

Housing Code

Representing Yourself in an Eviction Case

Checklist with Key Provisions of the State Sanitary Code

In Massachusetts, the state Sanitary Code is the main law that gives tenants a right to decent housing. All rental housing must at least meet the state **Sanitary Code**. The **Housing Code Checklist** will help you protect your right to safe and decent housing.

You can also use the state **Sanitary Code** to defend against an eviction because a tenant's duty to pay rent is based on the landlord's duty to keep the apartment in good condition. The Sanitary Code defines what is good condition.

If you are facing an eviction for nonpayment of rent or a *no-fault eviction*, the checklist can help you prepare your case. A *no-fault eviction* is where a landlord is evicting a tenant who has done nothing wrong.

If you can prove to a judge the landlord knew about the bad conditions before you stopped paying rent, the judge may not order you to move. A judge might order you to pay only some of the rent the landlord claims you owe. Or, the judge may order the landlord to pay you money because you lived with such bad conditions. The landlord may have to pay you even if the problems were fixed. The judge may also order the landlord to make repairs.

The right column of the **Housing Code Checklist** refers to the law. In most cases, it is the Sanitary Code in the Code of Massachusetts Regulations (C.M.R.). See the Sanitary Code online: www.mass.gov/eohhs/docs/dph/regs/105cmr410.pdf.

How to Use the Housing Code Checklist

Call for a Code Inspection

Everyone in Massachusetts has a right to have their apartment checked by an official to make sure the apartment is up to code. Your town or city Board of Health or Inspectional Services Department does the inspection.

Before you call an inspector, make sure you have given your landlord a chance to make the repairs. If your landlord refuses to make repairs, call your local Board of Health or Inspectional Services Department to get an inspection.

If you have a court case, ask for an inspection of your home as soon as possible. It is best to have an inspection before your trial date. The easiest way to reach the inspector is to call your City or Town Hall. Ask for the code inspector or health inspector.

Fill Out the Housing Code Checklist

Before the inspector comes to your apartment, use the **Housing Code Checklist** in this booklet. Check off the violations in your home. These include violations in common areas or violations with building systems shared by tenants (such as plumbing and heating).

Write in the left hand column the approximate date your landlord or someone working for your landlord knew about each violation. **If the problem existed when you moved in or when a new landlord bought your building, write down this date.**

If you go to court, it is important to tell the judge the conditions that existed at the time you moved in and after you moved in.

Document the Problems

Take photos of the conditions in your house, if you can. Make sure your photos show the problems clearly.

When the inspector comes to your apartment, show the inspector the problems. Make sure the inspector writes down on the code report what is on your checklist. An inspector must write down all violations. It is the law.

But the inspector may only put problems into the report if he or she sees the problem. For example, he can only report rodents or cockroaches, if he sees some sign of them.

Get a Copy of the Code Report

■ Copy of the Report

Get a copy of the code report before the inspector leaves your apartment. The inspector must sign the report after the words, “signed and certified under the pains and penalties of perjury.” The inspector must give you a copy of the code report before they leave your house. **But make sure you ask for it.**

■ Repair Order and Report

A few days later, your landlord should get a copy of the report **and** a repair order. You should also get a copy of both in the mail.

The repair order states the date or the amount of time your landlord has to fix the violations. If you do not get a repair order in the mail, contact the inspector or go to the Board and ask for a copy of the report and repair order.

■ Notice to the Landlord

Also ask the Board of Health or Inspectional Services Department to give you a copy of the “receipt for the return of service on the landlord.” The receipt shows the landlord got the report and the repair order and the date he got it.

■ Certified Code Report

To use the report in your court case, it should have the inspector’s original signature after the words, “signed and certified under the pains and penalties of perjury.” If it does not, take your copy of the report to the Board of Health or Inspectional Services Department. Ask them to certify it. If you cannot get the code report certified, take it to court anyway and ask the judge to look at it.

Know Your Options

You must give your landlord reasonable access to your apartment to inspect it and make repairs. This is the law. Your landlord must have your permission to enter your apartment. Housing courts generally require landlords to give tenants at least 24 hours’ notice before entering. The notice may be less if there is an emergency, like a water leak.

If your landlord fails to correct any problem within the time ordered by the Board of Health or Inspectional Services Department, contact the inspector. Ask for a reinspection. You may also need to look at other options. What you can do and what you want to do depends on your situation.

For more information about your options if a landlord refuses to make repairs see MassLegalHelp.org:

[MassLegalHelp.org/housing/private-housing/ch8/options-if-your-landlord-refuses-to-make-repairs](https://www.masslegalhelp.org/housing/private-housing/ch8/options-if-your-landlord-refuses-to-make-repairs)

If You Have a Court Case, Use the Code Report

Bring your certified copy of the inspector's code report to court on the trial date. When it is your turn to present your case:

- Start by describing the most serious problems in your home. Use the Housing Code Checklist to help you. Tell the judge:
 - 1) how long these problems existed,
 - 2) when and how the landlord knew or should have known about them, and
 - 3) what steps, if any, the landlord took to repair them.
- Show the judge photos of the bad conditions. Tell the judge when they were taken.

Use only 1 or 2 clear photos of each problem. What is **in** the picture, not the number of pictures is what matters to the judge. Show the judge your copy of the code report.

- Tell the judge about the hardships the bad conditions caused you.

For example, if the heat was bad and windows were drafty, tell the judge if your children caught cold or if you had to sleep in the kitchen close to the stove to stay warm.

If your stove was broken and you could not cook, tell the judge if you had to spend extra money to buy cooked food or eat out. Let the judge know if you or your family had to miss school, or work, or lost sleep.

- For more information about your legal rights and how to present your case in court see MassLegalHelp.org at:
[MassLegalHelp.org/housing/private-housing/ch13/important-legal-defenses-and-counterclaims](https://www.masslegalhelp.org/housing/private-housing/ch13/important-legal-defenses-and-counterclaims)

Housing Code Checklist

Conditions That Landlord Must Fix Within 24 Hours

Under the state Sanitary Code, the following violations are conditions that may “materially endanger” the health of you and your family and the landlord must fix in 24 hours. You can find these violations in the Massachusetts Code of Regulations at [105 C.M.R. §410.750](#).

Date landlord knew about violation	Check if violation exists	Sanitary Code Section (at 105 C.M.R.)
_____	<input type="checkbox"/> Not enough heat. (See page 8)	410.201
_____	<input type="checkbox"/> Improper venting or use of space heater or water heater.	410.200B, 202
_____	<input type="checkbox"/> No electricity or gas.	410.354
_____	<input type="checkbox"/> No or inadequate electrical outlets or lighting in common areas.	410.250(B), 251(A), 253, 254
_____	<input type="checkbox"/> Shut-off and/or failure to restore electricity, gas, or water.	410.750(C), 410.354
_____	<input type="checkbox"/> No safe water supply.	410.180
_____	<input type="checkbox"/> No working toilet or sewage disposal system.	410.150(A)(1), 300
_____	<input type="checkbox"/> Inadequate exits, including the obstruction of any exit, passageway, or common area through which you exit in an emergency.	410.450-452
_____	<input type="checkbox"/> No or inadequate locks for entry doors for either the apartment or building.	410.480(D)
_____	<input type="checkbox"/> Accumulation of garbage or filth that may provide food or shelter for rodents, insects, or other pests; or that may contribute to accidents or disease.	410.600, 601, 602
_____	<input type="checkbox"/> Lead paint that a child under age 6 could reach.	105 C.M.R 460, G.L. c. 111, §§190-199

_____	<input type="checkbox"/> Roof, foundation, or other structural defects that may expose you to fire, burns, shock, accident, or other danger.	410.500
_____	<input type="checkbox"/> Improperly installed or maintained electrical, plumbing, or heating appliances or equipment that expose the occupant to fire, burns, shock, accident, or other dangers.	410.351
_____	<input type="checkbox"/> No or not enough hot or cold water (including amount, pressure, and temperature) for 24 hours or longer.	410.180, 190
_____	<input type="checkbox"/> No smoke detector or carbon monoxide alarm in good working order.	410.482
_____	<input type="checkbox"/> Any defect in building materials that may lead to release of asbestos dust.	410.353
_____	<input type="checkbox"/> Any other violation of the Sanitary Code the inspector finds dangerous to health and safety.	410.750(P)

Conditions Landlord Must Fix Within 5 Days

If any of the following violations exist in your apartment, a landlord must fix them within 5 days of notice.

_____	<input type="checkbox"/> Kitchen sink is too small, or sink, stove, or oven is not in good working condition.	410.100
_____	<input type="checkbox"/> Sink, tub, or shower in the bathroom not in good working condition.	410.150(A)(2) and (3)
_____	<input type="checkbox"/> No or unsafe handrails or protective railings on porches, roofs, stairways, or other similar places.	410.503(A) and (B)
_____	<input type="checkbox"/> Any defect in electrical, plumbing, or heating system that violates “generally accepted standards” but does not create an immediate hazard.	410.750(O)(3)
_____	<input type="checkbox"/> Cockroach, insect, or rodent infestation in buildings with two or more units.	410.550

Conditions Landlord Must Fix Within 30 Days

If the following violations exist in your apartment, your landlord must repair or provide the items and services listed below within 30 days of being notified about a problem.

Kitchen

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| _____ | <input type="checkbox"/> Sink must be large enough to wash dishes, get hot and cold water, and have proper drainage. | 410.100(A)(1),
410.350(A) |
| _____ | <input type="checkbox"/> Landlord must provide a stove and oven in good working condition (unless written agreement requires tenant to provide these). | 410.100(A)(2) |
| _____ | <input type="checkbox"/> All sinks, landlord-installed refrigerators and stoves, and gas- and oil-burning equipment must be in good working condition. | 410.351 |
| _____ | <input type="checkbox"/> At least one working light fixture and two wall outlets must be provided. | 410.251 |
| _____ | <input type="checkbox"/> Floors must be smooth, non-corrosive, and waterproof. Carpets on floors must have a nonabsorbent and water-repellent backing. Wooden floors must have a water-resistant finish and no cracks. | 410.504 |
| _____ | <input type="checkbox"/> Must have space and proper electrical outlet to install a refrigerator. | 410.100(A)(3) |
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Bathroom

Landlord must provide:

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|-------|--|---------------|
| _____ | <input type="checkbox"/> One toilet, free from defects in a room not used for living, sleeping, cooking, or eating. | 410.150(A)(1) |
| _____ | <input type="checkbox"/> One sink, free from defects. | 410.150(A)(2) |
| _____ | <input type="checkbox"/> One shower or bathtub, free from defects in a room not used for living, sleeping, cooking, or eating. | 410.150(A)(3) |
| _____ | <input type="checkbox"/> One electric light fixture, in good repair. | 410.252 |
| _____ | <input type="checkbox"/> Adequate ventilation. See Ventilation and Light section below. | 410.280 |
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- Floor must be smooth, nonabsorbent, and have a waterproof covering. 410.504(A)
- Walls must be nonabsorbent, waterproof, and smooth material up to 4 feet. Walls above bathtubs with showers or shower stalls must have nonabsorbent, waterproof covering up to at least 6 feet. 410.504(B) and (C)
- Each room that contains a toilet, bathtub, or shower must have a closable door. 410.150(A)(4)

Water

Landlord must provide:

- Enough water, with adequate pressure, to meet your ordinary needs. 410.180
- Enough hot water at a temperature between 110 and 130 degrees Fahrenheit, with enough pressure, for your ordinary use. If you have a written rental agreement that says you must provide hot water, then your landlord does not have to provide it. 410.190
- A water heater that vents to a chimney or vent that leads outdoors. If the heater is electric, it does not need a vent. Old-fashioned, open-flame water heaters are illegal. 410.202
- A toilet, sink, kitchen sink, and shower or bathtub must be connected correctly to hot and cold water lines. They must also be connected correctly to a sanitary drain line. 410.350
- The landlord must provide and pay for water. But the landlord may bill a tenant for water and sewer **only** if the tenant moved into the apartment on or after March 16, 2005 **and** if the landlord has:
 - a) Installed and is maintaining a water submeter that measures water going only to your unit;
 - b) Installed low-flow water-saving devices on all showers, faucets, and toilets in your unit;
 - c) Described the water billing arrangements between you and the landlord, in detail, in a written rental agreement; and
 - d) Filed a certificate with the local board of health, or the agency responsible for enforcing the state Sanitary Code that says your unit is legal and meets the code.
 G. L. c. 186, §14; G.L. c. 186, §22; 410.180, 410.354(D)

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- A landlord must also allow you access to any water submeters that affect your unit so that, if you need to, you can have the accuracy of the submeter checked. 410.354(E)

For more about the water submeter law, see:

When Can a Tenant Be Billed Directly for Water under the Water Law?

www.MassLegalHelp.org/housing/booklets/water-law

Heat

From September 16 to June 14, the landlord must provide equipment and appliances to heat every “habitable room” and bathrooms to at least:

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- 68 degrees Fahrenheit between 7 a.m. and 11 p.m. 410.200-201

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- 64 degrees Fahrenheit between 11 p.m. and 7 a.m. 410.200-201

“Habitable room” means any room to be used for living, sleeping, cooking, or eating.

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- The landlord must provide and maintain heating equipment in good working order. 410.351

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- Space heaters must vent to a chimney or a vent that leads outdoors. If the heater is electric, it does not need a vent. 410.202

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- The landlord must provide and pay for heat unless you signed a written agreement that says you must pay for heat. 410.201

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- The temperature must not be more than 78 degrees Fahrenheit at any time during the heating season. 410.201

Ventilation and Light

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- Every room must have windows, skylights, doors, or transoms in the outside wall or roof that open easily to at least 4% of the floor area of that room; **or** adequate mechanical ventilation systems. 410.280

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- Each room must have transparent or translucent glass that admits light from the outdoors. The glass must be equal in area to at least 8% of the floor area of that room. This does not apply to a bathroom or a kitchen smaller than 70 square feet. 410.250(A), 410.251, 410.257

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- Buildings with 10 or more units must have an emergency lighting system in halls and at exits. 410.483
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Electricity, Wiring, and Gas

_____ The landlord must provide and pay for electricity and gas if your apartment is not individually metered or you do not have a written rental agreement that says you must pay for electric and gas. 410.354(A)

_____ Electrical service must provide enough amperage to meet your reasonable needs. 410.255

_____ In every room other than the kitchen and bathroom, your landlord must provide:
- 2 separate electrical wall outlets, or
- 1 electric light fixture and 1 wall outlet. 410.250(B)

Your landlord must provide and place electric light fixtures and switches that allow safe and reasonable use of:

_____ Laundry room. 410.253(A)

_____ Pantry. 410.253(A)

_____ Hallways, stairways, foyer, or community corridor. 410.253(A)

_____ Closet or storage space. 410.253(A)

_____ Cellar. 410.253(A)

_____ Porch. 410.253(A)

_____ Outside stairways and passageways. 410.253(A)

_____ Wiring must not pass under rugs or other floor coverings, or through doorways. 410.256

_____ Temporary wiring may not be used. But you can use extension cords for portable appliances or fixtures. 410.256

In a dwelling with more than one unit, your landlord must provide enough lighting for 24 hours a day, in the following common spaces:

_____	<input type="checkbox"/> Interior passageways.	410.254(A)
_____	<input type="checkbox"/> Hallways.	410.254(A)
_____	<input type="checkbox"/> Stairways.	410.254(A)
_____	<input type="checkbox"/> In buildings with 3 units or fewer, the light fixtures in common hallways, stairways, and other common passages may be wired to the service for the unit next to the fixture. The landlord must pay for electricity to the fixture if you do not have a written agreement that says you pay for it. The landlord must also tell other occupants in the building about the agreement.	410.254(B)
_____	<input type="checkbox"/> Buildings with 10 or more units must have back-up emergency lighting independent of the conventional lighting.	G.L. c. 143, §21D, 410.483

Safety

	There must be as many exits as necessary for “safe passage of all people” as defined by the state Building Code. If you have questions, ask the Housing Inspector.	410.450 780 C.M.R. 10.00
_____	<input type="checkbox"/> In a property with more than one unit, the landlord must keep all shared exits free from obstruction.	410.451
_____	<input type="checkbox"/> You must keep all exits from your unit free from obstruction. The landlord must keep any shared exit free from obstruction.	410.451
_____	<input type="checkbox"/> The landlord must keep all exits safe, operable, and free of ice and snow. This includes exterior stairways and fire escapes. If you have an exit you do not share with anyone, you and your landlord can have a written agreement that says you must keep your exit free of snow and ice.	410.452
_____	<input type="checkbox"/> The landlord must install and maintain fire extinguishers as required by the local fire chief.	527 C.M.R. §10.02

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| <hr/> | <input type="checkbox"/> The landlord must make sure that all exterior windows that open and all entry doors have working locks. | 410.480(D) and (E) |
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Buildings with more than three apartments must have:

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| <hr/> | <input type="checkbox"/> A main front door that closes and locks automatically and every exterior door must have an operating lock. | 410.480(C) |
| <hr/> | <input type="checkbox"/> Buildings over 70 feet high must have an automatic sprinkler system in accordance with the state Building Code. If you have questions, ask the Housing Inspector. | G.L. c. 148, §26A |
| <hr/> | <input type="checkbox"/> Buildings with 10 or more units must have lighted signs that show both a primary and a secondary means of exit. The signs must use symbols so that people do not need to speak English to find the exits. | G.L. c. 143, §21D |
| <hr/> | <input type="checkbox"/> The landlord must install and keep smoke detectors and carbon monoxide alarms in good working order in most buildings. Ask the Fire Marshall if you have questions. | 410.482
527 C.M.R. 31.00 and 32.00 |

Structural Maintenance

The landlord must maintain all structural elements in good repair. 410.500
410.550

They must be weathertight, free from chronic dampness, insect-proof, and rodent-proof.

They must be free of holes, cracks, loose plaster and other defects.

Structural elements are:

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|-------|-------------------------------------|---------|
| <hr/> | <input type="checkbox"/> Foundation | 410.500 |
| <hr/> | <input type="checkbox"/> Floors | 410.500 |
| <hr/> | <input type="checkbox"/> Walls | 410.500 |
| <hr/> | <input type="checkbox"/> Ceilings | 410.500 |
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_____	<input type="checkbox"/> Doors and windows must have good weather stripping or storm window or storm door. They must also open fully and easily. All glass panes must be unbroken and caulked correctly.	410.500, 501
_____	<input type="checkbox"/> Roof	410.500
_____	<input type="checkbox"/> Chimneys and other structural elements	410.500
_____	<input type="checkbox"/> Staircases must be stable with a safe handrail.	410.500, 503(A) and (B)
_____	<input type="checkbox"/> Every porch, balcony or roof over 30 inches above the ground must have a wall or guardrail that is at least 3 feet high.	410.503(C)

Space

_____	<input type="checkbox"/> Every dwelling unit must have at least 150 square feet of floor space for the first occupant and 100 square feet for each additional occupant. Add up all the floor space in “habitable rooms” to get the number of square feet in your unit. “Habitable room” means any room to be used for living, sleeping, cooking, or eating. Do not include your pantry, bathrooms, laundry room, halls, or storage spaces.	410.400(A)
_____	<input type="checkbox"/> Every bedroom must have at least 70 square feet of floor space if only one person sleeps there. If more than one person is sleeping in the room, it must have 50 square feet of floor space for each person.	410.400(B)

General Maintenance

<input type="checkbox"/>	The landlord must keep common areas clean and sanitary.	410.602(D)
<input type="checkbox"/>	If the landlord or a manager does not live in the property, the landlord must post a sign with the name, address, and phone number of the landlord or their agent. The sign must be inside the building and at least 20 square inches.	410.481
<input type="checkbox"/>	A landlord may not turn off or interfere with a tenant's water, hot water, heat, light, power, or gas. The only time a landlord may shut off utilities temporarily, is to make necessary repairs. And the landlord must give you "reasonable notice."	410.620
<input type="checkbox"/>	All windows that open to the outside, on the first four floors, must have screens between April 1 and October 30	410.551 410.553
<input type="checkbox"/>	All doors that open directly to the outside must have screens between April 1 and October 30.	410.552 410.553

The landlord must install correctly and keep free of leaks, blocks, and other defects, the following:

<input type="checkbox"/>	Sinks, bathtubs, showers and toilets.	410.351(A)
<input type="checkbox"/>	Waterheating facilities, gas pipes, heating equipment, and water pipes.	410.351(A)
<input type="checkbox"/>	Stoves and ovens.	410.351(A)
<input type="checkbox"/>	Catch-basins, vents, drains, and other similar fixtures.	410.351(A)
<input type="checkbox"/>	Connections to water, sewer, and gas lines, and the subsurface sewage disposal system, if any.	410.351(A)
<input type="checkbox"/>	All electrical fixtures, outlets, and wiring.	410.351(A)
<input type="checkbox"/>	All smoke detectors and carbon monoxide alarms.	410.351(A)
<input type="checkbox"/>	All heating and ventilation equipment.	410.351(A)
<input type="checkbox"/>	Landlord-installed equipment, including dishwashers, washing machines, dryers, refrigerators, and garbage disposals.	410.351 (B)

Rodents and Insects

- No rats, roaches, mice, bedbugs, or other insects are allowed in the apartment or building. The landlord must exterminate them when they are found in common areas or in any individual apartment in buildings with two or more units. 410.550

Garbage

- In buildings with 3 or more units, the landlord must provide enough watertight garbage cans. Cans must have tightly fitting covers. The landlord must put cans in places that are convenient to tenants and do not allow odors into your living space. 410.600(C)
- In buildings with 3 or more units, the landlord is responsible for collecting and disposing of garbage. 410.601

Lead Paint

- No lead paint may be used on any surface. 410.502
- If you have a child under the age of 6, your landlord must remove or properly cover lead paint up to 5 feet from the floor. Repainting with a non-lead paint is not good enough. G.L. c. 111, §197

It is illegal to refuse to rent or to evict a household because of lead paint.

