



DUTIES OF LOCAL BOARDS OF HEALTH IN MASSACHUSETTS

The following is not intended as legal advice but as a quick and convenient summary. To avoid errors, please check the original source regulation or law before using these citations in an official document. For more detailed information, refer to the MAHB Legal Handbook, or the Guidebook for Massachusetts Boards of Health

Local boards of health in Massachusetts are required by state statutes and regulations to perform many important and crucial duties relative to the protection of public health, the control of disease, the promotion of sanitary living conditions, and the protection of the environment from damage and pollution. These requirements reflect the legislature's understanding that many critical health problems are best handled by the involvement of local community officials familiar with local conditions.

The following is a list of duties and responsibilities of local boards of health in Massachusetts. Each item includes a citation to the statute or regulation which imposes the duty or responsibility. The items have been grouped under general subject categories.

Following this listing of Required Duties is a list of Additional Powers of local boards of health which extend the local board's authority over the broad range of health, sanitation and environmental problems.

A. Records, Recordkeeping and Reports:

1. In cities, submit an annual report to the city council concerning the board's activities during the preceding year and concerning the sanitary condition of the city. M.G.L. c.111, s.28.
2. Maintain numerous records and retain them for required minimum retention periods. (A list of approximately three dozen categories of board of health records and their retention periods, will be found in the Guidebook for Massachusetts Boards of Health published by the Massachusetts Association of Health Boards.
3. Process numerous types of reports of cases of diseases. These reports are detailed in Food Borne Illness Investigation and Control Reference Manual, and MAHB Guide book.
4. Process of death certificates. M.G.L. c.46, s.11.

B. Health Care and Disease Control:

1. Upon request, telephone to a gas and electric utility company and certify in writing within seven (7) days of said telephone call that there is a serious illness in a residence such that no gas or electric company shall shut off or fail to restore gas or electric service

in any residence during such time as there is a serious illness. M.G.L. c.164, s.124A; 220 CMR 25.03(2).

2. Receive reports of cases of disease dangerous to public health. Keep records of these reports and also forward copies of these reports to the local school committee, and to other local boards in whose jurisdiction the patient resides, or may have contracted the disease, or may have exposed others. M.G.L. c.111, s.111. See 105 CMR 300.100 for list of diseases required to be reported.
3. Report cases of dangerous diseases to the Department of Public Health within twenty-four hours. M.G.L. c.111, s.112. See 105 CMR 300.100 for a list of diseases required to be reported.
4. Consult with the Department of Public Health regarding the prevention of dangerous diseases. M.G.L. c.111,s.7.
5. Send to the Department of Public Health weekly reports of deaths due to dangerous diseases. M.G.L. c.111 s.29.
6. Receive notices of school children sent home because of dangerous disease. M.G.L. c.71, s.55A. See the School Health Manual.
7. Report to the Department of Public Health cases of a certain contagious disease occurring at dairy farms. See 105 CMR 310.100-110 for list of such diseases required to be reported.
8. Receive reports of any inflammation, swelling, redness or unnatural discharge from the eyes of an infant less than two weeks old, and take immediate action to prevent blindness. M.G.L. c.111, s.110.
9. Receive reports of persons afflicted with cerebral palsy, and submit an annual report of these cases to the Department of Public Health. M.G.L. c.111, s.111A.
10. Provide anti-rabic vaccine and treatment. M.G.L. c.140, s.145A, 105 CMR 335.
11. Supervise or carry out the disinfection of dwellings which have housed a person who has suffered from or died of a disease dangerous to the public health. M.G.L. c.111, s.109.
12. Receive reports of food poisoning and send these reports to the State Department of Public Health, 105 CMR 300.000.
13. Receive notices from inspectors of the Division of Occupational Safety regarding violations of health laws or nuisances in industrial establishments, investigate these reports, and enforce appropriate laws. M.G.L. c.149, s.136.

C. Housing and Dwellings:

1. Enforce Chapter II of the State Sanitary Code: Minimum Standards of Fitness for Human Habitation, M.G.L. c.111, ss.127A and 127B: 105 CMR 410.000. enforcement of Chapter II includes inspecting dwellings (upon request or upon the board's initiative) for compliance with the minimum standards, certifying violations, issuing orders, holding

hearings, granting variances and instituting court proceedings if necessary to enforce such orders.

2. Enforce the State Lead Poisoning Prevention regulations. M.G.L. c.111, s.198; 105 CMR 460.000. Enforcement of these regulations includes inspecting dwellings (upon request or upon the board's initiative) for lead paint, issuing orders for removal of lead paint, and instituting court proceedings to enforce such orders if necessary.
3. Review and approve or disapprove preliminary and definitive plans for the subdivision of land. M.G.L. c.41, ss.81S-81V.
4. Inspect and certify public lodging houses for waterclosets, urinals, ventilation and cleaning. M.G.L. c.140, s.36.

D. Hazardous Wastes:

1. Assign the site for a hazardous waste disposal facility as follows (M.G.L. c.111, s.150B):
 - a. Notify the Department of Environmental Protection (DEP) of the receipt of an application to assign a site.
 - b. Assess significance and degree of danger to public health and consider and evaluate any evidence submitted.
 - c. Give public notice and hold a public hearing.
 - d. Every decision of the board in assigning or refusing to assign a site must be in writing and include a statement of reasons and facts relied on.
2. Chairperson of board serves on the local assessment committee, established whenever a developer seeks to construct and operate a hazardous waste facility within the city or town. Committee has certain duties including negotiating with the developer, entering a contract, and adopting necessary rules and procedures. M.G.L. c.21D, s.5.
3. Notify the mayor and city council or board of selectmen of the following (M.G.L. c.21C, s.4):
 - a. Pending applications for licenses for the collection, storage, treatment, or disposal of hazardous waste, upon notification from DEP.
 - b. Information supplied annually by DEP identifying types and quantities of hazardous waste generated, stored, treated or disposed of within the city or town.

E. Solid Waste:

1. Assign sites of sanitary landfills, refuse incinerators, waste storage or treatment plants, and refuse transfer stations, after a public hearing. Ensure that these do not present a danger to public health. M.G.L. c.111, s.150A.
2. Consider and act on applications for permits for the disposal of special wastes. 310 CMR 19.16.
3. Consider and act on applications for special permits for salvaging or recycling materials from sanitary landfill sites or refuse transfer stations. 310 CMR 19.18; 18.15(1).
4. Periodically inspect sanitary landfill sites, and provide written notice of deficiencies. 310 CMR 19.25.
5. Periodically examine and evaluate refuse transfer stations. 310 CMR 18.00.

6. Inspect and verify satisfactory completion of all corrective work to sanitary landfill projects. 310 CMR 19.26(3).
7. Handle requests for variances of regulations governing sanitary landfills and refuse transfer stations (forward these to DEP); keep notices of the grants of these variances 310 CMR 19.32; 18.27.
8. Keep on file an emergency plan governing emergencies occurring at a refuse transfer station. 310 CMR 18.21.

F. Septage and Garbage

1. Enforce Title V of the State Environmental Code; Minimum Requirements for the Subsurface disposal Sewage, 310.CMR 15.00.
2. Make rules and regulations for the removal, transportation and disposal of garbage, offal and other offensive substances. M.G.L. c.111, s.31B.
3. Issue permits for the removal or transportation of garbage, offal or offensive substances when such refuse has been collected in the city or town. Keep registry of all transporters of refuse through the city or town, and enforce local rules and regulations regarding such transport. M.G.L. c.111, s.31A.

G. Nuisances:

1. Investigate nuisances which in the board's opinion may be injurious to health. The board shall destroy, prevent or remove such nuisances, and shall make regulations relative to nuisances. M.G.L. c.111, s.122.
2. License noisome trades M.G.L. c.111, s.151.
3. Assign location for slaughter houses or other noxious or offensive trade. M.G.L. c.111, s.143.

H. Food:

1. Issue permits for all food service establishments, including restaurants and food service facilities in stores, recreational camps for children, family style campgrounds, institutions, hotels, motels, schools, retail food store, mobile food units and pushcarts, etc., 105 CMR 590.052.
2. Enforce Chapter X of the State Sanitary Code: Minimum Sanitation Standards for Food Establishments, 105 CMR 590.000. Enforcement includes conducting inspections, issuing orders, suspending or revoking permits where necessary.
3. Issue permits for plants which break and can eggs. M.G.L. c.94, s.89.
4. License milk pasteurization plants. M.G.L. c.94, s.48A.
5. City health departments shall have milk inspectors. Town boards may appoint milk inspector.
Inspectors must inspect and license milk producers and dealers. M.G.L. c.94, s.33 and s.40.
6. Issue permits for plants that bottle carbonated non-alcoholic beverages. M.G.L. c.94, s.10A; inspect such plants, and revoke permits where plants are found to be unsanitary or otherwise in violation of public health rules and regulations, M.G.L. 94 s.10C; 105 CMR 570 et. Seq. Send to the Department of Public Health copies of all licenses, applications and half the license fees, 105 CMR 570.002. Notify each owner prior to the expiration

date of each permit and close plants that fail to renew such permits, 105 CMR 570.002. M.G.L. c.94, s.10C.

7. Register and inspect bakeries and enforce State Bakery Regulations. M.G.L. c.94, s.94F; 105 CMR 550.000; 105 CMR 551.000. Furnish DPH with monthly reports of inspections, 105 CMR 550.001.
8. License plants that manufacture frozen desserts, M.G.L. c.94, s.65H; 105 CMR 561.000.
9. Inspect cold storage and refrigerated warehouses, M.G.L. c.94, s.67.
10. Enforce M.G.L. c.130, s.81 which prohibits importation of shellfish which have not been certified by a United States or foreign shellfish regulating agency.
11. Enforce statutes and regulations relative to the adulteration and misbranding of food. M.G.L. c.94, ss.186-195.

I. Pools and Beaches:

1. Enforcement Chapter V of the State Sanitary Code: Minimum Standards for Swimming Pools, 105 CMR 435.000. Enforcement includes issuing annual permits, conducting examinations, issuing orders, holding hearings, granting variances, taking water samples.
2. Enforce Chapter VII of the State Sanitary Code: Minimum Standards for Bathing Beaches, 105 CMR 445.000. Enforcement includes issuing annual licenses, approving plans for new or altered beaches, issuing orders, holding hearings, granting variances, receiving reports of accidents, taking water samples.
3. Prohibit swimming in water that fails to meet proscribed standards for bathing, 105 CMR 445.10 (-3).
4. Review plans for new or altered bathing beaches, 105 CMR 445.16.

J. Camps, Motels and Mobile Home Parks:

1. Inspect all recreational camps for children and family style campgrounds, motels, mobile home parks and cabins; and annually issue licenses for these facilities, M.G.L. c.140, ss.32B and 32C. Send copies of family style campground permits to the Department of Environmental Protection.
2. Enforce Chapter VI of the State Sanitary Code: Minimum Standards for Developed Family type Campgrounds, 105 CMR 440.000. Enforcement includes conducting examination; issuing orders; issuing, suspending and revoking licenses; holding hearings; granting variances.
3. Enforce Chapter IV of the State Sanitary Code: Sanitary Standards for Recreational Camps for Children, 105 CMR 430.000. Enforcement includes inspection, issuing orders and licenses, conducting hearings, granting variances.

K. Miscellaneous:

1. Pesticides
 - a) Local boards may make reasonable health regulations regarding pesticides provided such regulations are not inconsistent with the Massachusetts Pesticide Control Act, M.G.L. c.132B or state regulations, 333 CMR 2.00. Wendell v. Attorney General, 476 NE 2nd 585, 394 Mass 518 (1985). For example, a city or town may want to give its board of health an opportunity to determine whether the proposed application of pesticides in particular locations would be consistent with the products labeling or other restrictions imposed by the Department, Wendell v. Attorney General, *supra*, 394 Mass at 528.

- b) Receive public notice of the application of herbicides from applicants that intend to maintain a right of way by the application of herbicides. 333 CMR 11.07.
2. Nominate animal inspectors, M.G.L. c.129, s.15.
3. License massage parlors, M.G.L. c.140, s.51.
4. Issue burial permits, M.G.L. c.14, s.45.
5. License and if necessary revoke licenses for funeral directors. Transmit to the board of registration in embalming names and addresses of all licensees, M.G.L. c.114, s.49.
6. Approve location of cemeteries, M.G.L. c.114, s.34.
7. Retain charge of any case arising under M.G.L. c.111 in which the board has acted. M.G.L. c.111, s.32.
8. Enforce all local health regulations promulgated pursuant to M.G.L. c.111, s.31.

J. Smoking

1. Receive written complaints regarding the willful failure or refusal to comply with the Indoor Clean Air Act regarding restaurants, supermarkets or retail food outlets. M.G.L. c.270 s.22.
2. Inspect the area described in the complaint and enforce no-smoking laws. M.G.L. c.270 s.22.
3. Provide written response to complainant within 15 days and send copies of the complaint and response to DPH. M.G.L. c.270 s.22.

**ADDITIONAL POWERS AND AUTHORITY OF LOCAL
BOARDS OF HEALTH IN MASSACHUSETTS**

Local boards of health in Massachusetts have historically played a crucial role in the protection of public health, promotion of sanitary living conditions and protection of the environment. In recognition of the importance of local leadership and action in these areas, the legislature has enacted over the years numerous statutes which authorize and thereby encourage local boards to be responsible for dealing with the broad range of health, sanitation and environmental problems at the local community level.

The following is a list of statutes which grant additional powers and authority to local boards of health. Each time includes a citation to the appropriate statute. The items have been grouped under general subject categories which parallel, where possible, the categories in the prior lists of required local activities.

A. General Health Protection and Regulation:

1. Adopt and enforce any reasonable health regulations. M.G.L. c.111, s.31.
2. Issue an order reciting the existence of an emergency and requiring that such action be taken as the board deems necessary to meet the emergency. State Sanitary Code, Chapter 1, 105 CMR 400.200(B), pursuant to M.G.L. c.111, s.127A; and State Environmental Code, Title I, 310 CMR 11.05(1).

B. Health Care and Disease Control:

1. Direct the operation of and adopt rules for city and town medical dental and health clinics, M.G.L. c.111, s.50 and hospitals, M.G.L. c.111, s.92.
2. Require vaccination of inhabitants of the city or town. M.G.L. c.111, s.181.
3. Order the fluoridation of public water supplies. (This order may be overturned by a referendum vote.) M.G.L. c.111, s.8C.
4. Appoint school physicians. M.G.L. c.71, s.53.
5. In cities, and in towns with a population greater than ten thousand, establish public sanitary stations. M.G.L. c.111, s.33.
6. Isolation and quarantine of individuals and property relative to communicable disease Chapter 111 sections 92-121A

C. Housing and Dwellings:

1. Condemn a dwelling which is unfit for human habitation, order the occupants to vacate, order the owner to clean the dwelling or tear it down (or the board may itself clean or tear down). M.G.L. c.111, s.127B.

D. Nuisances:

1. Condemn all nuisances; clean or tear down a nuisance. M.G.L. c.111, s.128.

E. Food:

1. Inspect and condemn all unfit meat, fish vegetables, produce, fruit or provisions of any kind. M.G.L. c.94, s.146; 105 CMR 590.059.
2. Adopt and enforce regulations relative to the keeping and exposure of food for sale. M.G.L. c.94, 2.146.
3. Adopt and enforce regulations for bakeries and close bakeries found unfit for the production of handling of food or dangerous to the health of its employees. M.G.L. c.94 s.9D-9M, 105 CMR 550.14.
4. In towns, appoint milk inspectors. (City boards of health are required to appoint milk inspectors.) M.G.L. c.94, s.33.

5. Adopt bacterial standards for milk which are stricter than the standards adopted by the Department of Public Health M.G.L. c.94, s.13E.
6. Upon determination that drinking water in a dwelling or food service establishment is unsafe, order discontinuance of use or order provisions of a new source. M.G.L. c.111, s.122A.

F. Miscellaneous:

1. Adopt and enforce regulations to control air pollution. M.G.L. c.111, s.31C.

INSPECTION TIMETABLE FOR BOARDS OF HEALTH

The following list describes the majority of inspections Boards of Health are required to perform. It is not intended to be a comprehensive formal listing of all inspection requirements.

- 1) Food Establishments 105 CMR 590.000, State Sanitary Code Chapter X
 - Inspect food establishments every six months.
- 2) Bathing Beaches 105 CMR 445.000, State Sanitary Code Chapter VII
 - Inspect accredited bathing beaches twice during operating season.
 - Take water samples twice monthly from accredited bathing beaches during bathing season.
 - Periodically inspect no accredited beaches to determine compliance with physical and bacteriological water quality standards.
- 3) Swimming Pools 105 CMR 435.000, State Sanitary Code Chapter V
 - Inspect periodically and before issuing annual permit.
 - Take samples of swimming, wading or special purpose pool water for bacteriological analysis prior to its opening.
- 4) Family Type Campgrounds 105 CMR 440.000, State Sanitary Code Chapter VI
 - Inspect periodically with the exception of those operated by the Commonwealth.
 - Renew license annually if inspection reveals compliance with the provisions of the code.
- 5) Recreational Camps for Children 105 CMR 430.000, State Sanitary Code Chapter IV
 - Inspect yearly and issue license annually if found to be in compliance with requirements of the code. Other town inspectors also must approve for license. Board of Health may also inspect at any time if there is reason to believe that a violation or violations of this chapter exist or upon request or complaint for any reason.
- 6) Subsurface Disposal of Sanitary Sewage 105 CMR 15.00, State Environmental Code Title 5,
 - Inspect the installation of all sewage disposal systems.
 - Witness percolation tests, deep observation holes, and perform site examinations for each system.
- 7) Housing (Human Habitation) 105 CMR 410.000, State Sanitary Code Chapter II
 - Inspect a dwelling or dwelling unit upon receipt of a written, oral or telephone request. Refer to code for specific timetable requirements.

- 8) Cabins, Motels and Mobile Home Parks M.G.L. Chapter 140, Section 32B, 32C
-Inspect periodically and renew licenses annually, of inspection reveals compliance with applicable regulations.
- 9) Disposal of Solid Waste by Landfill 310 CMR 19.00, State Environmental Code
-Periodically examine and evaluate sanitary landfills.

STATE REGULATIONS COMMONLY USED BY LOCAL BOARDS OF HEALTH

MASS. DEPT. OF PUBLIC HEALTH: THE STATE SANITARY CODE

105 CMR 300.00	Reportable Diseases and Isolation and Quarantine Requirements
105 CMR 400.000	General Administrative Procedures
105 CMR 410.000	Minimum Standards of Fitness for Human Habitation
105 CMR 430.000	Minimum Sanitation and Safety Standards for Recreational Camps for Children
105 CMR 435.000 *(310 CMR 12.00)	Minimum Standards for Swimming Pools
105 CMR 440.000 *(310 CMR 14.00)	Minimum Standards for Developed Family type Camp Grounds
105 CMR 445.000 *(310 CMR 17.00)	Minimum Standard for Bathing Beaches
105 CMR 460.000	Regulations for Lead Poisoning Prevention and Control
105 CMR 590.000	Minimum Sanitation Standards For Food Establishments

*Regulations which were previously available under asterisked D.E.P. CMR numbers. (State Legislature transferred to MDPH FY87)

310 CMR 15.00 Title 5 Minimum Requirements for Subsurface Disposal of Sanitary Sewage

310 CMR 19.00 Disposal of Solid Waste by Sanitary Landfill

PRICE LIST

105 CMR 400.000 through 419.000 (in one publication)	\$	plus postage
105 CMR 420.000 through 499.000 (in one publication)	\$	plus postage
105 CMR 590.000 through 595.000	\$	plus postage
310 CMR 11.00 through 17.00	\$	plus postage
310 CMR 18.00 through 21.00	\$	plus postage

NOTE: Any single regulation may be purchased separately.

ABOVE ARE AVAILABLE FROM: Secretary of State Bookstore at these locations:

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State House West
436 Dwight Street
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MASSACHUSETTS GENERAL LAWS FREQUENTLY USED BY LOCAL HEALTH OFFICIALS

The following are cited in the Manual of Laws Relating to Public Health:

Chapter	Section	Description	
	old Page		
40	54	Restrictions on Issuance of building Permits	
	347	Availability of Water Supply	
41	23	Rescission of vote by selectmen; election of other officers,	
	367	tenure, etc.	
41	81U	Subdivision Control Act: Board of health authority	
	389		
79A	13	Enforcement of state sanitary code; displacement of persons;	507
		moving expenses; state financial assistance; reports	
111	31	Health regulations; publication; violation	
	881		
111	122	Regulations relative to nuisances; examinations	947
111	125A	Review of order adjudging the operation of a farm to be a	
	949	nuisance	
111	127B	Dwellings unfit for human habitation; order to vacate or to	
	951	abate nuisance; removal of occupants; demolition expense,	
		lien; inspection reports, code violations; notices, enforcement	
		proceedings, jurisdiction; appeal	
111	131	Compulsory examination of premises; complaint; warrant	
	963		
111	141	Application to county commissioners from refusal or neglect	966
		of board to abate nuisance; hearing notice	

111	188	Disposition of fines and forfeitures	
	993n		
129	14B	Feeding garbage to swine; definitions; permit; application;	
	1315	revocation; processing of garbage; inspection of premises;	
		entry; record	
140	51	Massage; baths	1422
148	25B	Buildings used for human habitation; use of space heaters	
	1481		
188	14	Wrongful acts of lessor or landlord of buildings or premises	1563
		occupied for dwelling or residential purposes; criminal	
		penalties; civil remedies; jurisdiction; sections applicable	
		to acts of reprisal, waiver in leases or rental agreements	
		prohibited.	
218	26	District Courts – Criminal Jurisdiction (General Provisions)	
	1576		