



**Proposed Amendments to 105 CMR 410.000:
State Sanitary Code Chapter II
*Minimum Standards of Fitness for Human Habitation***

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Background

- ❑ The Housing Code was first adopted on October 1, 1960 in accordance with Chapter 522 of the Acts of 1959.
- ❑ The purpose of the of the Housing Code is to establish minimum standards for health and safety in residential housing.
- ❑ There have been minor revisions over the years:
 - ✓ Lower hot water temperatures to 110F-130F and require smoke detectors, 1983
 - ✓ Allow occupants and property owners to apply for a variance from the number of days in the heating season, 1994.
 - ✓ Increase railing heights, 1997.
 - ✓ Sub-metering of water and sewer, 2005.
 - ✓ Mandate for carbon monoxide alarms, 2007.
- ❑ However, the Housing Code has not been comprehensively reviewed and is now outdated in many areas, contains obsolete references, and is ambiguous or confusing in some areas.



Purpose and Scope of 105 CMR 410.000

Purpose

- ✓ To establish minimum standards for housing to protect the health, safety, and well-being of occupants and the general public.
- ✓ To provide enforcement procedures for local boards of health to ensure compliance with these minimum standards.
- ✓ To facilitate the use of legal remedies available to the occupants of substandard housing.

Scope of the proposed amendments

- ✓ The proposed amendments consist of a comprehensive revision to:
 - Clarify regulatory requirements.
 - Improve organization.
 - Facilitate ease of use by boards of health and the general public.
 - Further enhance the health and safety of occupants and the general public.



The Revision Process

- ❑ In order to revise these regulations, the Community Sanitation Program conducted a comprehensive review of the entire Housing Code in partnership with a variety of key stakeholders and other state agencies.

- ❑ The process included solicitation of comments from various stakeholders. Comments were also solicited from other state agencies, including DPS, DEP, and DHCD.

- ❑ Stakeholders included:
 - ✓ Local Health Officials
 - ✓ Housing Court Officials
 - ✓ Tenant Organizations
 - ✓ Property Owner Associations
 - ✓ Legal Rights Organizations
 - ✓ Health Advocates



410.180: Temperature Requirements

✓ **Current requirement:**

- The regulation defines the heating season as September 15 through June 15 inclusive.
- The local board of health (LBOH) may vary the number of days in the heating season following a hearing.
 - ✓ Currently, an owner requests a variance from the length of heating season.
 - ✓ The LBOH must notify all affected parties, providing at least 5 days before hearing is held.
 - ✓ Variances may only be granted on individual basis so each owner must apply.

✓ **Proposed Revision:**

- The proposed amendments redefine the heating season as September 15 through May 31 inclusive.
- Allow LBOH to vary the number of days in the heating season for the entire local jurisdiction by posting notice on a city or town website.
 - ✓ Increased flexibility in response to temperature changes rather than wait for each property owner to request a variance so they may turn on air conditioning.

✓ **Rationale:**

- Streamline the process and eliminate the need for a public hearing through the variance process.
- Allow property owners to change over to AC in a timely manner as needed.



410.220: Natural and Mechanical Ventilation

✓ **Current requirement:**

- Each habitable room, and room containing a toilet, bathtub or shower, must contain ventilation to the outdoors consisting of windows, skylights, doors or transoms in the exterior walls or roofs, or
- Mechanical ventilation capable of exhausting air to the outside.

✓ **Proposed Revision:**

- Remove skylights as an approved means of natural ventilation.
- Require bathrooms to have mechanical ventilation exhausting air to the outside.

✓ **Rationale:**

- This will minimize the buildup of moisture that can lead to mold growth, This growth in mold presents a public health hazard for individuals, including individuals with asthma or immunocompromised diseases. For example, 2014 data indicates that approximately 640,000 adults and 130,000 children in Massachusetts have a current asthma diagnosis.
- Very unlikely a skylight would be used because they allow rain/snow penetration, increasing the potential for the increase in moisture accumulation increasing the potential for mold growth.
- Owners will have 1 year to comply from date of promulgation.
- Conforms to requirements of 780 CMR Massachusetts Building Code



410.440: Temporary Housing/Cabins

✓ **Current requirement:**

- LBOH approval required for Temporary Housing, which is defined as any tent, mobile dwelling unit, or other structure used for human habitation shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than 30 days.
- No current requirements for cabins.

✓ **Proposed Revision:**

- Defines cabins as structures that provide basic shelter and contain at least one habitable room for living, sleeping, eating, cooking or sanitation that is intended to be occupied by a single family or household. A cabin is intended for vacation, recreation, or leisure use in wilderness areas for intermittent periods of time.
- Cabins require compliance with 105 CMR 410.000, except as modified in writing by LBOH.

✓ **Rationale:**

- Ensures LBOH is aware of these types of housing and provides LBOH with wide range of authority in requirements for habitability, including in instances where the units are rented and do not meet minimum standards posing a threat to the health and safety of the occupants.



410.450: Alternative Housing

✓ **Current requirement:**

- No current requirement.

✓ **Proposed Revision:**

- Defines Alternative Housing as a single family, owner-occupied dwelling used for permanent occupancy and designed to minimize the environmental impact when compared to traditional housing. Alternative housing also includes permanent structures known as Tiny Houses.
- Authorizes the LBOH to permit single-family, owner-occupied permanent housing that does not fully comply with 105 CMR 410.000.
- Establishes a permitting process that indicates certain requirements of the Housing Code, such as electrical service or plumbing, Alternative Housing may be approved to omit.

✓ **Rationale:**

- Response to green housing initiative by permitting homeowners to live in housing that reduces their environmental footprint.
- Provides guidance to LBOH and authorizes authority to ensure safe housing.



410.560: Elimination of Pests

✓ **Current requirement:**

- Requires occupants to maintain a unit free of pests and insects, and requires owners to provide for extermination of pests and insects.

✓ **Proposed Revision:**

- Defines Integrated Pest Management (IPM) as a systematic strategy for managing pests which considers prevention, avoidance, monitoring, and suppression. Where chemical pesticides are necessary, a preference is given to materials and methods which maximize public safety and reduce environmental health risk.
- Requires implementation of an IPM plan in dwellings with 4 or more units.
- Requires the owner to maintain a record documenting:
 - ✓ Inspection results.
 - ✓ Complaints filed by occupants.
 - ✓ Name of pesticide applied and by whom.
 - ✓ Modifications to the original plan.
 - ✓ Allow review by LBOH.

✓ **Rationale:**

- Reduce the impact and frequency of pest infestations to enhance the health and safety of occupants, especially occupants suffering from asthma.
- Focus on prevention of entry and occupant education in order to reduce the use of pesticides harmful to occupants, especially elderly and children.
- Included in the National Center for Healthy Housing model regulation.



Next Steps

- DPH will hold 3 public hearings to receive comments from the general public.
- After the public comment period, DPH will review comments and draft additional appropriate revisions.
- Draft regulation will be submitted to the Building Code Coordinating Council (BCCC), mandated by Executive Order 518, created to coordinate and create a review protocol which will eliminate redundancy, minimize inconsistencies and conflicts and maximize the efficiency of the code promulgation process across numerous state agencies.
- Approval of the proposed revisions, along with a review of public comments, will be requested at a subsequent meeting of the Public Health Council.
- Following final approval, this regulation will be amended.
- Training and guidance materials will be developed to assist with implementation.