

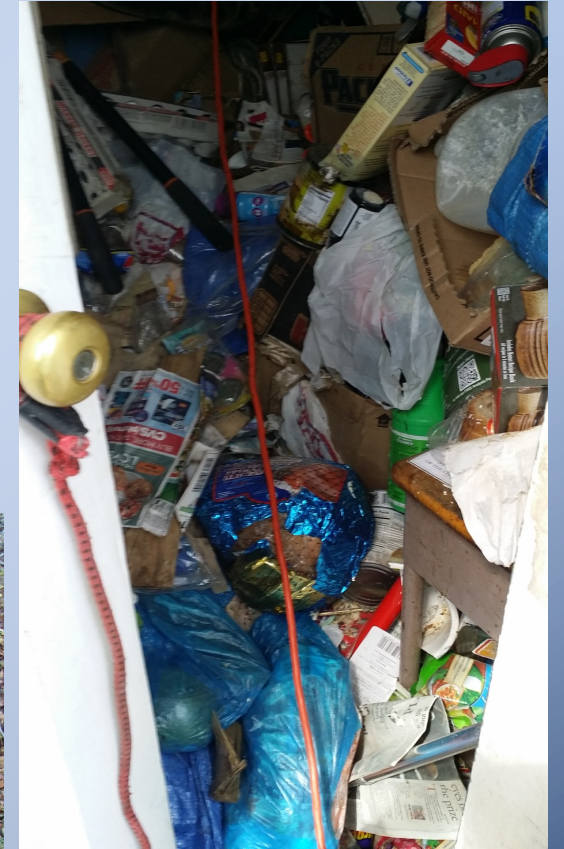
Condemnations & Campgrounds

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Why Would I Condemn A Dwelling?



Why Would I Condemn A Dwelling?

Why would you condemn a dwelling?

- An inspection reveals a dwelling is unfit for human habitation
- Long-term solutions required before dwelling may be occupied again
- Structurally may not be able to ever meet code
 - Demolition may be only solution

What Would I Condemn?

- Dwelling or any portion
 - 410.831(A)
- Dwelling
 - Every building or shelter used or intended for human habitation and,
 - Every other structure or condition within the same lot line
- Owner-occupied or rental property
 - 410.010(A), no person shall occupy as owner-occupied or let to another



Do I have The Authority

MGL Chapter 111

- § 127A, ... code shall become effective and have the force of law
- § 127B, ... may issue a written order to vacate, put premises in a clean condition

105 CMR 400.000

- 400.100, ... authorized to enter, examine, or survey at any reasonable time

105 CMR 410.000

- 410.001, ... assist boards of health in their enforcement of this code

Local bylaws, ordinance

How Do I Know?

Should I Condemn?

IT DEPENDS



Condition Which May Endanger vs. Unfit for Habitation

- There is difference
 - Condition Deemed to Endanger
 - Unfit for Human Habitation
- Where would you look?
 - 410.010 Definitions
- How does each affect your authority to act?

Condition Which May Endanger vs. Unfit for Habitation

- Condition Deemed to Endanger:
 - Condition which “may” impair the health & safety of occupant or public
- Unfit for Human Habitation :
 - Condition meeting the standard to close down, condemn, or demolish [MGL c. 111, § 127(B)]
 - Immediate harm/threat to occupant, other legal means could not sufficiently remove the condition

A Condition Which May Endanger

- 410.750 Conditions deemed to endanger or materially impair the health, safety, or well being
 - Conditions listed in (A) through (O)
 - Considered deemed to endanger based on their existence (§ 127A)
 - 410.750(O) for listed conditions not corrected within 5 days
 - 410.750(P)
 - Any other violation of 410.000 that may impair the health and safety of occupant

A Condition Which May Endanger

- 410.830(A) Correction Orders
 - Most of the conditions listed in 410.750
 - A, B, C, D F, G, H, K, O(5)
 - Within 12 hours order good faith effort to correct within 24 hours
 - What's a good faith effort?

Unfit for Human Habitation

- 410.831(A) Finding a dwelling is unfit
 - Inspection reveals dwelling is unfit for human habitation
 - Local health entity may issue finding
- The “finding” is a step in the progression to condemnation, vacating, securing, and demolition
 - Must issue finding before proceeding into condemnation process

Where Do I Start?

- The Inspection
 - Where an inspection reveals a condition or conditions which present such an imminent threat to the life, health or safety of the occupants immediate steps must be taken by the inspector ...

410.822(B)(3) Conduct of Inspections



The Finding

- Formal process by local health entity
- Required prior to issuing order to vacate
 - MGL c. 111, § [127B](#)
 - Follow procedures (if occupied)
 - 410.831(B) Notification to occupant and owner
 - 410.831(C) Hearing
 - 410.831(D) Exception to notification and hearing
 - Immediate threat to occupant
- Required prior to initiating condemnation

Finding

410.831, Unfit for human habitation

- When an inspection reveals a dwelling or portion is unfit for human habitation, the local authority may issue a written finding, provided
 - A hearing is provided to all affected parties
 - Emergency exists requiring immediate action
- 410.831(A), Local authority may issue a written finding that the dwelling or portion is unfit for human habitation
 - After complying with 410.831(B), (C), or (D)
 - Include statement of material facts and conditions

Notification

410.831(B) If occupied, prior notification must be given to occupant and owner

- Identification of dwelling
- Copy of the inspection report
- Statement local authority will consider finding the dwelling or portion unfit for human habitation
- Finding may result in a condemnation requiring
 - Dwelling to be secured
 - Dwelling to be vacated
- Time and location of public hearing
- Notice served in accordance with 410.833, Service of Orders

Hearing

410.831(C) If occupied, prior to issuing a finding the local authority shall at least 5 days after service of notice required by 410.831(B)

- Conduct a public hearing
 - Determine if dwelling or portion is unfit for human habitation
 - Allowing testimony from all affected parties to testify
 - Why dwelling or portion should/should not be found unfit for human habitation
 - Why order to vacate and secure should/should not be issued

Every Rule Has an Exception

Unoccupied Dwellings

- If the dwelling or portion is unoccupied, notification and hearing outlined in 831(B) and (C) are not required
- The local authority may issue a finding that the dwelling or portion is unfit for human habitation
- The owner is entitled to request a hearing in accordance with 410.850 – 410.860

Every Rule Has an Exception

- 410.831(D) If at any time the local authority determines in writing that the danger to the life or health of the occupant(s) is so immediate that no delay may be permitted, then they may immediately issue a finding that an occupied dwelling or portion is unfit for human habitation without providing the notification or hearing specified in 105 CMR 410.831(B) and (C)
 - Copy of determination and finding shall be sent to each affected occupant and the owner

Condemnation

- 410.831(E) Once finding a dwelling or portion is unfit for human habitation, the local authority may
 - Issue an order condemning dwelling or portion
 - Issue an order to vacate the dwelling or portion
 - Issue an order to secure the dwelling or portion
- Orders are issued to the property owner

Placard

- 410.950(A) The dwelling or portion shall be placarded by the local authority
 - If a request for hearing is not filed within 7 days after condemnation
 - After written notice to conduct a hearing to determine condemnation
 - After hearing a written condemnation is issued
- 410.950(B) No dwelling or portion condemned and placarded shall be used until written permission is given and placard removed by the local authority

Vacating

410.950(C) A person refusing to leave a dwelling or portion condemned and placarded may be forcibly removed by the local health authority or local police



Legal Obligation

- Once an occupant is ordered to vacate, what is your legal obligation?
 - M.G.L., c. 79A, §13
 - “...shall provide relocation assistance and a relocation payment to such person or persons for actual reasonable documented expenses in moving his personal property from the real property, unless such payment is otherwise provided.”
 - Provision for state reimbursement of 50%
 - Has not been funded

Expenses

Expenses incurred for relocation or securing dwelling

- M.G.L. c. 111, § 127B
 - May attach expenses as municipal lien on the property
- M.G.L. c. 139, § 3A is adopted into 127B
 - Addresses burnt or dangerous buildings but adopted into other statutes

Demolition

- 410.83.1(F) If after 1 year the dwelling or portion is not in compliance with 410.000, the local health authority may have the dwelling or portion demolished or removed
- 410.950(D) the health authority may demolish any dwelling
 - If the order for destruction was properly served on the owner and every mortgagee of record
 - In accordance with 410.831 - 410.860, and M.G.L. c. 111, § 127B
 - Claim the expense incurred

Demolition

- Other authorities have the power to demolish a dwelling
 - Building Inspector
 - M.G.L. c. 143, § 6
 - M.G.L. c. 143, § 9
 - Alderman/Selectman
 - M.G.L. c. 139, § 1
 - M.G.L. c. 139, § 3

MINIMUM STANDARDS FOR DEVELOPED FAMILY TYPE CAMP GROUNDS (STATE SANITARY CODE, CHAPTER VI)

105 CMR 440.000

Tract or parcel of land, either privately
or publicly owned

- which is used wholly or in part for recreational camping or group activity purposes, or for accommodation for overnight or longer periods, and
- which accommodates for profit or under philanthropic or charitable auspices three or more families or camping groups.



Family-Type Campgrounds

May accommodate tents, motor homes, expandable camping units, and such other devices as may be developed and marketed for the camping trade.

Does not include a children's day camp, recreational camp for children, mobile home park or picnic area



Safari Fields

- An area used for overflow and group camping
- Not to be used on a regular basis or construed to be just another campground with lower
- Refers to one night stops or to a weekend at most



440.02: Site Requirements

A family type campground shall be located only where:

- Surface drainage conditions create no health or safety hazard;
- Water supply and sewage disposal facilities are in accordance with 310 CMR 15.00: *Subsurface Disposal of Sanitary Sewage (Title V)* and 310 CMR 22.00: *Drinking Water Regulations*;
- Traffic conditions create no undue safety hazards

440.03: Housing

Every building, structure, or shelter used or provided for use in a family type campground shall

- Be structurally safe,
- Be adequate in size for its use,
- Be easy to keep clean, and shall
- Have a roof which is weather tight
- Provide adequate lighting and ventilation

All new construction shall comply with all appropriate regulations for handicapped persons



440.03: Housing

Floors in all buildings used for food preparation or food service shall be kept

- Smooth
- Clean
- Free from chronic dampness



440.04: Eating and Drinking Establishments

If an eating and/or drinking establishment is operated in conjunction with the camp, it shall be operated and maintained in a sanitary manner and in accordance with the provisions of 105 CMR 590.000 and 105 CMR 595.000.

440.05: Individual Camp Sites and/or Tent Areas

- For each camp site, there shall be
 - A minimum width of 25 feet,
 - A minimum area of 1200 square feet, plus an
 - Additional 200 square feet for parking area
 - Level enough to accommodate camping units and other vehicles safely in the opinion of the approving authority
- Poison ivy, poison oak, poison sumac and other plants which produce toxic resins shall be eradicated within 50 feet of all campsites, safari fields and all toilet, bathing and recreation areas.

440.06: Safari Fields

- No more than 60 camping units per acre of safari field
- Camping units shall be so placed that any camping unit may exit at any time
- If located more than 500 feet from the toilet facilities, 1 chemical toilet for each 15 non-self-contained units
- No sink wastes shall be thrown on the surface of the ground

440.06: Safari Fields

- Gray water dumping station for each 100 sites provided with a 12" funnel-shaped receiver
- At least 12" but not more than 30" above ground level
- The receiver should be equipped with a one inch mesh screen to exclude bottles and other bulky items



440.07: Water Supply

- An adequate quantity of water of safe potable quality shall be piped to each campsite
- Any campground restricted to tent camping and backpacking shall be exempt if an approved water supply is available within 1000 feet
- 310 CMR 22.00: *Drinking Water Regulations* shall be complied with
- No physical connection may exist between any pipe carrying water from a source and any pipe carrying water from any other source without the written approval of the Department (4)



440.07: Water Supply

All pipes and pumps delivering drinking water shall be installed and maintained in good working order and in accordance with 248 CMR 2.00 *State Plumbing Code*.

The area surrounding a pump or hydrant used for water supply shall be maintained in a properly drained and sanitary condition.



440.08: Toilet Facilities

- At least two water closets or privy seats shall be provided for each sex for the first 30 sites. For each additional 30 site, 1 water closet for each sex shall be provided
- Campgrounds with areas dedicated to self-contained units and which areas have water, electricity and sewer hookups may have a reduced number of public toilets depending on actual operating experience and at the discretion of the approving authority.
- The toilets shall be so located that they are not more than 500 feet from the camp sites of those people who are expected to use them
 - Self contained units are exempt from this 500 feet requirement.
 - The operator shall provide a supply of water and toilet paper, ventilation and self-closing door (4)
- Toilet facilities shall be constructed and located so that privacy is maintained between sexes.

440.09: Lavatories and Showers

- At least one shower and one lavatory or wash basin shall be provided for every 30 sites, or fraction thereof. Wash basins shall be so located as to facilitate their use, particularly after use of toilets.
- If indoor showers are provided, every indoor shower room floor shall be washed daily with a suitable washing agent and water. The use of wooden or metal duckboards is prohibited.
- Each shower room and bathroom shall be ventilated to the outdoors.
- All lavatories, wash basins, showers, and bathtubs shall be maintained in good working order and in a clean and sanitary condition.

440.10: Sewage Disposal

- All gray and black wastewater shall be discharged to a sanitary drainage system connected to a sewerage system
- Holding tank dumping station shall be connected to a municipal sewerage system or to subsurface facilities
- A four-inch diameter inlet with a hinged or chained cover The inlet shall be surrounded by a concrete apron pitched to drain
- A water tap and hose shall be provided for cleanup with a vacuum
- Posted as not to be used for drinking or filling of water tanks.



440.10: Sewage Disposal

- At least one accessible and operable dumping station inlet shall be provided for each 100 camp sites.
- Mobile Units, if provided for pumping out holding tanks on self-contained units, shall be constructed and operated to prevent any leakage, odors, or other nuisance.
- No sink wastes may be thrown on the surface of the ground or disposed of in open pits.
- At least one leaching pit for sink wastes only shall be provided for each four camp sites where other conveniently located dumping stations are not available



440.11: Refuse Storage and Disposal

- The operator shall provide and maintain in a clean and sanitary condition as many receptacles as are necessary. Refuse shall be disposed of at least once each week or more often, if necessary, in the opinion of the approving authority.
- Refuse shall be stored in watertight receptacles of metal or other durable material with tight-fitting covers. Plastic bags shall be used only as liners in the container and not for the storage of refuse.
- No refuse is to be disposed of on the campground unless the area has been assigned and approved under the provisions of M.G.L. c. 111, § 150A, and 310 CMR 19.00: *Solid Waste Management*.
- The operator shall inspect camp areas daily, and keep same in a clean, sanitary condition.

440.12: Swimming Pools and Bathing Areas

Swimming pools and bathing areas, where provided, shall be operated in accordance with

105 CMR 435.000: Pools

105 CMR 445.000: Beaches



440.13: Safety and Fire Prevention

- Facilities, equipment, and fire breaks for fire prevention and fire fighting shall be provided as may be recommended by the local fire department or fire warden. If fireplaces are provided, an area of six feet in every direction from each fireplace shall be maintained clear of debris and growth.
- Suitable emergency exits approved by the local fire department or fire warden shall be provided from every family type campground. Individual spaces shall be designed to prevent key-locking one another.

440.14: Curtailment of Utilities or Services

- No person shall cause the water, or other utility, service facility, or equipment which is required to be made available under these minimum standards to be shut off or removed from occupied camping units except for such temporary period as may be necessary during actual repairs or alterations or during temporary emergencies when curtailment of service is approved by the board of health.

440.20: General Administration & 440.21: Licensing

- The provisions of 105 CMR 400.000: *State Sanitary Code Chapter I: General Administrative Procedures*, shall govern the administration and enforcement of 105 CMR 440.00 except as supplemented by the 105 CMR 440.21 through 440.28.
- No family type campground shall be operated without a license granted by the Board of Health under M.G.L. c. 140, § 32B, or in the case of an agency of the Commonwealth without the approval of the Department. Licenses shall expire on July 1st and must be renewed annually.

