egress in a safe, operable condition at all times. In addition, the owner shall keep all exterior stairways, fire escapes, egress balconies and bridges free of ice and snow. [410.452]

Maintenance of Structural Elements

The owner is responsible for insuring that the foundation, floors, walls, doors, windows, ceilings, roof, staircases, porches, chimney and other structural elements of the dwelling do not admit rain or snow and that they are rodent-proof, watertight, in good repair and fit for the intended use. The owner must also keep the structural elements free from holes, cracks, loose plaster or other defects where such defects make the dwelling difficult to clean or may cause an accident or constitute an insect or rodent haven. [410.500]

Windows and exterior doors must be weathertight. [410.501]

No lead paint may be used in painting any surface on the premises. [410.502]

A safe handrail must be provided for every stairway used for or intended for use by the occupants. [410.503]

The occupant must take reasonable care in the use of floors, walls, doors, windows, ceilings, roof, staircases, porches and chimneys. [410.505]

Insects, Rodents and Skunks

In a dwelling with one dwelling unit, the occupant is responsible for exterminating all rodents, cockroaches, skunks and insect infestation and maintaining the unit free of these, provided, however, that the owner shall maintain any screen, fence or other structural element needed to keep rodents and skunks from entering the dwelling; in a dwelling consisting of two or more units or in a rooming house the owner is responsible. [410.550]

As of 7/95, pesticide applicators or their employers must give at least 48 hours' written notice to the occupants prior to any routine commercial application of pesticides for the control of indoor household or indoor structural pests. The notice must include information such as when the application will take place and what products will be used (410.550).

The owner is responsible for providing screens for certain windows and doors on the first four floors of a building. [410.551 and 410.552]

Garbage and Rubbish Storage and Disposal

The owner of a dwelling containing three or more units, the owner of a rooming house and the occupant of any other dwelling shall be responsible for providing receptacles in sufficient number for the storage of rubbish and garbage. These receptacles must be located so that odors do not enter the dwelling. Garbage or mixed rubbish and garbage shall be stored in rodent-proof, watertight, covered containers. Plastic bags will not be considered sufficient. [410.600]

An occupant exclusively occupying or using any part of the dwelling is responsible for maintaining it free from garbage and filth. [410.602(B)]

The owner of any dwelling must keep any part of the dwelling which is used in common by all occupants free from garbage and filth. [410.602(D)]

Security

All dwellings must be secured against unlawful entry. [410.480(A)]

Entry doors to the dwelling and the dwelling unit and every opening exterior window of a dwelling must be secured against unlawful entry and fitted with a functioning locking device. [410.480(B),(D)&(E)]

The main entry door of a dwelling with three or more dwelling units must be equipped to close and lock automatically. Every door of the main common entryway and every exterior door leading into the dwelling other than the door of the main common entryway, which is equipped as described above, must be equipped with an operating lock. [410.480(C)]

The owner of a dwelling is required to post a notice which is constructed of durable material and which is no smaller than 20 square inches in size listing the owner's name, address and telephone number if he/she does not live in the dwelling or have a manager living in the dwelling. If the owner is a realty trust or partnership, the name, address and telephone number of the managing trustee or partner must be posted. If the owner is a corporation, the name, address and telephone number of the president of the corporation shall be posted. [410.481]

Summaries of Enforcement Procedures

The determination of whether a violation exists is not decided by either the owner or the occupant; this is the responsibility of the local board of health.

Access for Repairs and Alterations

Upon reasonable notice by the owner, if possible by appointment, the occupant must allow the owner or the owner's representative access to the dwelling so that repairs or alterations may be made which bring the dwelling into compliance with Chapter II of the Sanitary Code. [410.810]

Inspections and Investigations

Upon receipt of an oral, written or telephone request, the board of health is required to inspect a dwelling, dwelling unit or rooming unit for possible violations of Chapter II. All interior inspections shall be done in the company of the occupant or the occupant's representative. [410.820]

The board of health must conduct a complete inspection if requested to do so. [410.822(B)]

The board of health shall attempt to initiate and complete an investigation at a time mutually satisfactory to both the local board of health and the occupant within a time frame dependent upon the nature of the violation but not exceeding five days. [410.820(A)]

Each board of health must use an inspection form which lists, but is not limited to, the following:

- Inspector's name
- Inspection date and time
- Location of inspection
- Date and time of additional inspections
- Description of violation
- Specific references to violated regulations of Chapter II, by-laws or ordinances
- Investigator's statement if the violations appear to endanger the safety or health and well-being of the occupants
- Statement: "This inspection report is signed and certified under the pains and penalties of perjury," followed by the signature of the inspector. [410.821(A)]

This inspection report form must include a brief summary of the legal remedies available to the occupant of the affected premises. [410.821(B)]

At the termination of the inspection the occupant or his/her representative must receive a written report of the violations noted during the inspection. The need for an additional inspection by a specialized inspector shall be noted on the report. [410.882(C)]

Timetable for Compliance

An effort to correct any violations of Chapter II of the Sanitary Code must be made within a specific time period which is dependent upon the nature of the violation. Consult either Chapter II of the Sanitary Code or your local sanitary code inspector for specific requirements. [410.830(C),(D)&(E)]

All affected tenants shall receive written copies of all inspection reports and orders sent to the owner. [410.833]

The board of health may order a dwelling, dwelling unit or rooming house or any portion of such unit condemned and vacated if, as a result of an inspection pursuant to Regulation 410.820, it is determined that the unit or any portion of it is unfit for human habitation. The steps to be followed by the board of health are outlined in Regulation 410.831. [410.831]

Hearing

Owners and/or occupants are entitled to file a written petition for a hearing before the local board of health if:

- a. they have been served an order pursuant to any regulation in Chapter II of the Sanitary Code by the board of health. Their petition must be filed within seven days after the day the order was served.
- b. they believe that the board of health or any inspector has failed to follow the provisions of Chapter II by neglecting to conduct an investigation as requested, to issue a report on the inspection, to cite violations claimed to exist, to certify that a violation may endanger or materially impair the health or safety and well-being of the occupants or to issue an order as required by Regulation 410.830.

The petition must be filed within 30 days of the initial request for an inspection. [410.850]
Affected parties, owners and occupants shall be informed of the hearing and of their right to inspect the files of the board of health. [410.851]

The hearing must begin within 30 days of the date the order was served and, in certain instances, must begin within less than 30 days. [410.852]

Within seven days after the hearing has concluded, the board of health shall inform the petitioner in writing whether the board has decided to sustain, modify or withdraw the order. [410.854]

Appeal

The final decision of the board of health may be appealed to the appropriate Massachusetts court. [410.860]