



TOWN OF
CHESTER, MASSACHUSETTS

01011

BOARD OF HEALTH
15 Middlefield Street
Chester, MA 01011
413-354-7781
BoardofHealth@townofchester.net

Application for Alternative Housing

Permit Fee \$500.00 includes BOH inspections, public hearing and deed restriction. Any additional will be at an extra cost.

NOTE: permits are also required for plumbing/gas, electrical and building department and fees are not included in this Board of Health permit.

Name: _____

Address: _____

Mailing Address: _____

Phone: _____ E-Mail: _____

Map and Lot# if no Street Address _____

Emergency Response Person: Name: _____ Phone # _____

Signature of Applicant

_____ Date: _____

On a separate paper please describe the following as provided:

Description of potable water supply: _____ Testing Data: _____

Description of sleeping areas. Are they screened in?

Description of expected number of Occupants, Children)?

Description of entry / egress for this alternative housing?

Description of Electrical service for lighting

Description of smoke / co detectors. (Approved by Fire Chief?)

Description of Plumbing/Gas:

Description shall include bathing areas such as showers, hand wash sinks, kitchen sinks.

Description shall include how hot and cold waters are provided.

Description shall include any gas appliances such as stoves, grills and lighting. (Approved by the Gas inspector?)

Description of area for cooking and meal preparations:

Description of Heating System: Example wood stoves, gas furnace.

Description of Sanitary Drainage System:

Description of manner of sewage disposal both black and grey water

Description in a lot plan the locations of the buildings to the property lines and roadway.

This plan should be professionally drawn to indicate any and all components of the property. Including locations of water sources, sewage disposal and any camp sites and or camper trailers.

Square Footage:

A detailed plan of the interior of the building, trailer, Camping area.

What time period of the year shall this site be occupied. (Example May to August.)

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104CMR410.710: Permit Requirements For Alternative Housing

(A) The board of health may approve alternative housing that does not meet one or more of the following requirements of 105 CMR 410.000 in single-family residences or owner-occupied dwelling units:

- (1) Electrical service required by 105 CMR 410.300 and 410.320;
- (2) Plumbed system for the delivery of hot and cold running water required by 105 CMR 410.130, 410.140, and 410.150;
- (3) Heating system required by 105 CMR 410.160 that is capable of meeting the requirements of 105 CMR 410.180;
- (4) Sanitary drainage system required by 105 CMR 410.130 provided the following approved systems are installed:
 - (a) A toilet capable of incinerating or composting waste; and
 - (b) A grey water system; or
- (5) Minimum square footage required by 105 CMR 410.420(D).

(B) An owner shall apply to the board of health for a permit to occupy alternative housing. An application for alternative housing must include the following:

- (1) A detailed plan of alternative energy and other provisions that will provide comparable measures to protect the health and safety of the occupants and that demonstrate that the same degree of protection required under 105 CMR 410.000 can be achieved without strict application of the particular provision;
- (2) A draft deed restriction that the owner will record with the Registry of Deeds upon approval of a permit for alternative housing that indicates that the property has an alternative housing permit pursuant to 105 CMR 410.710(D) and that upon transfer of ownership or occupancy the property must comply with all requirements in 105 CMR 410.000 unless a new permit is issued by the board of health;
- (3) A signed, written statement by the owner that the residence subject to the alternative housing permit will only be used as owner occupied property and that the owner understands that the permit will be nullified if the property changes occupancy or is offered or used as a rental;
- (4) Documentation that any necessary variances have been obtained from other regulatory agencies when an exemption would also violate another state regulatory code; and
- (5) Payment of any applicable fee set by the board of health.

(C) Upon receipt of an application for alternative housing, the board of health shall schedule a public hearing within 30 calendar days. The applicant shall provide to the board of health verification of notice to all abutters, as defined in M.G.L. c. 40A § 11, of the date, time, and location of said hearing.

(D) Following the hearing, the board of health shall issue a written decision as to whether to grant or deny the alternative housing permit and a statement regarding the rationale for the decision. A grant of approval shall be provisional pending a comprehensive inspection by the board of health, and may contain any conditions deemed necessary by the board of health to protect the health and safety of the occupants.

(E) Upon final approval of an alternative housing permit:

(1) The board of health shall submit a copy of the permit to the Director of the Community Sanitation Program within seven calendar days;

(2) The owner shall record at the Registry of Deeds for the city or town where the residence is located a deed restriction as approved by the board of health;

(3) The owner shall submit a copy of the record of the deed restriction to the board of health once available; and

(4) Said permit shall not go into effect until the deed restriction has been recorded at the Registry of Deeds.

(F) The alternative housing permit shall be valid until such time as modifications subject to the terms of the permit are made to the property or ownership of the property changes. Modifications subject to the terms of the permit require resubmission of the permit request. Failure to do so will result in the revocation of the permit. Prior to permit modification, the board of health may conduct an inspection of the residence.

(G) An alternative housing permit may be modified or revoked by the board of health for any alleged violation of the terms of the permit or any other reason necessary to protect the health and safety of the occupants only after notice to the owner and an opportunity to be heard in accordance with the requirements for an order and hearing as required by 105 CMR 410.800 through 410.860. The board of health shall submit a copy of the modification or revocation to the Director of the Community Sanitation Program within seven calendar days.

Please refer to the website for additional requirements and/or contact the Board of Health at 413-354-7781 BoardofHealth@townofchester.net. Checks are to be made payable to the Town of Chester for all permit fees.

Signature: _____ Date: _____

Be aware of these code changes:

105CMR410.120: Approved Toilets

The following are approved for residential use:

(A) Flush toilets.

(B) Humus/Composting toilets provided they meet the requirements of 310 CMR 15.000: The State Environmental Code, Title 5.

(C) Incinerating toilets provided they meet the requirements of 248 CMR 10.00: Uniform State Plumbing Code.

(D) A privy, as defined in 310 CMR 15.000: The State Environmental Code, Title 5, or chemical toilet, provided it is approved in writing by the board of health. The board of health shall not approve a privy or chemical toilet that:

(1) Endangers the health of any person; or

In no event may a privy be located within 30 feet of any building used for sleeping or eating, or of any lot line or street.

105CMR410.440: Temporary Housing

(A) No person may allow temporary housing to be occupied without the written permission of the board of health.

(B) All temporary housing shall be subject to the requirements of 105 CMR 410.000, except as the board of health may otherwise provide in its written permission.

Return to:

Town of Chester
BOARD OF HEALTH
15 Middlefield Street
Chester, MA 01011

GRANT OF ALTERNATIVE HOUSING DEED RESTRICTION

This Grant of Alternative Housing Deed Restriction is made as of this _____ day of _____, 20____, by _____ [Grantor's Name] (“Grantor”), of _____ [Town/City] _____ County, _____ [State] _____, pursuant to M.G.L. c. 127 A&B and 105CMR410.00.

WITNESSED

WHEREAS, Grantor, being the owner(s) in fee simple of that [those] certain parcel[s] of [vacant] land located in _____ [Town/City] _____ County, Massachusetts, [with the buildings and improvements thereon], pursuant to a deed from _____ to Grantor, dated _____, and recorded with _____ County Registry of Deeds in Book _____, Page _____ [source of title other than by deed] and/or pursuant to Certificate of Title No. _____ issued by the Land Registration Office of the _____ County Registry District, said parcel(s) of land being more particularly bounded and described in Exhibit A, attached hereto and made a part hereof, and being shown on a plan entitled, “_____”, dated _____, prepared by _____, recorded with _____ County Registry of Deeds as Plan No. _____, in Plan Book _____ and/or registered as Land Court Plan No. _____, on file with the Land Registration Office of _____ County Registry District (“Property”); and

WHEREAS, Grantor desires to housing to alternative, as the term alternative housing as defined in 105CMR410.000 through the granting of this Title 5 Bedroom Count Deed Restriction;

NOW, THEREFORE, Grantor does hereby GRANT to _____ [Town/City] _____ of

_____ County, Massachusetts, a municipal corporation located in _____ County, having a mailing address of _____, Massachusetts, and acting by and through its Board of Health (“Local Approving Authority”), for nominal and non-monetary consideration, the sufficiency and receipt of which are hereby acknowledged, with QUITCLAIM COVENANTS, a ALTERNATIVE HOUSING DEED RESTRICTION (“Restriction”) in, on, upon, through, over and under the Property.

Said Restriction operates to restrict the Property as follows:

1. Restriction. Grantor hereby restricts this DWELLING AS ALTERNATIVE HOUSING, on, upon, through, over and under the Property to [insert list of housing code variances], over and under said Property.
2. Restriction. Grantor hereby restricts this DWELLING AS ALTERNATIVE HOUSING, on, upon, though, over and under the Property to the current Owner(s). Upon transfer of this property the Variance is nu-lan-void.
3. Severability. Grantor hereby agrees that, in the event that a court or other tribunal determines that any provision of this instrument is invalid or unenforceable:
 - (i) That such provision shall be deemed automatically modified to conform to the requirements for validity and enforceability as determined by such court or tribunal; or
 - (ii) That any such provision, by its nature, cannot be so modified, shall be deemed deleted from this instrument as though it had never been included herein.

In either case, the remaining provisions of this instrument shall remain in full force and effect.

4. Enforcement. Grantor expressly acknowledges that a violation of the terms of this Restriction could result in the following:
 - (i) upon determination by a court of competent jurisdiction, in the issuance of criminal and civil penalties, and/or equitable remedies, including, but not limited to, injunctive relief, such injunctive relief could include the issuance of an order to modify or remove any improvements constructed upon the Property in violation of the terms of this Restriction; and
 - (ii) in the initiation of an enforcement action and/or assessment of penalties by the Local Approving Authority and/or the Board of Health, a duly constituted agency with a principal office located at 15 Middlefield St. Chester Massachusetts, to enforce the terms of this Restriction pursuant to state sanitary codes 105CMR410.000; M.G.L. c.111, §§ 122, 127 A& B
5. Provisions to Run with the Land. The rights, liabilities, agreements and obligations created under this Restriction shall run with the Property and any

portion thereof for the term of this Restriction. Grantor hereby covenants for [himself/herself/itself] and [his/her/its] executors, administrators, heirs, successors and assigns, to stand seized and to hold title to the Property and any portion thereof subject to this Restriction.

The rights granted to the Local Approving Authority, its successors and assigns, do not provide, however, that a violation of this Restriction shall result in a forfeiture or reversion of Grantor's title to the Property.

6. Concurrence Presumed. It is agreed that:
 - (i) Grantor and all parties claiming by, through, or under Grantor agree to and shall be subject to the provisions of this Restriction; and
 - (ii) Grantor and all parties claiming by, through, or under Grantor, and their respective agents, contractors, sub-contractors and employees, agree that the Restriction herein established shall be adhered to and shall not be violated, and that their respective interests in the Property shall be subject to the provisions herein set forth.
7. Incorporation into Deeds, Mortgages, Leases, and Instruments of Transfer. Grantor hereby agrees to incorporate this Restriction, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest and/or a right to use the Property, or any portion thereof, is conveyed.
8. Recordation. Grantor shall record and/or register this Restriction with the appropriate Registry of Deeds and/or Land Registration Office within 30 days of receiving the approved Restriction from the Local Approving Authority. Grantor shall file with the Local Approving Authority and the DEP a certified Registry copy of this Restriction as recorded and/or registered within 30 days of its date of recordation and/or registration.
9. Amendment and Release. This Restriction may be amended only upon the approval and acceptance of such amendment by the Local Approving Authority. Release of this Restriction shall be granted by the Local Approving Authority upon (i) Grantor's request of such release; only upon compliance with the State Sanitary code 105CMR410.00
10. Any such amendment or release shall be recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office and a certified Registry copy of said amendment or release shall be filed with the Local Approving Authority within 30 days of its date of recordation and/or registration.
11. Rights Reserved. This Restriction is granted to the Local Approving Authority. It is expressly agreed that acceptance of this Restriction by the Local Approving Authority shall not operate to bar, diminish, or in any way affect any legal or equitable right of the Local Approving Authority to issue any future order with

respect to the Property or in any way affect any other claim, action, suit, cause of action, or demand which the Local Approving Authority may have with respect thereto. Nor shall acceptance of the Restriction serve to impose any obligations, liabilities, or any other duties upon the Local Approving Authority.

12. Effective Date. This Restriction shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.