



MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lieutenant Governor

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Climate and Environmental Health
Community Sanitation Program
250 Washington Street
Boston, MA 02108-4619
Phone: 617-624-5757

KATHLEEN E. WALSH
Secretary

ROBERT GOLDSTEIN, MD, PhD
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

**Guidance for Municipalities on Homeless Shelter Requirements
in 105 CMR 410.000 (Housing Code)**

This guidance is being provided by the Massachusetts Department of Public Health (DPH) Community Sanitation Program (CSP) to municipalities to summarize state sanitary code standards applicable to homeless shelters in 105 CMR 410.000 (Housing Code). Note that while M.G.L. c. 111, §127A, allows municipalities to enact stricter requirements than the minimum standards under the Sanitary Code for homeless shelters, it is limited to regulations that “do not conflict with the laws of the commonwealth or the provisions of the code.” Since Massachusetts law gives homeless families a right to shelter, any regulations enacted at the local level which would have the effect of limiting the siting of homeless shelters could be interpreted as violating the state law regarding right to shelter.

Health and Safety Standards for Homeless Shelters

On May 12, 2023, the Housing Code was amended, and now more specifically lays out the required health and safety standards and exemptions for homeless shelters. The amended Housing Code exempts homeless shelters from the following requirements:

1. Providing a bathroom door capable of being secured for privacy;
2. Meeting ratios for toilets and bathrooms;
3. Providing a lock with a striker mechanism for the main entry door;
4. Meeting minimum square footage requirements for sleeping areas;
5. Installing screens on doorways; and
6. Conducting a pre-occupancy inspection for pests, provided they establish a pest management policy which provides for periodic inspections.

Given the critical nature of housing those individuals and families most vulnerable, Housing Code requirements for homeless shelters are limited to those most essential for human health and safety, such as access to bathrooms and showers, and provision of electricity, potable water and heat in weather resistant buildings.¹ Most critically, DPH does not require shelters to meet the minimum square footage requirements for sleeping areas; also, while the Housing Code does require 6 feet of head-to-head spacing between bed occupants, where

¹ Note that if a hotel, motel, inn, or other similar property (Lodging Establishment) is purchased by a shelter operator, or fully or partially rented and operated by a shelter operator without use of staff provided by the Lodging Establishment, the part of the property used to house the homeless is considered a Homeless Shelter under the Housing Code and should not be regulated as a Lodging Establishment.

feasible, DPH does not require that existing shelters reduce their overall bed capacity if meeting the bed spacing recommendations is not feasible. Additionally, note that homeless shelters are not required by the Housing Code to provide shared kitchen facilities, but if such facilities are provided, they must meet the requirements under the code. Homeless shelters are not considered temporary housing, as those terms are defined in the Housing Code, and there are no limits in the Housing Code on the duration of occupancy at homeless shelters.

Exemptions for Certain Facilities that may be Applicable to Homeless Shelters

The Housing Code specifically exempts federal military bases and buildings or other structures owned by agencies of the Commonwealth from regulation, and local boards of health may not enforce the Housing Code at these facilities. To the extent homeless shelters are operated at properties owned by the Commonwealth or are located on a military base or where enforcement is otherwise preempted by federal law, those facilities do not have to meet housing code standards.

Any questions may be directed to the Massachusetts Department of Public Health's Community Sanitation Program at 617-624-5757 or CommunitySanitation@mass.gov.

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