

# Public Health Power Hour - How to Write an Order to Correct

Franklin Regional Council of Governments

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# Capacity Assessment

- As the Subject Matter Expert for housing during the Capacity Assessment, many issues were found throughout the state
  - Unsigned OTC
  - Email OTC/email that does not order action
  - Missing citation references
  - No identification/explanation of conditions deemed to endanger
  - Incorrect timeframes for repairs
  - Missing statement regarding a right to a hearing
  - Timeframe stated to call BOH to workout a repair schedule within 3 days
  - Statement to call when work is done, and no timeframes listed
  - No indication a re-inspection would be conducted
  - No indication a re-inspection was conducted

# Inspections

- Protect yourself
- Conduct of inspections (410.620)
- Offer comprehensive inspection
  - Each inspection of a residence shall include at a minimum the condition alleged to be in violation and those standards listed in 105 CMR 410.630(A)
  - Record violations noted and identify code section
  - Inspect areas required based on type of complaint when possible
    - Pests
    - Excess Moisture
  - Identify conditions deemed to endanger

# Inspections

- The Form 410.610
  - The name of the inspector
  - The date and time of the inspection or investigation
  - The location of the residence inspected
  - The need for an additional inspection by a specialized inspector pursuant to 105 CMR 410.620(A) and the reason that such inspection is necessary
  - A description of the conditions constituting violations
  - A listing of the specific provisions of 105 CMR 410.000 or other applicable laws, ordinances, by-laws, rules or regulations that appear to be violated

# Inspections

- The Form 410.610
  - A determination by the official inspecting the premises whether the violations noted are listed in 105 CMR 410.630(A), and whether the effect of any violation(s) or conditions not listed in 105 CMR 410.630(A) may endanger or materially impair the health, safety, or well-being of any person(s) occupying the premises
  - The signature of the inspector preceded by the following statement: “This inspection report is signed and certified under the pains and penalties of perjury.”; and
- (B) A copy of Occupants’ Legal Rights and Responsibilities issued by the Department

# Inspections

## ► Conditions Deemed to Endanger or Materially Impair Health or Safety

► 410.620(B)(1): “Each inspection of a residence shall include at a minimum the condition alleged to be in violation and those standards listed in 105 CMR 410.630(A).”

► MGL c. 111, 127A: “Said code or a supplement thereto shall designate those conditions which, when found to exist upon inspection of residential premises, shall be deemed to endanger or materially impair the health or safety of persons occupying the premises.”



## Inspection Form

**Agency Name, Address, Phone**

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

<b>Address</b>	<b>Unit #</b>	<b>City/Town</b>
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<b>Date:</b> _____ <b>Time:</b> _____ <b>Total # Unit Occupants:</b> _____ <b>Total Unit Occupants &lt;6 Yrs. Old:</b> _____	
<b>Occupant Name:</b>	<b>Occupant Phone #:</b>
<b>Owner Name:</b>	<b>Owner Phone #:</b>
<b>Owner Address:</b>	<b>City/Town:</b> _____ <b>Zip Code:</b> _____
<b># Dwelling/ Rooming Units in Dwelling:</b>	<b># Stories:</b> _____ <b>Floor Level of Unit:</b> _____
<b># Sleeping Rooms:</b>	<b># Habitable Rooms:</b>
<b>Homeless Shelter?</b>	<b>Yes</b> <b>No</b>

**Inspector** \_\_\_\_\_ **Title** \_\_\_\_\_

**If violations are observed and checked, describe them fully on Page 3.**

	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s)	Violation Observed	Responsible Party	
				Owner	Occupant 410.240
<b>Exterior, Yard &amp; Porch</b>	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			
<b>Common Areas &amp; Entry</b>	Illumination, windows	220, 300, 530,			
	Egress	260			
	Handrails	520			
<b>Interior Halls &amp; Stairs</b>	Floors, walls ceilings	500			
	Hallways, railings, stairs	520			
	Light, windows	220, 300, 530, 540			
<b>Bedroom 1</b>	<b>Location (circle):</b> 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			
<b>Bedroom 2</b>	<b>Location (circle):</b> Front    Rear    Middle                      Left    Middle    Right                      Floor Level of Unit				
	Ventilation	220			

	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s)	Violation Observed	Responsible Party	
				Owner	Occupant 410.240
	Ceiling height/Minimum Square Footage	420			
	Windows, screen	530, 540			
	Lights/Outlets	140, 300			
<b>Bathroom</b>	Toilet, sink, shower, tub, door	110, 120, 140			
	Smooth, impervious surfaces	110			
	Lights, outlets, ventilation	140, 220, 300			
	Floors/walls	110			
<b>Kitchen</b>	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			
<b>Living room and Dining Room</b>	Lights, outlets, ventilation	220, 235, 300,			
	Ceiling height	420			
	Windows/screens	530, 540			
<b>Basement</b>	Maintenance	500			
	Watertight	500			
	Illumination	300			
<b>Water</b>	<b>Source (circle):</b> Public Private				
	Not Potable	130			
	Quantity, pressure	130			
	Responsible for paying MGL ch 186 s 22, metering	130			
<b>Hot Water</b>	<b>Fuel Type (circle):</b> Natural Gas Oil Electric Other <b>Temp.:</b> ____ °f <b>Location taken:</b>				
	Quantity and/or pressure insufficient or temperature above or	150			



	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s)	Violation Observed	Responsible Party	
				Owner	Occupant 410.240
	below required temps Sinks - 110 F min, 130 F max Bath/shower 110 F min – 120 F max				
	Venting of water heater	170			
<b>Heating</b>	<b>Type (circle):</b> Forced Hot Water Forced Hot Air Steam Electric Other: _____ <b>Temp.:</b> _____ of <b>Location taken:</b>				
	Impermissible portable units or space heaters (e.g. fuel supply located less than 42 inches from burner, unvented gas burning units)	160			
	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			
<b>Electrical</b>	<b>Type (circle):</b> 110 220 <b>Amp:</b>				
	Metering and access	200			
	Insufficient amperage, temporary wiring,	320			
<b>Drainage, Plumbing</b>	<b>Type (circle):</b> Public Private				
	Insufficient or unmaintained Sanitary drainage system	130, 235, 300			
<b>Smoke &amp; CO Detectors</b>	Not in required locations or operational	330			
<b>Pests</b>	Pests (rodents, skunks, cockroaches, insects)	550, 570			
	Structural maintenance and elimination of harborage	500, 540			
<b>Asbestos</b>	Damaged, friable, holes, cracks, tears	250			

	Type of Violation Use blank boxes for violations not listed	Possible Code Section(s)	Violation Observed	Responsible Party	
				Owner	Occupant 410.240
<b>Lead Paint</b>	Licensed Code Enforcement Lead Determinators offer determination for pre-'78 unit with a child < 6	410.470 105 CMR 460.00			
<b>Curtailment</b>	Curtailment without reasonable notice or temporary emergency	003			
<b>Access</b>	Less than 48 hours' notice to the occupant for non-emergency repairs	003			
<b>Laundering</b>	Laundering between individuals (Bed linens/towels/blankets)	230			
	Laundering frequency (Bed linens/towels/blankets/pi llow & mattress covers)				
	Mattress not cleaned or replaced when not in good condition.				
<b>Other</b>					

## Reinspection Form

Agency Name, Address, Phone

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

Address	Unit #	City/Town
Referral: <input type="checkbox"/> Electric <input type="checkbox"/> Fire <input type="checkbox"/> Plumbing <input type="checkbox"/> Building <input type="checkbox"/> Other		
<i>This inspection report is signed and certified under the pains and penalties of perjury.</i>		
Inspector Signature		
Occupant or Occupant's Representative Signature		
Reinspection Date	Time	

**Written description of any violation(s) checked above**

Include Area or Element, code citation and a description of the condition(s) that constitute the violation.

Area/Element, Code Citation and Description of Violation	Condition Deemed to Endanger or Materially Impair Health or Safety? Yes/No (105 CMR 410.630 (A))	Timeframe to Comply	Reinspection Date

# Inspection Form

Agency Name, Address, Phone

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

Property Address		Unit #	City/Town
Date: _____	Time: _____	# of Occupants: _____	# of Occupants <6 Yrs. Old: _____
Occupant Name:		Occupant Phone #:	
Owner Name:		Owner Phone #:	
Owner Address:		City/Town:	Zip Code:
# Dwelling/ Rooming Units in Dwelling:		# Stories:	Floor Level of Unit:
# Sleeping Rooms:		# Habitable Rooms:	
Property Type: <input type="checkbox"/> Dwelling Unit <input type="checkbox"/> Rooming Unit <input type="checkbox"/> Condominium Unit <input type="checkbox"/> Bed & Breakfast <input type="checkbox"/> Homeless Shelter <input type="checkbox"/> Temporary Housing			

Inspector Name:	Title:
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Area	Citation	Description of Violation	Responsible		*CDE? (v)	Days for Correction	Reinspection	
			Own (v)	Occ (v)			Corrected (v)	Date



Property Address	Unit #	City/Town			
Referral:	<input type="checkbox"/> Electric	<input type="checkbox"/> Fire	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Building	<input type="checkbox"/> Other
<i>This inspection report is signed and certified under the pains and penalties of perjury.</i>					
Inspector Signature					
Occupant or Occupant's Representative Signature					
Reinspection (# of days from date of service)					

\*Violations identified as "CDE "are Conditions Deemed to Endanger, see 105 CMR 410.630(A), which may endanger or materially impair the health or safety and/or well-being of an occupant and may permit the occupant of the dwelling to exercise one or more of their statutory rights listed in the Massachusetts Department of Public Health's publication, "Notice of Occupants' Legal Rights and Responsibilities."

In accordance with 105 CMR 410.610(A)(4), if a portion of the inspection cannot be completed due to the need for an additional inspection by a specialized inspector, describe what specialized inspector is needed and the approximate date for the completion of the inspection:

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Comments/Observations


# Order To Correct

- Every order authorized under 105 CMR 410.000 shall be in writing (410.832(A)) and shall contain:
  - Statement of Violations - Cite all sections that apply
  - Conditions Deemed to Endanger
  - A copy of the inspection report
  - Notice of a right to a hearing
  - Procedure for requesting a hearing
    - Right to obtain all relevant reports, notices, orders
    - Right to be represented

# Order To Correct

## ➤ Contents

- Time frame for compliance
- Re-inspection required
- Statement translated in all languages spoken by more than 1% of the community's population
- A statement advising the owner that the conditions may allow the occupant to exercise their statutory rights (conditions deemed to endanger)



# Order To Correct

- ▶ Proper service
  - ▶ Must have proof of legal service
    - ▶ First class, maybe
    - ▶ Certified return receipt
    - ▶ Constable
    - ▶ Posting/ Advertising
    - ▶ Fedex, UPS, or other means requiring electronic signature
  - ▶ Copies to “Affected persons”

# Order To Correct

- Timeframes 410.640
  - (A) Shall order
    - Within 12 hours order to make a good faith effort to correct within 24 hours violations listed in 410.630(A)
    - Within 7 calendar days order to correct within 30 calendar days
  - (B) No order shall exceed 30 days

# Order To Correct

- What's a good faith effort?
  - Have they provided proof they are trying to complete repairs
    - Contract with licensed professional
    - Order for materials
  - If yes, you should conduct your re-inspection as originally scheduled and document any repairs made on the re-inspection report
  - Document in the case file your rationale in allowing more time
    - What is the good faith effort?
    - What progress has been made?
    - What is the new compliance and inspection date
    - Notify the occupant

# CITY/TOWN Address



## Order To Correct Violations

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:

Citation	Description of Violation	*CDE? (v)	# Days 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.

**\*Violations identified as “CDE “are Conditions Deemed to Endanger, which may endanger or materially impair the health or safety and/or well-being of an occupant and may permit the occupant of the dwelling to exercise one or more of their statutory remedies. Refer to 105 CMR 410.630(A).**

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).

A re-inspection to determine compliance with this order shall be conducted within 24 hours after the date for compliance of violations identified as “CDE” and 7 calendar days after the date for compliance of all other violations. See 105 CMR 660(A).

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 tuaia. 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.

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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។

دا يو مهم حقوقي سند دی دا کېدای شي ستاسو پر حقونو اغېز وکړي. تاسو باید د دې ژباړه ولری.

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

# CITY/TOWN Address

## Order To Correct Violations

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*.

**Violations found are noted on the attached Inspection Report.**

You are hereby **ORDERED** to correct these violations within the noted timeframe listed on the inspection report, 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, you have the right to inspect and obtain copies of all relevant inspection or investigation reports, orders, notices, and other documentary information in the possession of the board of health.

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).**

A re-inspection to determine compliance with this order shall be conducted within 24 hours after the date for compliance of violations identified as "CDE" and 7 calendar days after the date for compliance of all other violations. See 105 CMR 410.660(A).

The regulations require every occupant of a residence, upon reasonable notice and if possible by appointment, shall give the owner thereof, or the owner's representative, access to the residence for the purpose of effecting compliance with the provisions of 105 CMR 410.000. Access shall be at a reasonable time and shall include, but not be limited to, any cooperation required for repairs, alterations, pest elimination, and service of utilities. An owner shall provide at least 48 hours' notice to the occupant, except for emergency repairs for which no notice is required. See 105 CMR 410.003(E)

Compliance with 105 CMR 410.000 is defined as meeting all the requirements of 105 CMR 410.000 and correcting any violation of 105 CMR 410.000 in a work person-like manner and in accordance with accepted building, plumbing, heating, gas fitting, electrical wiring standards, or advisories issued by the Department, so that the residence or cited item or component is returned to its intended function or use. Materials and equipment shall be appropriate for the use intended and affected areas shall be left in a properly cleaned condition. When licenses or permits are required to perform the work necessary to correct the violation, including, but not limited to building, plumbing, wiring/electrical, heating, gas fitting, asbestos removal, lead-based paint abatement, and elimination of pests, compliance shall also mean that such licenses and permits have been obtained and that any conditions or requirements imposed by such licenses and permits have been met.

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អ្នកគួរតែឱ្យគេបកប្រែឯកសារនេះ។

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

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

Signature	Name	Title
Agency Name		

Attachment: Inspection Form  
CC: Occupant (if owner is the responsible party)

# Post Inspection OR & R



## 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.<sup>1</sup> 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](http://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](http://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.

<sup>1</sup> 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.



# Post Inspection OR & R

## 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 attorney to protect yourself. If you cannot afford an attorney, **you may be eligible for free legal aid services.** Go to [masslrf.org](http://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](http://masslegalhelp.org/legal-tactics) or [madeuptocode.org](http://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](http://mass.gov/orgs/housing-court/locations) or [mass.gov/orgs/district-court/locations](http://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](http://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;<sup>2</sup>
- 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;<sup>2</sup>
- 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](http://masslrf.org) to find available options for free legal advice.

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

# Single unit rental



26

You Observe This

# Your First Option

- Basement: Strong odor in basement.  
Remove trash bags, 105 CMR 410. 601  
and 602 (D)
- Is this accurate?

# Inspection Form

Agency Name, Address, Phone

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

<b>Property Address</b>		<b>Unit #</b>	<b>City/Town</b>
Date: _____	Time: _____	# of Occupants: _____	# of Occupants <6 Yrs. Old: _____
<b>Occupant Name:</b>		<b>Occupant Phone #:</b>	
<b>Owner Name:</b>		<b>Owner Phone #:</b>	
<b>Owner Address:</b>		<b>City/Town:</b>	<b>Zip Code:</b>
<b># Dwelling/ Rooming Units in Dwelling:</b>		<b># Stories:</b>	<b>Floor Level of Unit:</b>
<b># Sleeping Rooms:</b>		<b># Habitable Rooms:</b>	
<b>Property Type:</b> <input type="checkbox"/> Dwelling Unit <input type="checkbox"/> Rooming Unit <input type="checkbox"/> Condominium Unit <input type="checkbox"/> Bed & Breakfast <input type="checkbox"/> Homeless Shelter <input type="checkbox"/> Temporary Housing			
<b>Inspector Name:</b>		<b>Title:</b>	

Area	Citation	Description of Violation	Responsible		*CDE? (v)	Days for Correction	Reinspection	
			Own (v)	Occ (v)			Corrected (v)	Date
Basement (Occupant)	410.570(B)	Basement is not being maintained in a clean and sanitary manner. Noted an accumulation of rodent bait and traps, rubbish, debris, including full trash bags, old flowerpots, and power equipment. Also noted strong odors.		v		7		
Basement (Owner)	410.500(A)(1)	*There is evidence of excess moisture (standing water, water stains and mold). Area must be free from excess moisture	v			2		

Property Address	Unit #	City/Town
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Referral: <input type="checkbox"/> Electric <input type="checkbox"/> Fire <input type="checkbox"/> Plumbing <input type="checkbox"/> Building <input type="checkbox"/> Other
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*This inspection report is signed and certified under the pains and penalties of perjury.*

Inspector Signature

Occupant or Occupant’s Representative Signature

Reinspection (# of days from date of service)

**\*Violations identified as “CDE “are Conditions Deemed to Endanger, see 105 CMR 410.630(A), which may endanger or materially impair the health or safety and/or well-being of an occupant and may permit the occupant of the dwelling to exercise one or more of their statutory rights listed in the Massachusetts Department of Public Health’s publication, “Notice of Occupants’ Legal Rights and Responsibilities.”**

**In accordance with 105 CMR 410.610(A)(4), if a portion of the inspection cannot be completed due to the need for an additional inspection by a specialized inspector, describe what specialized inspector is needed and the approximate date for the completion of the inspection:**

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**Comments/Observations**

* Basement: In accordance with 410.500(B), In the event of leaks and flooding, the owner shall ensure all surfaces have been dried within 48 hours from the time they are notified or the end of the event, whichever is sooner.

# Order To Correct-Service

- ▶ How can I serve the correction order?
- ▶ Who gets a copy?
- ▶ I can't find the responsible party, now what?



# Re-inspection

- 410.660 Re-inspections
  - Must be conducted, in-person, to determine compliance
    - 24 hours after the date when conditions deemed to endanger pass
    - 7 calendar days for all other violations
    - Provide a summary to occupant, written if requested
    - Good idea to send responsible party (not required)
    - New violations found during a re-inspection must be addressed in a new order

# Re-inspection

- Compliance with Accepted Standards means meeting all the requirements of 105 CMR 410.000 and correcting any violation of 105 CMR 410.000 in a work person-like manner and in accordance with accepted building, plumbing, heating, gas fitting, electrical wiring standards, or advisories issued by the Department, so that the residence or cited item or component is returned to its intended function or use. Materials and equipment shall be appropriate for the use intended and affected areas shall be left in a properly cleaned condition. When licenses or permits are required to perform the work necessary to correct the violation, including, but not limited to building, plumbing, wiring/electrical, heating, gas fitting, asbestos removal, lead-based paint abatement, and elimination of pests, compliance shall also mean that such licenses and permits have been obtained and that any conditions or requirements imposed by such licenses and permits have been met.
- Many inspectors insert this definition at the end of their OTC.





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