

410.820: Inspection Upon Request

The board of health shall inspect a dwelling or dwelling unit upon receipt of a written, oral or telephonic request for inspection regardless of whether the person requesting the inspection has previously notified the owner of the dwelling of the condition(s) within the dwelling. All interior inspections shall be done in the company of the occupant or the occupant's representative.

(A) The board of health shall use its best efforts to schedule and complete an inspection at a time mutually satisfactory to the occupant and the board of health:

(1) within 24 hours after a receipt of a request when the condition or conditions alleged to exist include one of the following:

(a) failure to maintain a supply of water connected with a safe water supply as required in 105 CMR 410.180; or

(b) failure to provide heat and to provide or maintain heating facilities in proper condition as required by 105 CMR 410.200 through 410.202; or

(c) failure to provide light as required by 105 CMR 410.254 and 410.253; or

(d) failure to provide and maintain a sanitary drainage system as required by 105 CMR 410.300; or

(e) failure to maintain in safe operating condition any facilities fixtures and systems listed in 105 CMR 410.351; or

(f) termination or failure to restore promptly, water, hot water, heat electricity or gas; and

(g) failure to maintain exits unobstructed and in a safe condition as required by 105 CMR 410.451 and 410.452; or

(h) failure to maintain every entry door of a dwelling or dwelling unit as required by 105 CMR 410.480(B) and 410.480(D); or

(i) failure to maintain a dwelling unit free from leaks as required in 105 CMR 410.500; or

(j) failure to maintain a porch, balcony, roof or exterior stairway in a safe condition as required in 105 CMR 410.500, 410.503(B), and 410.503(C); or

(k) failure to maintain a dwelling or dwelling unit free from rodents, skunks, cockroaches and insect infestation as required by 105 CMR 410.550; or

(2) within five calendar days after receipt of a request when the condition or conditions alleged to exist does not include any of the violations enumerated in 105 CMR 410.820(A)(1).

(B) The board of health shall keep a record of all requests for inspections in a bound book with numbered pages. The information to be recorded shall include but need not be limited to the name, if given, of the person requesting the inspection, the time and date of each such request, the location of the dwelling, the nature of the alleged violation(s) and the date the inspection is conducted. In lieu of the above, the required records may be maintained within a computer system.

410.821: Inspection Form

Each board of health shall adopt and use a printed inspection report form which must include, but need not be limited to, the following:

(A) specifically labelled spaces for:

(1) name of the inspector;

(2) the date and time of the inspection or investigation;

(3) the location of the dwelling or dwelling unit inspected;

(4) the date and time of any scheduled follow-up inspection;

(5) a description of the conditions constituting violations;

(6) 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;

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(7) a determination by the official inspecting the premises whether the violations are listed in 105 CMR 410.750, and whether the effect of any violation(s) or conditions not listed in 105 CMR 410.750 may endanger or materially impair the health or safety, and well-being of any person(s) occupying the premises.

(8) the signature of the inspector preceded by the following statement: *This inspection report is signed and certified under the pains and penalties of perjury.*

(B) A brief summary of the legal remedies available to the occupant of the affected premises, followed by this statement:

*"The information presented above is only a summary of the law. Before you decide to withhold your rent or take any other legal action, it is advisable that you consult an attorney. If you cannot afford to consult an attorney, you should contact the nearest Legal Services Office which is (name of Legal Services Office), (address), (telephone number)."*

410.822: Conduct of Inspections

(A) At the time of the inspection, the inspector shall record all violations if any, and shall complete an inspection report form which conforms to the requirements of 105 CMR 410.821(A) and 410.821(B). If assistance of a specialized inspector, which is not immediately available, is necessary to fully complete the inspection report, such report shall be completed to the fullest extent feasible at the time of the inspection, noting thereon the a reason of possible violations for which a separate inspection by a specialized inspector appears to be necessary. The need for such separate inspection shall in no way delay the normal processing or issuing of orders pursuant to 105 CMR 410.830 through 410.833. The board of health shall use its best efforts to schedule the separate inspection promptly, at a mutually satisfactory time to all individuals involved. A copy of 105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II)* shall be made available upon request, free of charge or at a cost which is no greater than the board's own cost for each copy. A copy shall be made available for review at no cost.

(B) Each inspection of a dwelling unit shall include at a minimum the condition alleged to be in violation and all those standards found in 105 CMR 410.750(A) through (O) except as otherwise provided in 105 CMR 410.822(B)(1) through 410.822(B)(4). A violation found in a common area shall be considered as a violation which exists in each unit in the dwelling which may be affected by such violations.

(1) An occupant shall be informed of his/her right to a comprehensive inspection at the start of said inspection. A comprehensive inspection will be carried out if the occupant so requests.

(2) The inspection as required in 105 CMR 410.822(B) shall not be required from September 15 to June 15, inclusive, if the complaint relates solely to the lack of heat pursuant to 105 CMR 410.200 or 410.201, however, a comprehensive inspection will be carried out if the occupant so requests.

(3) 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 to order compliance, an inspection as required in 105 CMR 410.822(B) may be delayed until after such steps are taken, but such inspection shall be completed in a timely manner.

(4) Where a reinspection is made in order to determine compliance with a previously issued order, the inspection may be sufficient if it includes those items previously identified as violations unless additional violations have been identified in a subsequent complaint.

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(C) A verbal or written summary of the conditions noted during the inspection shall be given to the occupant or the occupant's representative at the conclusion of the inspection. Such report shall indicate the need for additional inspection by a specialized inspector, if necessary. If a written report is requested at the time of the inspection, it shall be left with the person making the request.

410.830: Correction Orders

If an inspection or examination as provided for in 105 CMR 400.100 (*State Sanitary Code I General Administrative Procedures*) and/or 105 CMR 410.820 (*Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II)*) reveals that a dwelling does not comply with the provisions of 105 CMR 410.000, the board of health or its designated agent shall:

(A) within 12 hours after the inspection order the owner or occupant to make a good faith effort to correct within 24 hours any of the following violations:

- (1) failure to maintain a supply of water connected to a safe water supply as required in 105 CMR 410.180; or
- (2) failure to provide heat and to provide or maintain heating facilities in proper condition as required by 105 CMR 410.200 or 410.201; or
- (3) failure to provide light as required by 105 CMR 410.254; or
- (4) failure to provide and maintain a sanitary drainage system as required by 105 CMR 410.300; or
- (5) failure to maintain in safe operating condition any facilities fixtures and systems listed in 105 CMR 410.351; or
- (6) termination or failure to restore promptly water, hot water, heat, electricity or gas; or
- (7) failure to maintain exits unobstructed as required by 105 CMR 410.451; or
- (8) failure to maintain every entry door of a dwelling unit as required by 105 CMR 410.480(D); or
- (9) failure to maintain a dwelling unit free from leaks as required by 105 CMR 410.500; or
- (10) failure to maintain a porch, balcony, roof or exterior stairway in a safe condition as required by 105 CMR 410.500; or
- (11) failure to maintain a dwelling or dwelling unit free from rodents, skunks, cockroaches and insect infestation as required by 105 CMR 410.550.

(B) within seven days after the inspection order the owner or occupant to begin necessary repairs or contract in writing with a third party within five days for correction of all other violations or conditions listed in 105 CMR 410.750, 410.351 and 410.550 and to make a good faith effort to substantially correct all violations within a period determined by the board of health but not exceeding 30 days.

(C) within five days after the dates for compliance specified in an order issued pursuant to 105 CMR 410.830, the board of health shall make an onsite inspection to determine whether there has been compliance with said order; provided, that said inspection shall be made within 24 hours of the dates for compliance specified in an order if one or more of the violations or conditions are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

410.831: Dwellings Unfit for Human Habitation; Hearing; Condemnation; Order to Vacate; Demolition

(A) Finding that a dwelling or portion thereof is unfit for human habitation. If an inspection conducted pursuant to 105 CMR 400.100 or 105 CMR 410.820 reveals that a dwelling or portion thereof is unfit for human habitation, the board of health may (after complying with 105 CMR 410.831(B), (C) or (D), if the dwelling is occupied) issue a written finding that the dwelling or portion thereof is unfit for human habitation. The finding shall include a statement of the material facts and conditions upon which the finding is based.

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(B) Prior notification to occupant(s) and owner. If the dwelling or portion thereof is occupied, the board of health shall, prior to issuing a finding under 105 CMR 410.831(A), provide written notice to the occupant(s) and owner which shall include:

- (1) Identification of the dwelling (address and apartment number, if any);
- (2) A copy of the inspection report;
- (3) A statement that the board of health will consider issuing a finding that the dwelling or a specifically identified portion thereof is unfit for human habitation;
- (4) A statement that this finding may result in an order of condemnation requiring the owner to secure the dwelling and requiring the occupant(s) to vacate the dwelling.
- (5) A statement of the time and place of a public hearing which the board of health will conduct in order to determine whether the dwelling or portion thereof is unfit for human habitation, and whether an order to secure and vacate should be issued.

The notice shall be served on the occupant(s) and owner in accordance with 105 CMR 410.833.

(C) Hearing if dwelling or portion thereof is occupied. If the dwelling or portion thereof is occupied, then the board shall, prior to issuing a finding under 105 CMR 410.831(A), and at least five days after service of the notice required by 105 CMR 410.831(B), conduct a public hearing to determine whether the dwelling or portion thereof is unfit for human habitation and whether an order to secure and to vacate should be issued. At the hearing the occupant(s), owner, or any other affected party shall be given an opportunity to be heard, to present witnesses or documentary evidence and to show why the dwelling or portion thereof should or should not be found unfit for human habitation, and why an order to vacate and an order to close-up should or should not be issued.

(D) Exception to notification and hearing requirements. If at any time the board of health 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 the board of health may immediately issue a finding that an occupied dwelling or portion thereof is unfit for human habitation without providing the notification or hearing specified in 105 CMR 410.831(B) and (C). A copy of the determination of immediate danger, and a copy of the finding of unfitness for human habitation shall be sent to each affected occupant, and to the owner.

(E) Condemnation, order to vacate, order to secure. At the same time, or at any time after the board of health issues a finding that a dwelling or portion thereof is unfit for human habitation, the board may issue an order condemning the dwelling or portion thereof and an order to vacate the dwelling or portion thereof, and an order requiring the owner to secure the dwelling or portion thereof. If the dwelling or portion thereof which is ordered to be secured is unoccupied (and therefore no public hearing was conducted prior to the issuance of the order) then the owner or any other affected person shall have the right to request a hearing in accordance with 105 CMR 410.850 through 410.860. No dwelling or portion thereof which is ordered to be secured shall be occupied without the prior written permission of the board of health based upon the board's written finding that the dwelling or portion thereof to be occupied is fit for human habitation.

(F) Demolition. If one year after the issuance of an order to secure, compliance with the minimum standards set forth in 105 CMR 410.000 has not been effected, then the board of health may cause the dwelling or portion thereof to be demolished or removed.

410.832: Content of Orders

(A) Every order authorized by 105 CMR 410.000 shall be in writing.

(B) Subject to the emergency provision of 105 CMR 400.200(B), any order issued under the provisions of 105 CMR 410.000: