Duties of a Town Health Officer: THO 101
Training Topics

1. Basics of public health & Health Department
2. What is a Town Health Officer?
3. What are public health hazards?
4. Understanding the job of Town Health Officer
5. What to expect
6. Enforcing public health laws
7. What goes into a Health Order?
Public health is the system that works to protect and promote the health of citizens. It is the science and art of preventing disease, prolonging healthy life and promoting physical and mental health.”

- Dr. Mark Levine, Commissioner of Health
Medical Care vs. Public Health

- A physician focuses on an individual’s care and treatment.

- Public health focuses on the health of an entire population using evidence-based prevention models.
Health In Vermont

Agency of Human Services

- Department for Children and Families
  - Responsible for protecting Vermont’s children and fostering the healthy development, safety, well-being, and self-sufficiency of Vermonters.

- Department of Corrections
  - Responsible for supporting safe communities by providing leadership in crime prevention, repairing the harm done, addressing the needs of crime victims, ensuring offender accountability for criminal acts, and managing the risk posed by offenders.

- Department of Disabilities, Aging and Independent Living
  - Responsible for programs assisting Vermonters in growing older or living with a disability.

- Department of Health
  - Responsible for protecting and promoting the best health for all Vermonters.

- Department of Mental Health
  - Responsible for the State Hospital and overseeing state mental health services.

- Department of Vermont Health Access
  - Responsible for the management of Vermont’s publicly funded health insurance programs and VT Health Connect.

Vermont Department of Health
We focus on prevention, which is perhaps the best investment that can be made in health.

We educate and inform Vermonters about eating a healthy diet, regular exercise and not smoking.

We promote and improve access to immunizations, mammograms, HIV/AIDS testing and care, and prenatal care.

We license physicians and hospitals, inspect food and lodging establishments, and enforce health regulations.

We prepare for and respond to public health emergencies and threats, and provide the public with information to help them stay safe and healthy.
Environmental Health Division

- Lead & Asbestos
- Healthy Homes
- Private Drinking Water
- Radon
- School Environmental Health
- Recreational Water
- Food & Lodging
- Radiological Health
- Toxicological Health
- Public Health Tracking

Vermont Department of Health
What is a Town Health Officer

Vermont Department of Health
Vermont State Statute Title 18, Chapter 11  § 602a. Duties of local health officers

(a) A local health officer, within his or her jurisdiction, shall:

(1) upon request of a landlord or tenant, or upon receipt of information regarding a condition that may be a public health hazard, conduct an investigation;

(2) enforce the provisions of this title, the rules promulgated, and permits issued thereunder;

(3) prevent, remove, or destroy any public health hazard, or mitigate any significant public health risk in accordance with the provisions of this title;

(4) in consultation with the Department, take the steps necessary to enforce all orders issued pursuant to chapter 3 of this title.

(b) Upon discovery of violation or a public health hazard or public health risk that involves a public water system, a food or lodging establishment, or any other matter regulated by Department rule, the local health officer shall immediately notify the Division of Environmental Health. Upon discovery of any other violation, public health hazard, or public health risk, the local health officer shall notify the Division of Environmental Health within 48 hours of discovery of such violation or hazard and of any action taken by the officer. (Added 1985, No. 267 (Adj. Sess.), § 19; amended 2017, No. 188 (Adj. Sess.), § 4.)
Local Health Officer Appointment

“The commissioner shall appoint, upon recommendation of the selectmen, a local health officer for each town or city…” 18 V.S.A. § 601(a)

- Every three years:
  - VDH sends a letter to town clerk to inform THO of end of term
  - Selectboard or city council must recommend a THO for appointment
  - Town completes the Recommendation Form and the Oath/Affirmation for THOs and returns to VDH
  - THO is appointed by Commissioner and sent a certificate from VDH
Deputy Health Officers

- Towns are encouraged to appoint additional Health Officers, called Deputy THOs
- Same authority and appointment process as THO
- No limit on how many
- Can share duties, cover when the THO is unavailable, or step in during conflicts of interest
Ending a Commission

- A THO’s term automatically ends after 3 years
- The town may recommend the current THO, or appoint someone new
- A term may be ended by a THO early, with the submission of a letter (or email) of resignation to his/her selectboard and the Department of Health
- THOs can be removed “for cause”
- The selectboard chair will automatically assume the duties if a new THO is not appointed

Vermont Department of Health
What does a THO do?

- A Town Health Officer:
  - Conducts inspections on complaints of public health hazards
  - Conduct inspections on rental housing complaints
  - Work towards voluntary compliance
  - Issue Health Orders & Emergency Health Orders

18 VSA Chapter 11
“...potential harm to the public health by virtue of any condition or any biological, chemical, or physical agent.” 18 V.S.A. § 2 (9)
Factors to Consider

1. Number of people at risk
2. Characteristics of the person or people at risk
3. Characteristic of the condition or agent that is the source of potential harm
4. Availability of private remedies
5. Geographical area and characteristics of the location of the source of the potentially hazardous condition
6. Department policy as established by rule or agency procedure
What does a THO encounter?
Septic Systems and Sewage

- Wastewater systems protect both humans and the environment by treating the wastewater (sewage) before it reaches groundwater or surface water.

- Nationally, 25% of homes are on septic systems, in Vermont it’s closer to 55% of the population.

- Failed systems can cause public health concerns when the effluent reaches surface waters.
How Systems Fail

- Poor site location (slowly permeable soil or high ground water table).
- Poorly designed (such as not large enough) to handle the amount of effluent being generated.
- Poor construction (such as smearing the soil beneath the leachfield).
- Discharging more water to the system than the system is designed to dispose.
- Improper disposal of fats, grease, oils, garbage disposals, and household chemicals down the drain.
- Poor maintenance of the system (not regularly pumping the septic tank).
- Driving heavy equipment over the leach field.
- Trees growing near the leach field (roots can clog or break piping materials).
- Construction near the leachfield that directs surface water to pond over the leachfield.
- Flooding resulting in loss of coverage of drainage piping.
- Extreme freezes resulting in frozen and cracked sewer lines.
THO Role When a Septic System Fails

- Inspect immediately
- Look for backed up drains, foul odors, surfacing materials near the tank or drainage areas
- Check for brush piles, junk piles, compost piles or fresh piles of dirt or gravel near the septic system. These are sometimes used to cover up problems.
- Use dye tablets when needed
- Talk to system owner about required actions, which may include:
  - Having the septic tank pumped within 24 hours and monitored
  - Spreading lime and straw and put up temporary fencing around the area of surfacing sewage.
  - Contacting a professional engineer or licensed designer to assess and determine the repair necessary
- **Contact Dept. of Environmental Conservation, Wastewater Management Division**
Lead Paint

Lead poisoning, which can cause learning disabilities and behavioral problems, is 100% preventable

- Lead paint is presumed in pre-1978 buildings under Vermont law
- VT requires annual Essential Maintenance Practices and landlords must submit annual compliance statements
- Abatement & renovation work must comply with both state and federal regulations
Essential Maintenance Practices

- For rental properties: contact VDH to determine if there is a current EMP compliance statement on file
- Inspect property for compliance with lead laws – do you see chipping or peeling paint?
- Notify property owner of any violations
- Require violations be corrected within 30 days
Unsafe Work Practices – Renovations

- Inspect property to determine if unsafe work practices, like dry sanding or scraping, are in progress
- Require that work, including cleanup, stop
- Notify VDH and property owner
- Require property owner to hire a licensed risk assessor if more than 1 ft$^2$ of paint has been disturbed
- Mandate proper cleanup
Asbestos

- Present in many products including insulation, roofing, and flooring materials.
- When disturbed during renovation or demolition, fibers are released, causing serious health effects after prolonged or acute exposures.
- THOs should contact VDH whenever they suspect they have encountered an issue dealing with asbestos.
Animal Control

- Work with law enforcement officers, game wardens, and humane society personnel to address issues of animal cruelty and possible rabies exposures
- All potential human rabies exposures must be reported to the THO within 24 hours
- THOs conduct an investigation, complete an Animal Bite Report, determine animal’s vaccination status, and require any necessary quarantine and observation
- May also be asked to assist in cases of rabies exposure to domestic animals

Vermont Department of Health

Rabies Hotline: 1-800-4-RABIES
Drinking Water

- Public water systems regulated by DEC
- 35-45% of Vermonters on well systems
- No testing requirements for private water, but VDH recommends annual testing
- THO’s role is primarily in assuring that renters have access to safe water
- May also be contacted by DEC when a public systems must issue a boil advisory for the town
Recreational Water

- Vermont’s natural waters all contain microorganisms which can make people ill
- THOs are sometimes asked to monitor beaches and water for E. coli, blue green algae/cyanobacteria, and other organisms
- Some towns do routine testing
- Guidance is available on VDH’s website.

Vermont Department of Health
Air Contaminants

Indoor
- Carbon Monoxide
- Tobacco Smoke
- Radon
- Mold

Outdoor
- Illegal Burning
- Wood Boilers

Photo courtesy of CDC

Vermont Department of Health
THOs often receive calls concerning improper disposal of waste

Often, DEC has jurisdiction over these issues

DEC may also ask that THOs assist in an inspection

The Rental Housing Health Code provides rules for garbage removal in rental properties

Improper disposal of waste can lead to pest infestation, groundwater contamination, and health effects
Pests in a Community

Skunks

Raccoon

Rats & Mice

Mosquito

Tick

Photo courtesy of NCHH

Vermont Department of Health
Role of the Town Health Officer

- Pests may at times present a threat to the public health in a community.

- Excess garbage can often attract pest infestations.

- THO may need to inspect to determine whether there is a violation of the Rental Housing Health Code.
Pesticide Use

- Pesticides are used in agricultural industries, homes, schools, and parks.
- Certain types of exposures to pesticides can cause health problems.
- The Pesticide Program of the Vermont Agency of Agriculture, Food and Markets ensures that pesticides are properly used and sold throughout Vermont.
- They certify commercial and private pesticide applicators, and investigate pesticide complaints (e.g. improper application).

THOs should refer questions and complaints to the Agency of Agriculture.
Compiling an Enforcement Report

- The best investigations have the best records
- Take detailed notes and keep track of all communications
- Take photos when possible
- Your records are public records, so keep them on file at the town offices
Supplies and Tools

- Notebook and pens
- Inspection forms
- Digital Camera/Camera Phone
- Computer access
- Contact list
- THO manual

Vermont Department of Health
Evidence from Investigation

- Your investigative report should convey the story.
- It should include the five W’s, with the “What” being the biggest piece of your report: Who, What, When, Where, Why.
Now What?

Determine whether a Public Health Hazard

• Conduct your inspection and weigh the 5 factors

Seek Voluntary Compliance

• Work with property owners to fix problem

Issue a Health Order

• Last resort

Vermont Department of Health
Achieving Voluntary Compliance

- Use warnings and conferences to obtain compliance
- Consult with other agencies and interested parties to address problems
- Encourage cooperation by persons responsible and persons affected
- Encourage local units of government to address problems (zoning, fire department)
- Use warnings and conferences to obtain compliance

Vermont Department of Health
Enforcement

... when voluntary compliance can’t be achieved
Structure Within a Town

State

Town

VDH

Select-board

Town Health Officer

Local Board of Health

Recommends

Appoints

18 V.S.A. § 604

Vermont Department of Health
You and Your Selectboard

- If they don’t already exist, set up clear guidelines for how you will communicate and report back to your board on issues of public health

- The town is responsible for reimbursing the THO expenses and for any legal costs associated with the job so discuss budget constraints prior to taking any action

• For most towns, the Local Board of Health is comprised of the town selectboard and the THO
• Some (ex: Burlington) have a standalone Board of Health
• The THO is the Chair of the Local Board of Health
It is always a good idea to involve town attorneys as early on in the process as possible to ensure that health orders are issued properly.

Speak with your selectboard first to get approval for legal fees.
What is a health order for?
- To prevent, remove or destroy any public health hazard
- To mitigate a significant public health risk
- To correct any violation of the laws of Title 18 of the Vermont statutes or violation of any rules promulgated by the Vermont Department of Health under those laws
- To correct any violation of a permit restriction or requirement
- See 18 V.S.A. § 126 (d)

What is an emergency health order for?
- A health officer may issue an emergency health order “when necessary to prevent, remove, or destroy an imminent and substantial public health hazard, or to mitigate an imminent and substantial significant public health risk.”
Public Health Risk

- **18 V.S.A. § 2(10) “Public health risk”**
  - Means the probability of experiencing a public health hazard

- **18 V.S.A. § 2(12) “Significant public health risk”**
  - Means a public health risk of such magnitude that the commissioner or local health officer has reason to believe that it must be mitigated.
  - The magnitude of the risk is a factor of the characteristics of the public health hazard and the degree and the circumstance of exposure to such public health hazard
Issuing a Health Order: Overview

- THO completes investigation
- Serves individual with written statement of reasons for a health order together with the supporting evidence and a statement of procedural rights. 18 V.S.A. § 126,127
- Health Order is in effect upon ruling from the Local Board of Health
- Emergency Order is in effect upon actual notice to the individual
Process: HO vs. EHO

Health Order
- Notice of Intent & Procedural Rights Issued
- Opportunity for a Hearing
- Hearing
- Health Order Issued

Emergency Health Order
- Health Order Issued
- Notice & Procedural Rights Issued
- Opportunity for a Hearing
- Hearing

Vermont Department of Health
Written Notice of Intent

- Informs responsible party that you are seeking a health order
- Includes:
  - Name and address of individual in violation
  - Relevant statutory and regulatory references
  - The investigation report
  - Why you are seeking a health order
  - Date when health order will go into effect
- Informs individual in violation of their right to request a hearing.

NOTICE OF INTENT

Upon the authority granted me as Health Officer of the [City or Town of], Vermont per Title 18, V.S.A. section 126, I hereby seek a Health Order against [Name of Responsible Party, Address of Responsible Party, City, State, Zip] based on the following information:

1. On May 28, 2009 I received information regarding the accumulation of bags of garbage at the residence at [Address of Residence].
2. On May 29, 2009, I visited the residence at [Address of Residence] and observed an accumulation of uncovered household trash in ripped black plastic bags.
3. On May 29, 2009 I sent a letter to [Name of Responsible Party] at the above address (copy attached) seeking voluntarily compliance with the State Rental Housing Health Code within 10 days.
4. On June 9, 2009, I received further information that no clean-up had occurred at [Address of Residence].
5. On June 9, 2009, I visited [Address of Residence] again, once again observed the trash and took photographs of the location. Copies of the photos are attached. I also noticed a large amount of loose trash in the shed next to the outdoor trash.
7. Based on this investigation, I have determined that this situation creates a public health risk to the neighbors from rodents and other small animals and insects as the warm weather returns.

Therefore, I will be seeking a Health Order at the June 29, 2009 meeting of the [Name of Select Board or City Council] acting as the Local Board of Health at [Time and Location of Meeting] unless such garbage has been removed. Notice is hereby given to [Name of Responsible Party] of my intent and if [Name of Responsible Party] requests a hearing to rebut my allegations, the [Name of Responsible Party] shall contact the [Select Board Chair, City Council Chair, Town Manager, or Town Clerk] in order to be placed on the agenda.

Attached is supporting evidence and a statement of procedural rights.

[Name of THO], Town Health Officer
[Town or City, State, Zip]

Vermont Department of Health
Statement of Procedural Rights

- Needs to include the following:
  - Statutory provisions
  - The right to request a hearing.
  - The right to appeal decision to Local Board of Health
  - The right to appeal selectboard or Local Board of Health’s act, decision or order to the State Board of Health within 30 days
  - The right to appeal to the State Board of Health is subject to the Administrative Procedure Act, relating to contested cases

Burlington Board of Health
STATEMENT OF PROCEDURAL RIGHTS
Pursuant to 18 V.S.A. §§ 126 & 127, you are hereby notified of your rights.

1. You may appeal a health order in writing to the Burlington Board of Health and be given the opportunity for a hearing, at which time you shall be given the opportunity to rebut the allegations upon which the order is based. You must appeal an emergency health order in writing within five (5) days from receipt of the order.

2. You have the right to appeal any act, decision or order of the Burlington Board of Health to the State Board of Health.

3. Your appeal to the State Board of Health must be made within 30 days of the act, decision, or order.

4. The appeal hearing before the State Board of Health shall be subject to the provisions of 3 V.S.A., Ch. 25, the Administrative Procedure Act, relating to contested cases.

5. The State Board of Health will hear your appeal de novo, that is, it will consider your case anew, and all persons and parties of interest, as determined by Board rule, may appear and be heard. A decision on your appeal will be made within 30 days following the conclusion of the hearing.

6. You may appeal the decision of the State Board of Health to the Vermont Supreme Court.

7. Failure to comply with the provisions of the Health Order issued by the Burlington Board of Health or the Emergency Health Order of the health officer may subject you to further legal action including civil enforcement of the order in the superior court and criminal penalties.
They can present evidence at the hearing in front of State Board of Health.

If the State Board of Health finds against them, they have the right to appeal to the Vermont Supreme Court.

If they fail to comply with the Health Order they may be subject to further legal action including civil enforcement of the order in superior court and criminal penalties.
[Town Letterhead or Header]

[Town] Board of Health
Public Health Order

Upon investigation of Health Officer __[THO name]__ and testimony provided at the hearing of __[hearing date]__, the __[town]__ Board of Health finds the following:

Finding of Facts

1. __[list relevant fact]__
2. __[list relevant fact]__
3. __[etc.]__

Conclusion of Law

In accordance with state and local law, I am by this notice notifying you of the following determination:

A PUBLIC HEALTH HAZARD [OR RISK] EXISTS AT __[location address]__. Said hazard is in violation of __[list relevant statutory and regulatory provisions]__. [Provide any additional information or justification including what the impact to public health is or could be.]

Order

Therefore by the authority granted in 18 V.S.A. §126, 602a, it is hereby ordered.

1. ORDERED: __[list required action]__
2. ORDERED: __[list any additional required actions and timelines]__

Appeal Rights

[Either list procedural appeal rights or include attachment with “see attached” in this section.]

X
[Chairman, Board of Health]
Service of Notice of Intent

- Any questions you may have on service please contact your town attorney

- V.R.C.P. 4 requires the following for service:
  - Service of process is done by sheriff, constable or other person authorized by law
  - Service of the notice of intent, supporting evidence and the statement of procedural rights to:
    - The individual or
    - Leave a copy at the individual’s dwelling house with an individual of suitable age and discretion who resides there; or
    - On individual’s agent authorized by appointment or by law.
The hearing is held if requested, by the select board.

The individual who was served the Notice of Intent has the opportunity to rebut the allegations made and demonstrate that no Health Order should be issued.

Select board issues the Health Order.

Health Order is in effect upon being issued by the Board.

18 V.S.A. 126
Enforcing a Health Order

- Civil enforcement of health orders at the county superior court is available if the individual doesn’t comply. 18 V.S.A. § 130
- Criminal penalties are also available if individual is not abiding by the health order. 18 V.S.A. § 131
- Town Attorney would handle these steps
Emergency Condemnation

- 24 V.S.A § 2291(27) grants authority to “municipal building inspector, health officer, fire marshal, or zoning administrator” to declare a property “condemned to be destroyed” if...
  - Governor makes disaster or emergency declaration, and
  - Property has been damaged by the disaster or emergency, and
  - Property is dangerous to life, health, or safety due to the disaster related damage

Vermont Department of Health
Emergency Condemnation

- Declaration provided by the state and posted online
- Property owners can appeal condemnation under 18 V.S.A. Chapter 83
Additional Information

http://healthvermont.gov/tho

Contact Health Dept.

Find THOs

Resources

Authority

Forms

Trainings

Vermont Department of Health
Thank you for all your hard work!

If you have any additional questions or concerns, please contact Vermont Department of Health Division of Environmental Health

Weekdays
Call toll-free 800-439-8550 Monday – Friday, 7:45 am to 4:30 pm

After-hours, weekends and holidays
Call the Duty Officer at 802-864-7240 or toll-free 800-640-4374

Email marielle.strong@vermont.gov to join the listserv!