



The Commonwealth of Massachusetts
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COMMISSIONER

May 2, 2012

Dear Local Board of Health:

The purpose of this letter is to clarify the current regulations that guide temperature control in housing units. 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II) governs the requirements for heating in all residential dwellings. 105 CMR 410.201 identifies the residential heating season as September 15 through June 15. A minimum temperature of 68 degrees F must be maintained in each habitable room and bathroom from 7:00 a.m. to 11:00 p.m. and 64 degrees F from 11:01 p.m. to 6:59 a.m. The regulation also states "the temperature shall at no time exceed 78 degrees F (25 degrees C) during the heating season." This provision means that at no time can the central heating system cause the temperature in any room to exceed 78 degrees F. The purpose for this restriction is to ensure that some rooms are not excessively heated in order to achieve the above minimum temperature requirements in other rooms.

Property owners have sometimes incorrectly interpreted these regulations as preventing them from turning on air conditioning units in properties equipped with central air conditioning systems at any time during the heating season. In fact, property owners have the authority to turn on air conditioning in instances where the exterior temperatures create extremely high temperatures within the dwelling unit, which occurs sporadically in late May and/or early June. This is particularly important for MA residents with pre-existing health problems (e.g. respiratory disease, multiple sclerosis) as well as those with disabilities or the elderly. The "heating season" does not limit use of air conditioning, but rather prescribes the time period during which heat must be provided to maintain minimum temperature requirements.

Property owners with HVAC systems may apply for the variance provided for by the regulations to shorten the heating season and enable air conditioning in order to maintain comfortable indoor temperatures (See 105 CMR 410.201 and 105 CMR 410.840).

To accommodate occupants during these unpredictable temperature extremes, the regulations provide a means for local Boards of Health (BOH) to grant variances from the required number

of days, not required room temperatures, in which heat must be provided. Any individual or building owner may request a hearing before the BOH in seeking relief from the regulations. The hearing process requires the BOH to notify all interested parties to inform them of the date and time of the hearing and allow testimony from any attendee before rendering a decision. The variance process is described in detail at 410.840.

During the past several years the Community Sanitation Program (CSP) has received numerous calls from occupants, property owners, and Boards of Health seeking guidance in dealing with the requirements of the heating season regulations. This is particularly evident when unusually high temperatures occur before June 15th. The CSP is in the process of revising the state sanitary code's housing regulations and, based upon input from a local health advisory group, plans to propose two changes to the temperature requirements:

1. End the heating season on May 31st rather than June 15th
2. Streamline the variance process for the heating season by allowing Boards of Health to eliminate the hearing requirement, identify by date the end of the heating season, and post their decision on the BOH website.

Given that the regulatory process can be lengthy, we are providing the information contained in this letter to a variety of individuals so that the current regulations are clear. We thank you for your attention to this vitally important matter and look forward to your feedback and participation as we work to secure a comfortable and safe environment for all Massachusetts residents.

Sincerely,

A handwritten signature in black ink that reads "John Auerbach". The signature is written in a cursive, flowing style.

John Auerbach
Commissioner