

Revisions 2015

# LOCAL HEALTH OFFICERS MANUAL

Prepared by:

State of Maine  
Maine Center for Disease Control and Prevention  
Maine Department of Health  
and Human Services

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**Paul R. LePage**  
Governor

**Mary C. Mayhew**  
Commissioner

# Welcome

Dear Local Health Officer:

I want to first thank you for your efforts in serving the people of Maine as a Local Health Officer. Your position is a critical part of public health services in your district and across the state, regardless of the size of the town you serve. You are part of a Local Health Officer tradition that has a long and proud history.

Experiences in Maine during the pandemic influenza of 1918 resulted in a number of statutory changes. As part of these changes, the local boards of health and Local Health Officers came under the direct supervision of the Commissioner of the Maine Department of Health – now the Department of Health and Human Services. Over the years, a number of other changes were made to Local Health Officer and Board of Health statutes. An important restructuring also occurred – the creation of the Office of Local Public Health – to add emphasis to this very essential public health link.

Today, Local Health Officers have a variety of statutory duties and responsibilities. This 2010 edition of the Local Health Officers Manual will provide you with a basic understanding of the laws affecting Local Health Officers, as well as a number of resources that will help you do your job more easily and effectively.

This manual contains:

1. A summary of the primary duties, responsibilities, and commonly found public health concerns the Local Health Officer may encounter;
2. A set of model procedures, flowcharts, letters and forms which you may use or adapt for carrying out your duties; and
3. A directory of services and resources.
4. Updates to the 2009 Edition of the LHO Manual

The responsibilities of the Maine Center for Disease Control and Prevention cover a broad scope of public health issues, from health promotion and education to responses to disease outbreaks; from safe drinking water to rabies testing. A strong public health program is completely dependent on community support and your commitment as a Local Health Officer is invaluable.

Thank you very much for your continuing assistance and support.

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This publication was developed and produced by the Maine Center for Disease Control and Prevention, Maine Department of Health and Human Services for the Maine's Local Health Officers.

## FOREWORD

During the past several years, much has occurred that has challenged the Maine Center for Disease Control and Prevention (Maine CDC) and the community at large. We continue to come face-to-face with various health challenges, including HIV/AIDS, tuberculosis, hepatitis, pandemic influenza, foot and mouth disease, and most recently, increases in Lyme disease and waterborne illnesses. As a result of these challenges, many of the rules relating to notifiable diseases have to be changed. Our statutes have also changed to reflect the need to have a more coordinated state-wide public health system. In the past, you have received information about most of these changes on a periodic basis. The ability to send information electronically has greatly increased our ability to transfer news very fast.

We are very much aware that the Local Health Officer (LHO) is at the forefront of many of the health problems in the community and that Maine CDC plays an important role by assisting the LHO and by providing timely guidance. This revised Local Health Officers Manual will provide you with information so you can meet the requirements of law. The format for this manual will include Internet references that will allow you to access important resources through the Internet address (called URLs) in the format of [http://www. etc](http://www.etc).

You are encouraged to use this manual not as a substitute for the law, but rather as an adjunct to statute. We have provided numerous statutory references and Internet references to assist you in researching certain issues.

We want to support you with this manual and look forward to working with you to address the public health concerns of Maine. We are available to provide technical professional public health consultation on specific questions should you need to make use of references in this manual. Please contact Maine CDC if you find any errors that need correction.

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<http://www.mainelegislature.org/legis/statutes/>

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# 1. GENERAL BACKGROUND

## 1.1 Legal Framework for Responsibilities & Task Assignments

LHOs use Maine's laws, rules, and guidance documents to do their job. When you are investigating different issues, different statutes apply – so it's important to know how to look up a law or a rule.

## 1.2 Maine Law: Titles of Statutes and Sections

Maine law is a numbered set of documents known as the Maine Revised Statutes Annotated (M.R.S.A.). It is updated annually and includes changes enacted by each Legislature. The laws are assembled by volumes, known as Titles. Titles describe a broad subject heading with the contents grouped under similar subjects. For example, human service laws are generally found in Title 22 and environmental protection laws are found in Title 38.

Examples of Title Numbers:

- Title 22 M.R.S.A. is Health and Welfare
- Title 22-A M.R.S.A. is Health and Human Services (Department of)
- Title 30-A M.R.S.A. is Municipalities and Counties

The format for a statute is normally Title or T followed by the letters M.R.S.A. and a section (or the symbol §) followed by the section number. Frequently you will not be given a description – you will be simply given a Title and section.

Example of Statute Title followed by Section Number:

- Title 22 §451 M.R.S.A.

Based on this information, you can find the law. In the example just given, you would go to the volume numbered 22, open the book and find the section numbered 451.

## 1.3 Maine Rules

Rules are numbered in a way that is similar to the way titles and sections of statutes are numbered. These rules legally govern the operation of all Maine departments and agencies. State filing of all rules falls to the Secretary of State. Please note the following link will connect you to the Code of Maine Rules (CMR) on the Secretary of State website. <http://www.state.me.us/sos/cec/rcn/apa/depts.htm> Alternatively, the rules referenced in this manual may be obtained by contacting the respective department located in the appendix.

As stated on the Secretary of State's website: "Rule chapters are arranged by unique numbers which identify the department, departmental unit, and chapter. For example, 01-015 CMR Chapter 1, represents Chapter 1 of the Department of Agriculture, Food and Rural Resources, Maine Milk Commission."

## **1.4 Guidance Documents**

There are numerous references that will help you perform your job as a LHO. A good number of these are located at the Maine Center for Disease Control and Prevention LHO web page.

### **Self-Paced Training:**

<http://www.maine.gov/dhhs/mecdc/infectious-disease/lho/edu-qual-training.shtml>

Other guidance will be in the form of Maine CDC Health Alerts that will be emailed or faxed to all LHOs. The alerts are informational and are sent to keep LHOs updated on priority public health issues in Maine. You can sign up for the Health Alert Network, or HAN, by contacting the Maine CDC or on the Internet at

If you have not yet completed the Local Health Officer training available on-line, or on a CD, this is an excellent opportunity to get some fast training to bring you up to speed quickly. Contact Maine CDC or go on line.

<http://www.maine.gov/dhhs/mecdc/infectious-disease/lho/edu-qual-training.shtml>

## **2. HISTORY AND STRUCTURE OF MAINE'S HEALTH LAWS**

### **2.1 History**

When Maine became a state in 1820, there was very little public health infrastructure. This continued until 1885, when the legislature authorized Maine's municipalities to establish local Boards of Health, each headed by a Local Health Officer (LHO). Over the next three decades, the State Board of Health gradually gained authority over statewide activities such as drinking water and restaurant inspections. The programmatic and regulatory functions of the State Board of Health became the Maine Department of Health in 1917.

That following fall, the 1918 influenza pandemic swept through Maine, claiming the lives of about 5,000 people, mostly adolescents and young adults. Almost 500 independent local boards of health attempted to control the pandemic with little consistency and oversight, with mixed results. In 1919, immediately following the pandemic, the Maine legislature transferred all statewide health guidance to the Maine Department of Health. The municipal requirement for having a Local Health Officer was retained, but health officers were placed under the direct supervision of the Department of Health, and their duties focused on reporting public health threats to the state.

In 1931, the Department of Health became the Bureau of Health within the Department of Health and Welfare. The Bureau of Health became the Maine CDC in 2005 as part of the new Department of Health and Human Services.

### **2.2 Structure**

Over the years, Maine's public health community succeeded in confronting many difficult public health issues, often relying on collaboration with key stakeholders at the state and local level. In recent years, there has been a recognized need for improved coordination



and streamlining of public health efforts to build an ongoing system with the ability to address a myriad of health issues. After a three-year planning process by a forty-member Public Health Work Group, major revisions to the public health system in Maine have been implemented.

The Office of Local Public Health (OLPH) was created in 2008 in order to strengthen and improve public health services and infrastructure at the local and district levels. Organizationally, the office is located within Maine CDC Administration. OLPH staff collaborates and partners with other Maine CDC and DHHS programs and divisions, local service providers, municipal governments, and community partners to effectively and efficiently coordinate and integrate local and district-wide public health activities.

OLPH employs a number of District Public Health Liaisons who are placed throughout the state at District DHHS Offices. Liaisons provide public health leadership at the district level and work in close collaboration with other Maine CDC field staff, including District Field Epidemiologists, Public Health Nurses and Health Inspectors.

With these changes, Maine CDC still has a responsibility to supervise and educate LHOs regarding general health statutes. LHO duties include, but are not limited to, enforcement of all relevant laws, the rules of the Department of Health and Human Services, and local health ordinances.

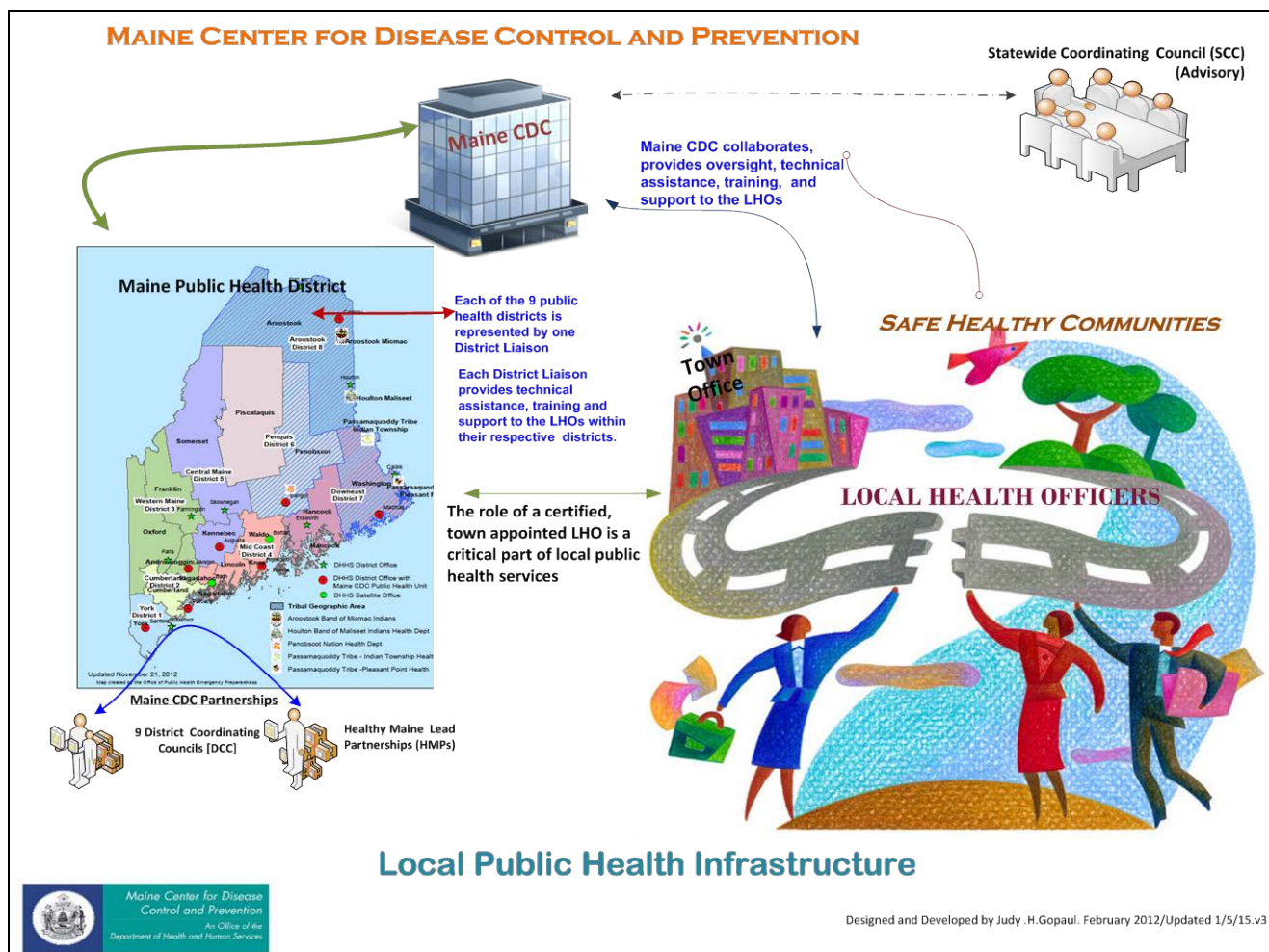
All members of the public, including Local Health Officers, have an opportunity to comment on proposed rules and regulations. The Maine Administrative Procedures Act requires that all rulemaking proposals, as well as final rules, appear in the announcement or legal sections of key newspapers in Maine and will include notice of any public hearings and the respective comment period being given.

<http://www.mainelegislature.org/legis/statutes/5/title5ch375sec0.html>

At the local level, each municipality is mandated to appoint a Local Health Officer (22 MRSA §451) <http://www.mainelegislature.org/legis/statutes/22/title22sec451.html>. To the extent that the functions of the Local Health Officer are defined in Title 22 of the Maine Statutes, the Department of Health and Human Services has general policy-making responsibility, and Local Health Officers and other officials assist with the enforcement of the rules and regulations of the Department of Health and Human Services.

Additional authority related to public health is granted to municipal Code Enforcement Officers (CEO) and they are listed in Title 30-A, §4452(5)a.-v, which, in most instances is not subject to Department of Health and Human Services control. This CEO enforcement authority includes such land use issues as plumbing and sewage disposal, and certain laws administered by the LHO. These and other functions are often the responsibility of the Local Plumbing Inspector or Code Enforcement Officer.

<http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec4452.html>



See 2013 LHO Handbook

### 3. APPOINTMENT, DUTIES AND LIMITS TO DUTIES

#### 3.1 Appointment

Maine law requires every municipality in the State to employ an official who is known as the Local Health Officer. The appointment authority is found in 22 MRSA §451, and the associated Maine CDC rules are 10-144 CMR Ch. 294. This is the [link to the MCDC rules \(10-144 CMR Ch. 294\)](#).

Some of the more important provisions in Title 22 M.R.S.A. §451 include:

- The requirement that all cities and towns have a LHO and that the LHO be appointed for a three-year period.
- A municipal official or clerk must notify the department in writing of a LHO appointment.
- Written notification must be made within 10 days, and shall include the LHO's name, age, address, dates of appointment and beginning of 3-year term.
- It is also recommended to include any alternate means of communications, such as cell phones, email addresses, etc.

### 3.2 Duties

Maine law provides the legal duties of a LHO, and from a practical sense, LHOs have five primary job roles:

- Overall health resource to the community,
- Mediator and problem-solver in the resolution of complaints,
- Investigator and enforcer of complaints that cannot be resolved,
- Reports to and informs the Board of Selectman/City Council on the community's public health status, and
- Reports to Maine CDC, DHHS on any perceived local public health threats.

The LHO will be faced with a variety of tasks. By knowing what a LHO is legally required to do compared to what the LHO is authorized to do will better enable the LHO to prioritize their workload. The LHO has mandatory duties as well as implied duties. Implied duties involve the *authority* to carry out a duty but with no requirement to do so.

The reason this distinction is made is because Maine law contains many references to Local Health Officers. In some instances, the law may include the word "authorized" which means the LHO may (is permitted to) carry out a particular task. Other times, the law says the LHO "shall" or "must" perform certain tasks. In these cases, the LHO is required to perform those duties.

Specifically, 22 M.R.S.A. §454-A states mandatory duties as follows  
<http://www.mainelegislature.org/legis/statutes/22/title22sec454-A.html>:

Duties. Within jurisdictional limits, a local health officer shall:

- A. Make and keep a record of all the proceedings, transactions, ordinances, orders and rules acted upon by the local health officer;
- B. Report to the commissioner or the commissioner's designee facts that relate to communicable diseases and cases of communicable disease as required by department rules;
- C. During a declared health emergency, as defined in section 802, subsections 2 and 2-A, report to the commissioner or the commissioner's designee facts regarding potential notifiable diseases and cases that directly relate to the declared health emergency, as the rules of the department require;
- D. Receive and examine the nature of complaints made by members of the public concerning conditions posing a public health threat or a potential public health threat;
- E. With the consent of the owner, agent or occupant, enter, inspect and examine any place or premises where filth, whether or not the cause of sickness, or conditions posing a public health threat are known or believed to exist. An

agent with special expertise appointed by the local health officer may inspect and examine the place or premises. If entry is refused, the local health officer shall apply for an inspection warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the inspection;

F. After consulting with the commissioner or the commissioner's designee, order the suppression and removal of nuisances and conditions suspected of posing or found to pose a public health threat;

G. Act as a resource for connecting residents with the public health services and resources provided by the Maine Center for Disease Control and Prevention; and

H. Enforce public health safety laws, including:

1. Laws pertaining to the exclusion of students from school under Title 20-A M.R.S.A., section 6356;
2. Laws pertaining to control of browntail moths under section 1444;
3. Laws pertaining to the removal of a private nuisance or nuisance of a dead animal under sections 1561 and 1562;
4. Laws pertaining to the establishment of temporary health care facilities under section 1762; and
5. Laws pertaining to prohibited dumping under Title 30-A, section 3352.

For purposes of this subsection, **"public health threat" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.** *[Emphasis has been added]*

Subsection B indicates that the LHO reports to Maine CDC various facts regarding communicable or notifiable diseases. An existing rule provides additional details regarding these activities: 10-144, Chapter 258: Rules for the Control of Notifiable Conditions. <http://www.maine.gov/sos/cec/rules/10/144/144c258.doc>

Because local medical personnel are required to report these facts, it is recommended that if you have questions about reporting, contact the DHHS District Public Health Liaison for guidance.

Another point of clarification is the position of LHO in municipal government. A municipal official is defined in Maine law (Title 30-A §2001(11)) as any elected or appointed member of a municipal government. Accordingly, a LHO is considered a municipal official since they are appointed.

If the Local Health Officer, or individual designated as the Local Health Officer pursuant to §451, fails to perform the duties of the Local Health Officer as those duties are described, the department may intervene to perform those duties, as the Director of the Maine CDC is the State Health Officer. Maine CDC intervention in a local health concern is permitted, but taking action is not mandatory. Maine law does not explicitly require the State to intervene in local health issues, as the municipalities have that authority. However, the State may write letters suggesting certain courses of action. Even stronger measures may be taken, providing the State obtains the authority through a court injunction.

*Appendix A contains the statutes that describe the LHO appointment, duties, and powers.*

### **3.3 Incapacity or Absence of a Local Health Officer**

In the event of incapacity or absence of the Local Health Officer, the municipal officers shall appoint a person to act as Local Health Officer during such incapacity or absence. Failing such appointment, the chairman of the municipal officers shall perform the duties of Local Health Officer until the regular Local Health Officer is returned to duty, or appointment of another person has been made. Title 22 MRSA §451(4).

<http://www.mainelegislature.org/legis/statutes/22/title22sec451.html>

In municipalities with a manager form of government, when the charter so provides, the appointments provided for in this section may be made by the said manager and the duty prescribed for the chairman of the municipal officers during incapacity or absence of the Local Health Officer shall be performed by the manager.

In no case shall a person be appointed to hold office as a Local Health Officer or as a member of the local Board of Health who shall have any monetary interest, directly or indirectly, in any private sewer corporation over which said officer or board has general supervision (22 MRSA §451).

Additionally, it is important to know that Maine law states a LHO in a town or plantation contiguous (meaning adjacent) to unorganized territory shall perform the duties of the LHO in that territory. Title 22 MRSA §451(3). However, the law does not prohibit the municipal supervisor from establishing time restrictions or even reimbursement methods when the LHO performs the LHO duties in the neighboring unorganized towns or territories.

### **~~3.4 Compensation of Local Health Officers~~ REPEALED**

~~Maine law currently contains no mention of compensation for Local Health Officers. However, compensation, when provided, does vary greatly from locality to locality as do the additional roles a Local Health Officer may have. Many municipalities require the LHO to combine their duties as LHO with other positions such as Code Enforcement Officer, school medical professional, Animal Control Officer, public health nurse, local plumbing inspector, Fire Chief, or other health and/or local government related role. It~~

~~is not unusual for some towns to have the Town Manager be the LHO, in addition to carrying out the Town Manager duties.~~

### **3.5 Local Board of Health**

Maine law authorizes (but does not require) municipalities to appoint a Board of Health which serves in an advisory capacity to the Local Health Officer (22 MRSA §453).

### **3.6 Further Explanation of Duties**

Beyond what is required by Maine law (see section 3.2 above), the duties of the Local Health Officer are varied, although they typically involve resolving complaints. Related to receiving complaints are associated tasks such as:

- a) recordkeeping and general administrative duties,
- b) control of infectious disease,
- c) environmental health protection,
- d) coordination with the Code Enforcement Officer, and
- e) nuisance control.

These are discussed in following sections.

## **4. GENERAL ADMINISTRATIVE DUTIES AND RESPONSIBILITIES**

### **4.1 Records**

The Local Health Officer is required to keep records...“in a book kept for that purpose, make and keep a record of all the proceedings and of all the transactions, doings, orders and regulations of himself/herself as the Local Health Officer” (22 MRSA §454). From a practical standpoint, the intent of the law is most likely to assure that the LHO maintains good and accurate records. With modern technology, it is rare for LHOs not to utilize computers and similar technology. The important thing to remember is to ensure the LHO keeps an accurate log of all actions and provide copies of this log to the municipal administrator.

### **4.2 Reports to Department of Health and Human Services**

Maine law does not require the LHO to submit any reports to the Maine CDC. The LHO is still required to keep records, however. Should there be a need to file a report to Maine CDC, such as in the case of a disease outbreak in which the LHO was directly involved, then such reporting is required and records are necessary to ensure the report is accurate.

## **5. STARTING OUT AS A NEW LHO**

### **5.1 Getting Assistance.**

Most newly appointed LHOs have little or no training. Maine CDC has undertaken steps to assist the LHO early on. However, that will not stop residents from presenting complaints on your first day on the job. This manual provides references that will help you in resolving various issues. Also, most residents and visitors in your municipality do not know who to turn to for assistance in public health matters. It is likely they will call the municipal office and the complaint or question will be referred to you. In order to

assist, you will find yourself playing a variety of roles. You may act as a mediator, a problem-solver, an enforcer, and/or an investigator. Perhaps most importantly, you are a reporter. You report on the public health status of the community, and you report to Maine CDC/DHHS on any perceived local public health threats.

It's beneficial that the community knows you as the LHO. A notice in the local paper helps get the word out – as do introductions at annual municipal meetings or at city council meetings. Introduce yourself to the Code Enforcement Officer, the Animal Control Officer, the Local Plumbing Inspector, and the Fire Chief. These are people you will be working with while trying to resolve complaints.

## **5.2 Problem-Solving**

When you receive requests for help, it is important to use standard problem-solving techniques and to be consistent in how you perform your job. To assist, there is a resource chart in Appendix A which indicates who might assist with a specific problem. There is also a decision-making flow chart in Appendix B to help guide you through the process. [http://www.maine.gov/dhhs/boh/index.shtml#div\\_prog\\_qi](http://www.maine.gov/dhhs/boh/index.shtml#div_prog_qi)

As stated above under “Duties,” subsection E, the LHO may enter “any place or premises where filth, whether or not the cause of sickness, or conditions posing a public health threat are known or believed to exist” providing the LHO has the “consent of the owner, agent or occupant, enter, inspect and examine....” Also, the LHO may bring with him or her “an agent with special expertise appointed.” If entry is refused, the local health officer may apply for an inspection warrant from the District Court, pursuant to 22 MRSA §803. <http://www.mainelegislature.org/legis/Statutes/22/title22sec803.html> Maine CDC recommends the Local Health Officer consult with his/her municipal town attorney to determine if or when an inspection warrant is necessary.

Whenever any kind of action is contemplated on the basis of a specific communicable disease, the Local Health Officer should contact the Division of Infectious Disease (800-821-5821, 207-287-6582) for specific advice.

## **5.3 Enforcement**

It is the duty of the LHO to require that all state laws, rules of the Department of Health and Human Services and local health ordinances be strictly enforced in their respective communities. Additionally, 22 MRSA §804 states that “all agents of the department, local health officers, sheriffs, state and local law enforcement officers and other officials designated by the department are authorized to enforce the rules of the department made pursuant to section 802 to the extent that enforcement is authorized in those rules.”

## 6. CONTROL OF INFECTIOUS DISEASE

### 6.1 Reporting of Diseases by LHOs

Maine law requires reporting to Maine CDC within 24 hours of determining that a person has a disease or a condition that is included on the list of reportable diseases (22 MRSA §823), Chapter 250: Control of Notifiable Diseases and Conditions.

<http://www.mainelegislature.org/legis/statutes/22/title22sec821.html>

<http://www.maine.gov/dhhs/boh/ddc/epi/disease-reporting/index.shtml>

Years ago, it was common for doctors to make house visits, and it was not unusual. In fact, it was very common that the LHO would be the town physician. When this occurred, because the doctor was familiar with the community and knew what was going on medically, the LHO was in an excellent position to report diseases to the DHHS.

Because times have changed, and with everyone having busy individual schedules, it is more often the rule that doctors are not able to make house calls and do not have the community knowledge they may have had 30 years ago. For this reason, nearly all diseases are reported by the doctor, nurse, clinic, hospital, etc. Rarely will a LHO be in the position of reporting a disease. Because local medical personnel are required to report these facts, it is recommended if you have any questions about the reporting of diseases to contact the DHHS District Public Health Liaison for guidance. Section 6.2 contains contact information for the MDCDC District Public Health Liaisons.

Any LHO may become involved with local disease control, and is required to "Report to the commissioner or the commissioner's designee facts that relate to communicable diseases and cases of communicable disease as required by department rules." 22 MRSA §454-A(2)(B). The telephone number to call to report a disease is: (800) 821-5821. <http://www.mainelegislature.org/legis/Statutes/22/title22sec454-A.html>

Should the LHO be placed in a position to assist in the reporting, prevention and suppression of diseases, they are "subject to the supervision and direction of the Department of Health and Human Services." 22 MRSA §454-A(1).

### 6.2. Public Health Threat

The duties of the LHO revolve around the phrase, "public health threat" which is described in section 454-A above. **"Public health threat" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.** When the Local Health Officer has reason to suspect the presence of a communicable disease, the LHO shall consult with the commissioner, or a designee. In most cases, the "designee" is the Maine CDC District Public Health Liaison. These individuals can be found at their respective district on the Internet at <http://www.maine.gov/dhhs/boh/olph/lphd/> or by calling (207) 287-6372. The LHO shall then order the suppression and removal of nuisances and conditions suspected of posing, or found to pose, a public health threat.



### **6.3 Reportable Occupational Diseases for Physicians and Hospitals**

While not a duty, LHOs should know that recent changes to Maine law have established a revised reporting system for occupational diseases. 22 MRSA §1493 requires all physicians or hospitals to report to the DHHS all persons diagnosed as having an occupational disease, no later than 30 days from the date of diagnosis or from discharge from a hospital.

<http://www.mainelegislature.org/legis/Statutes/22/title22sec1493.html>

### **6.4 Surveillance**

An important duty of Local Health Officers is surveillance in their municipality and to contacting the Maine CDC District Public Health Liaison if the LHO hears of disease outbreaks in their community and to determine if the LHO can be of assistance. The Local Health Officer should be familiar with physicians, school officials, public health nurses, nursing homes, food establishments and local industries within the community. Seldom is intervention by the Local Health Officer necessary when an infection is discovered. However, when a particular outbreak is noted, the Local Health Officer and Maine CDC may work together for the investigation and institution of control measures.

### **6.5 Animal/Insect-borne Disease**

Public health professionals have long been aware that animals and insects contribute both directly and indirectly to many diseases afflicting humankind. In fact, the reduction or elimination, either through eradicating the cause or protecting humans (e.g., through a vaccine) of many of these diseases is one of the major accomplishments of public health over the past 100 years. Unfortunately, much more remains to be done. Although perhaps not having the stature of the Black Plague, animal and insect-borne diseases contribute to the morbidity and mortality of millions of people worldwide.

Flies and cockroaches are not common vectors of disease and their presence is not usually associated with disease outbreaks. Please do not contact the Maine CDC about these problems. Maine is regarded as a Right-to-Farm state, and by law, any flies associated with farming are not prohibited so long as the farm is using "best management practices." This is particularly the case with regard to the spreading of residuals, i.e., manure.

In Maine, our attention is focused upon two specific diseases, rabies and Lyme disease. Discussions on both are found below.

### **6.6 Rabies**

Dealing with rabies has become very controlled over the last decade. While it is beneficial for the LHO to know what the process is, the LHO generally will not be involved, other than to report strange animal behavior if it becomes known to them. *Rules Governing Rabies Management*, 10-144A CMR 251; provides guidance to the parties involved. There are three state agencies that work together in many rabies cases. They are the Department of Health and Human Services (both the state epidemiologists and the Health and Environmental Testing Laboratory (HETL)), the Department of Inland Fisheries and Wildlife (Maine Game Wardens and Damage Control

Agents), and the Department of Agriculture, Food and Rural Resources (Animal Control Officers).

Rabies is a disease carried in Maine primarily by raccoons, bats, and occasionally a skunk or fox. Any wild mammal is susceptible to rabies. Control of the disease is governed by a statute which states that the Department of Health and Human Services may, in case of an emergency or threatened outbreak of rabies, issue orders to municipal officers to euthanize any dogs that are found loose in violation of quarantine rules and impounded for a period of 72 hours without being claimed by their owners. Subchapter 5, Rabies, deals with this subject - 22 MRSA §1311.

<http://www.mainelegislature.org/legis/statutes/22/title22sec1311.html>

<http://www.maine.gov/sos/cec/rules/10/144/144c251.doc>

### **6.6.1 Wild Animals Suspected of Having Rabies**

Pursuant to *Rules Governing Rabies Management*, 10-144 CMR 251, a suspected rabid animal is defined as:

- (1) Any mammal, undomesticated or domesticated, showing signs of rabies.
- (2) Any undomesticated mammal that has potentially exposed, through bite or non-bite exposure, a human or domesticated animal to rabies.
- (3) Any domesticated mammal that has bitten a human or domesticated animal.

Further, the US Department of Health and Human Services, Centers for Disease Control, defines bat exposure as:

- (1) bare handed touching of a bat,
- (2) finding a bat in a room with a sleeping child or an incapacitated person and having no knowledge of how long the bat has been there, and
- (3) finding a bat in a home and having no idea of the amount of time it's been there.

[Note that this does not necessarily involve a known bite.]

When a wild animal, including a wolf-hybrid, is suspected of having rabies and bites a person, it should immediately be euthanized, without destroying the head, and transported to the State Health and Environmental Testing Laboratory in Augusta. Ferrets that bite a human are treated similarly as a cat or a dog that may bite a human and are quarantined for 10 days. Even those held as pets, are submitted and quarantined if they have bitten someone.

Domestic dogs and cats that have bitten a person, or are otherwise suspected of having rabies, may be quarantined for 10 days unless they sooner exhibit signs of disease. For additional information, see *Rules for Control of Notifiable Diseases* 10-144 CMR 258(7).

### **6.6.2 Transportation of Suspected Animals**

Maine law, Title 22 MRSA §1313, provides procedures for the transportation, quarantine, euthanasia and testing of animals suspected of having rabies. The Animal Control Officer appointed in accordance with Title 7 MRSA §3947, once he or she receives a report of an animal suspected of having rabies, shall ensure that the procedures established pursuant to section 1313 and 1313-A are carried out. "If the animal is an undomesticated animal, a game warden shall assist the animal control officer."

Transport of a suspected wild animal to the State Health and Environmental Testing Laboratory is usually expedited by contacting your local Game Warden. If contact information for the Game Warden is unknown, call the State Police who will provide you with the roster of wardens. However, no state official is charged by law to transport animals.

Pursuant to subparagraph 3 of §1313, the owner of a domesticated animal suspected of having rabies shall pay all costs for transportation, quarantine, euthanasia and testing of the animal. If a domesticated animal is a stray or the owner is unknown, the municipality in which the animal was apprehended is responsible for transportation, quarantine, euthanasia and testing costs. Further, Maine law states that the Department of Inland Fisheries and Wildlife is to pay all costs for transportation, quarantine, euthanasia and testing of undomesticated animal suspected of having rabies (i.e., wild animals).

It is recommended that in any case where there may be doubt as to the disposition of animal-human contact incident, the LHO calls the State Health and Environmental Testing Laboratory for guidance and assistance.

### **6.6.3 Treatment**

Immediate and thorough local treatment of all bite wounds and scratches is perhaps the most effective form of rabies prevention. Cleanse the wound for twenty minutes with soap and water. If the wound is not serious, allow it to bleed freely. Do not cover. See a doctor immediately after washing the wound. The physician will decide on the need for treatment to avoid contracting rabies or other disease (tetanus). More information on this disease is available from the State Health and Environmental Testing Laboratory.

## **6.7 Lyme Disease**

This section on Lyme disease has been included to provide information to the LHO when questions arise regarding this very common disease. Lyme disease is an illness caused by a corkscrew-shaped bacterium (spirochete) that is transmitted to humans, dogs, horses, and other animals by tick bites. Symptoms of Lyme disease include the formation of a characteristic expanding rash (erythema migrans) at the site of a tick bite 3-30 days after exposure. This rash occurs in 80% of patients. Fever, headache, joint and muscle pains, and fatigue are also common during the first several weeks. Later features of Lyme disease can include arthritis in one or more joints (often the

knee), Bell's palsy and other cranial nerve palsies, meningitis, and carditis (AV block). Lyme disease is rarely, if ever, fatal. This is a serious problem in Maine.

The Maine Lyme Disease Resource Center can provide you with much good information. <http://www.maine.gov/dhhs/boh/ddc/epi/vector-borne/lyme/>

### **6.7.1 Where Lyme Disease is Found**

Lyme disease occurs over wide areas of the United States, but particularly along the east coast. It was first recognized in the U.S. in 1975 as a result of an investigation of a group of children with arthritis in Lyme, Connecticut. In Maine, during 2009, a total of 970 probable and confirmed cases were reported to Maine CDC. This represents a state case rate of 73.7 cases per 100,000 persons. Just a year earlier, 64 cases of Lyme disease were reported during 2008. This compares, compared to an average of 30 between 1986 and 1998. This disease is clearly increasing in occurrence. The tick that spreads Lyme disease has become established in most southern coastal areas, but is also appearing in inland areas as well, particularly along rivers.

### **6.7.2 How Lyme Disease is Transmitted**

The tick that transmits Lyme disease is the deer tick, *Ixodes scapularis*. Its two-year life cycle has three stages in each of which the tick takes one blood meal. Prompt removal of attached ticks will decrease the risk of spirochete transmission, which usually does not occur until the tick has been attached for at least 36 hours. Grasp the tick as close to the skin as possible, preferably with fine tweezers, and pull gently but firmly until the tick lets go. Do not handle ticks with bare hands. Do not squeeze the tick. Apply antiseptic to the bite. Save the tick in a small vial of 70% alcohol. Common tick removal methods, such as scorching with a match, are not recommended because they may cause infected body fluids to be expelled into the skin.

Thirteen other species of ticks are found in Maine, some of which look very much like deer ticks. They may bite humans and domestic animals but are not thought to transmit Lyme disease. Two of the more common are:

*Ixodes cookei*, the "woodchuck tick", which cannot reliably be distinguished from the deer tick without a microscope, is widely distributed in Maine. It usually feeds on wild animals such as woodchucks and raccoons, but will also feed readily on humans and domestic animals.

*Dermacentor variabilis*, the American "dog tick", is commonly found on humans in late spring and early summer, particularly in southwestern Maine. It is larger than the *Ixodes* ticks and can also be distinguished by its characteristic white markings.

The Lyme tick is very small, about the size of the period at the end of this sentence. During its complex two-year lifecycle, it can infect a variety of hosts. The tiny larvae (active from June to September) are seldom found, and are rarely infected until they take their first blood meal from a mouse or other small

mammal. The risk of contracting Lyme disease is greatest from the inconspicuous nymphs which are most active in June and July. Adults, which can also transmit Lyme disease, are found most often in the late fall as they search for larger hosts, preferably deer.

The first symptom of Lyme disease in humans is usually an expanding red rash at the site of the tick bite, which may occur within a few days or several weeks later. The rash may be preceded or accompanied by flu-like symptoms such as fever, headache, chills, nausea, facial paralysis, or pain in the muscles and joints. If Lyme disease is suspected, call your doctor. Early antibiotic treatment can avoid later, more serious complications. Not all patients develop the rash, however, and many do not recall a tick bite.

### **6.7.3 Lyme Disease Vaccine**

A vaccine for Lyme disease, first licensed in late 1998, was used to provide another option for Lyme disease prevention that may be considered for those persons at the highest risk. The vaccine is no longer available by the manufacturer.

## **6.8 Animal Control Officers**

Pursuant to Title 7 MRSA §3947, each municipality must appoint one or more Animal Control Officers whose duties are enforcement of various sections in law including disposing of large dead animals (e.g., horses, cows, etc.) and responding to reports of animals suspected of having rabies. Animal Control Officers must be certified in accordance with Title 7 MRSA §3906-B, subsection 4. Upon initial appointment, an Animal Control Officer must complete training and be certified by the Commissioner within 6 months of appointment. Once the appointment of the Animal Control Officer is made, municipal clerks are required to notify the Commissioner of the Department of Agriculture, Food and Rural Resources of the name, address and telephone number of the Animal Control Officer.

<http://www.mainelegislature.org/legis/statutes/7/title7sec3947.html>

<http://www.mainelegislature.org/legis/statutes/7/title7sec3906-B.html>

An organization that may be of interest is the Maine Animal Control Association. The MACA strives to protect the well being of all animals, domestic or wild, through the educational programs for Animal Control Officers. <http://www.macamaine.com/>

### **6.8.1 Animal Control Within a Municipality**

Municipalities are required to control dogs running at large (Title 7, §3947). Law enforcement officers and Animal Control Officers are required to take a stray animal to its owner, if known, or, if the owner is unknown, the stray animal must be taken to an animal shelter and ensure that any injured animal that is at large or in a public way is given proper medical attention.

A municipality must also control domesticated animals that are a cause of complaint in the community. A municipality shall control animals that pose a

threat to public health or safety. A municipality may control undomesticated animals in matters on which no other department is charged by law to regulate.

### **6.8.2 Animal Shelter Designation**

Title 7, §3949 requires Municipal clerks, annually, on or before April 1st, to certify to the Commissioner of the Department of Agriculture, Food and Rural Resources the name and location of the animal shelter with which the municipality has entered into a contract to accept stray animals.

## **7. COMPLAINTS**

There is a wide spectrum of complaints LHOs are likely to receive where the remedies will range from easy to difficult. Most of the complaints will be of the “public nuisance” variety. On the easy end is a complaint where the Maine legislature has enacted a law giving the municipality the authority to deal with the problem, for example, by placing a formal lien on the property. On the difficult end is a property owner unwilling to work out a compromise when there is no specific law to address the problem. In these latter cases, going to court is the only course of action. This is the least desirable action due to the time and resources necessary to succeed.

As mentioned in Section 3.2, under Duties, Subsection H lists five laws LHOs are required to enforce. The fact that these laws are listed as enforceable does not mean that other complaints are not enforceable. Subsection F, also in Section 3.2, states that the *“LHO is required to suppress and remove nuisances and conditions suspected of posing or found to pose a public health threat.”* This was further interpreted as any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

When a complaint is received, before considering taking any action, it is recommended to think about the following question: ***“Is this a situation that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease?”***

If the answer is yes, the LHO is required to take action. If it is not, then the LHO is not required to take action. In a practical sense, as a municipal employee you should try to resolve all complaints brought to your attention, particularly if they are similar to the complaints listed below in Section 7.1.

Section 5.2 discusses problem-solving as a means to resolve complaints, with specific reference to a problem-solving flow chart. When establishing a dialogue with the person who allegedly caused the condition resulting in the complaint, the LHO will write the charge and what the municipality intends to do to correct the problem. The LHO needs to know that pursuant to Title 30-A, §2691, all decisions and orders may be appealed to the municipal officers, or a Board of Appeals. For this reason, whenever an order is given to correct a problem, the opportunity for an appeal must be presented in writing. It is necessary to do this in writing because, should the appeal not take place by the

accused, the LHO will have to be able to prove that a right to appeal had been given.  
<http://www.mainelegislature.org/legis/Statutes/30-A/title30-Asec2691.html>

## 7.1 Examples of Likely Complaints

Examples of complaints that would typically be brought to the attention of a LHO are:

- Protect occupants in a “dangerous building.” This is covered in Title 17 MRSA §2851. “Dangerous buildings.” A lien is authorized in this law.  
<http://janus.state.me.us/legis/statutes/17/title17sec2851.html>
- Inspect and examine any place or premises where filth or a public health threat may exist. This is covered under Title 22 MRSA §461. “Notice to owner to clean premises; expenses on refusal.” The law authorizes the LHO to have the premises to be cleaned at the expense of the owner, or may close the premises.  
<http://janus.state.me.us/legis/statutes/22/title22sec461.html>
- Removal of filth on property. This is covered by Title 22 MRSA §1561. “Removal of private nuisance.” This law authorizes the LHO, at the expense of the owner or occupant, to remove or discontinue the nuisance. If the owner or occupant or the person who caused it delays correction, that person is assessed \$300, in addition to having to repay the municipality for all expenses for the removal or discontinuance of the nuisance.  
<http://janus.state.me.us/legis/statutes/22/title22sec1561.pdf>
- Removal of dead animals (domesticated - such as cow, horse, fox, rat, etc., includes fowl). This is covered under Title 22 MRSA §1562. “Depositing of dead animal where nuisance.” Unless there is a municipal ordinance, the only remedy is going to District Court, where the offender must be fined \$10 to \$100, or by imprisonment for not more than 3 months. NOTE: Undomesticated animals suspected of having rabies are dealt with by the Department of Inland Fisheries and Wildlife, unless the animal is a wolf hybrid, in which case the Animal Control Officer is responsible. Maine law, Title 22 MRSA §1313-A is the associated law.  
<http://janus.state.me.us/legis/statutes/22/title22sec1562.pdf>
- Unlawful dumping. This is covered by Title 30-A MRSA §3352. “Prohibited dumping.” Similar to the previous example, unless there is a municipal ordinance, the only remedy is going to District Court, where the offender must be fined \$10 to \$100. The municipality can recover all costs.  
<http://janus.state.me.us/legis/statutes/30-A/title30-Asec3352.html>
- Malfunctioning sewage system. This is covered by Title 30-A MRSA §3428. “Malfunctioning domestic wastewater disposal units; abatement of nuisance.” Municipal Officials (generally the Local Plumbing Inspector, with the assistance of the LHO) can remedy the problem and put a lien on the property or go to court.  
<http://janus.state.me.us/legis/statutes/30-A/title30-Asec3428.pdf>

- Landlord tenant issues. These issues are covered by Title 14 MRSA §6021 which contains an “implied warranty” and “covenant of habitability”. Remedies to these problems may sometimes be expedited by resolving it similarly to one of the other complaints already discussed, such as a dangerous building.  
<http://janus.state.me.us/legis/statutes/14/title14sec6021.html>

## **8. LAND USE, ENVIRONMENTAL HEALTH PROTECTION AND NUISANCES**

### **8.1 General**

Environmental health pertains to the study and control of environmental factors that contribute to or cause particular health problems. Environmental health problems are becoming increasingly prevalent in our communities. The broad nature of this subject includes outdoor wood boilers, sewage, solid waste disposal, septic tanks, excessive trash, licensing of eating and lodging establishments, regulating water systems, etc. As a result, the Local Health Officers is likely to become involved in this wide variety of activities, usually in conjunction with the CEO. Although Local Health Officers are not specifically authorized by statute to intervene in all of these areas, they have the general legislative power (with supervision of Department of Health and Human Services) to intervene in situations that involve serious and immediate threats to public health (22 MRSA §454-A). Any situation that is perceived as a serious and immediate threat to public health should be reported immediately to the Maine CDC.

<http://www.mainelegislature.org/legis/statutes/22/title22sec454-A.html>

### **8.2 Rule 80K**

Maine Rules of Civil Procedure, Rule “80K” specifies the legal procedure which must be followed in prosecuting land use violations. Rule 80K actions are intended to be prosecuted by non-attorneys who have completed the Rule 80K certification program.

Unlike other court proceedings a Rule 80K action proceeds more rapidly through the court system. The violator of the law can answer the Complaint orally in court rather than in writing and the court can decide the main issues of the case with a minimum amount of formality. This process reduces the time and expense involved, without sacrificing the “due process rights” of the person accused of the violation.

Keep in mind, however, that although you may be permitted by law to carry the case from start to finish through the legal process, you are only an agent (see explanation below) of the municipality. It is critical to obtain the properly documented authority from the selectpersons or council prior to filing an action. The Board of Selectpersons may not wish to bring an 80K action against a certain violator; even though it may be justified. Once the violation notices have been disregarded, keep the Selectpersons well informed of the situation and make sure that they formally authorize you or the CEO to proceed with legal action.



Also, even if you are authorized by the Board to proceed with legal action, there are complex cases where obtaining the assistance of an attorney is recommended. If you believe that the case involves complex issues, do not hesitate to involve the town attorney, for your own protection.

One of the shortcomings of Rule 80K is that it only works as long as the defendant allows the court proceedings to go on. The defendant has an automatic right to "remove" a Rule 80K case, filed by a certified Rule 80K official, to the Superior Court. If on the other hand the defendant (violator) does "remove" the case, the city, town or state has to employ a lawyer to litigate the case. Enforcement officials (code officials) are not permitted to take legal action in Superior Court cases.

Court Rules: [http://www.courts.state.me.us/rules\\_forms\\_fees/rules/MRCivPPlus8-08/RULE%2080I-80L.pdf](http://www.courts.state.me.us/rules_forms_fees/rules/MRCivPPlus8-08/RULE%2080I-80L.pdf)

### **8.3 Complaints**

The Local Health Officer "shall receive and examine the nature of complaints made by members of the public concerning conditions posing a public health threat or a potential public health threat." 22 MRSA §454-A(2)(D)

<http://www.mainelegislature.org/legis/Statutes/22/title22sec454-A.html>

### **8.4 Nuisances**

Maine law, Title 17 §2702 discusses the abatement of nuisances and details the manner in which they are to be resolved in a municipality. Title 17 §2741 covers some common nuisances and the jurisdiction to abate them. Other statutes refer to "a source of filth whether or not the cause of sickness" and directs the Local Health Officer to cause this nuisance to be removed at the expense of the owner. Failure to remove the nuisance may result in a fine (22 MRSA §1561).

#### **8.4.1 Miscellaneous nuisances**

The Local Health Officer is, under the existing statutes of the State of Maine, the only health official having the authority to abate miscellaneous nuisances. Municipal officers and/or agents of the Department of Health and Human Services may call upon him/her to work in collaboration with them in the face of a particularly dangerous situation. The authority to interfere with a person's property or activities can be very far-reaching. In certain situations involving a threat to public health, it may be necessary to summarily intervene. However, immediate action is not generally necessary and notice procedures, allowing time to correct a situation, should be possible. It is advisable to send a letter by registered mail or constable and to keep a copy for legal documentation. Photographs are also occasionally helpful if the case goes to court. Written records of all inspections should be retained. Before taking a summary action (action without a court's sanction, such as ordering a dwelling place closed, abating a nuisance, etc.), it is advisable to consult the town's attorney.

A listing of nuisances liable to be injurious to health, comfort or property of individuals, of which a Local Health Officer may be requested to investigate, may be found in 17 MRSA §2802. Among others, the list includes noxious exhalations, offensive smells, abandoned wells or mining shafts, offal noisome, filthy or noisome substances and discarded motor vehicles. The procedure to be followed in dealing with these nuisance calls is basically the same as above. A model response is given in Appendix A.

The type of nuisance the LHO will deal with usually falls outside of those listed in Title 17 §2741. When this happens, if the LHO is able to judge that the situation can “reasonably be expected to place others at significant risk of exposure to infection with a communicable disease,” then the LHO has the authority to deal with it as indicated in the process outlined in the flow chart.

Some common nuisances are discussed below, as they are specifically referred to in the statutes and/or are those most commonly encountered.

### **8.5 Faulty Septic Systems**

Malfunctioning disposal systems are a nuisance, as stated in 30A MRSA §3428. Although the statute references “municipal officers,” the Local Health Officers may act on a complaint of pollution caused by faulty septic systems, if delegated to do so by a municipal officer (30-A MRSA §2001). A working knowledge of the state and local plumbing rules and cooperation with the licensed plumbing inspector will help the Local Health Officer to better perform his/her duties in this regard. The procedures to be followed are outlined in 30-A MRSA §3428. The rules relating to subsurface wastewater disposal systems are called the *Maine Subsurface Waste Water Disposal Rules* 10-144 CMR 241.

### **8.6 Dead Domestic Animals**

Local Health Officers and Animal Control Officers are often called upon to remove and dispose of the carcass of dead domestic animals. For these animals to remain clearly may cause a nuisance. A notice to this effect should be sent by the Local Health Officer to the owner, who is liable to fine or imprisonment if he/she fails to comply with the request (22 MRSA §1562).

The actual disposal of large domestic animal bodies falls under the rules of the Department of Agriculture, Food and Rural Resources, 1 CMR 211 *Rules for the Disposal of Animal Carcasses*. Noncommercial pet owners burying their own small animal pets (for example: dogs, cats, birds or fish) on their own land are exempt from these rules.

The most often used method for disposal is through burying or composting. This requires a soil evaluation by a Natural Resources Conservation Service (NRCS) or State of Maine Certified Soil Scientist. The Animal Control Officer can be referred to for seeing that this task is completed.

### **8.7 Dangerous Buildings**

Dangerous buildings are not specifically the responsibility of the Local Health Officer unless a municipal ordinance so states, or the Local Health Officer has deemed the building to be a nuisance. As a result, the Local Health Officer is frequently called upon to take action regarding dangerous buildings or buildings that are otherwise unhealthy. A detailed legal process to follow is mandated by law to such a case (17 MRSA §2851 - §2853). Because of the complexity of these laws, Local Health Officers are urged to avail themselves of their own legal counsel or legal services of the Maine Municipal Association (MMA) in difficult cases involving the courts. (See Appendix for model letters.)

## **8.8 Mold**

As a general rule, the role of the LHO when it comes to mold problems is to assist people who have questions about mold. It is not advisable to become a participant in the problem that may have presented itself, unless your specific job description clearly states such activities, and this would be very unlikely. Remediation needs to be left either to the owner or a professional. The main reason for this is the liabilities that you or the municipality could possibly incur. The second reason is because many of the problems you will see regarding mold require special skills, such as clean up. It is always advisable to let the experts handle these situations. A tiny patch of mold on a bathroom tile is a lot different than a highly objectionable moldy basement.

The most important concept when dealing with mold is to understand that mold is prevalent pretty much everywhere. When mold gets out of control is when it comes to people's attention - often too late for easy clean-up. Mold becomes a problem when there is excess moisture (that can mean actual water) in parts of the home. Warm air entering a basement, for example, will condense when it comes in contact with cool surfaces in the basement. This moisture will allow mold to grow.

The key to controlling mold growth is to minimize moisture and to ventilate. Dampness in a home can be reduced by:

- Ventilating bathrooms with shower and bathtubs and in the kitchen (cooking areas). If exhaust fans are not installed use regular fans as they help mix the warm, moist air with cool, drier air.
- Keeping basement windows and bulkhead doors closed to prevent warm humid air from entering.
- Using an air conditioner or dehumidifier during humid months.

MCDC has prepared a booklet about mold for use by LHOs titled: Local Health Officers Guide to Mold as well as web based training at the MCDDC web site: <http://trainingserver2.net/LHO/Mold/index.html>. Both the guide and the training provide sufficient information to help out most mold inquiries. If the question involves a home for sale, or a newly purchased home, almost always the best thing to do is suggest the home owner go see a home inspector or an energy auditor.

## 8.9 Radon

Radon is a radioactive gas that has been found in homes all over the United States. It comes from the natural breakdown of uranium in soil, rock and water and gets into the air we breathe. Radon typically moves up through the ground to the air above and into homes through cracks and other holes in the foundation. Radon can also enter homes through well water.

Any home in Maine can have a radon problem. This means new and old homes, well-sealed and drafty homes, and homes with or without basements. In fact, most people in Maine are most likely to get the greatest radiation exposure where they live because that is where they spend most of their time.

According to the US EPA, nearly 1 out of every 15 homes in the United States is estimated to have an elevated radon level (4 pCi/L or more). Elevated levels of radon gas are typically found in homes in Maine. The Iowa Radon Lung Cancer Study indicates that 15 years of exposure at 4 pCi/L increases your odds for getting lung cancer by 50%. [http://www.cheec.uiowa.edu/misc/radon\\_article.pdf](http://www.cheec.uiowa.edu/misc/radon_article.pdf).

Maine law, 14 MRSA §6030-D, requires a landlord or agent of a landlord to have the air of the residential building tested for the presence of radon by 2012 and every 10 years thereafter. The test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services.

## 8.10 Unsafe Drinking Water

The Local Health Officer is playing an increasingly important role in contemporary pollution problems such as protecting drinking water and water sources. In 1986, Congress passed amendments to the Safe Drinking Water Act and the State enacted legislation to implement it. A supplier of drinking water to the public is required by law to notify the Local Health Officer, the Department of Health and Human Services, the Environmental Protection Agency and the communications media serving the area where a public water supply system is not in compliance with these laws (22 MRSA §2615 E.). Local Health Officials can help prevent waterborne disease by becoming involved in efforts to prevent the contamination of drinking water. There are many pollutants, both natural and human-made, that can contaminate drinking water and cause illness. <http://www.mainelegislature.org/legis/statutes/22/title22sec2615.html>

Additionally, the Department of Health and Human Services or the municipal officers, or a LHO may, while working with the State Drinking Water program, order the owner of any facility, structure or system flowing or seeping into and contaminating a public water source, if the contamination may result in risk to the public health, to remedy the situation. <http://www.mainelegislature.org/legis/statutes/22/title22sec2647-A.html>

It is advisable for Local Health Officers to refer to their municipal counsel, Maine Municipal Association for legal counsel, or the Drinking Water Program before proceeding in these matters.

### **8.11 Food establishments (Revised May 2012)**

A related sanitation issue deals with problems from floods, power outages, and fires. In restaurants and other establishments that serve food to the public, if any of these events occur, such that there is any doubt as to the cleanliness of an eating establishment, or the safety of the drinking water, or the safety of the food (smoke damage, etc.), the Local Health Officer should contact the Health Inspection Program in the Division of Environmental Health by calling 287-5671. The District Sanitarian can be sent out to investigate. The Division of Environmental Health has a working relationship with agencies such as the State Fire Marshall's Office and can resolve many issues that may occur.

Questions regarding restaurant inspections by the LHO should be discussed with the Health Inspection Program. Due to the complex food safety rules in the Maine Food Code, LHO's do not have the state delegated authority to conduct a state food inspection. However, if the town ordinance allows LHO's authority to inspect food establishments, that is within the town's jurisdiction. In addition to the Town authorized eating place inspection, a State Health Inspector will conduct eating place inspections for compliance with the State of Maine Food Code requirements. During food outbreaks and/or in the case of particularly troublesome eating or lodging establishments, or other establishments licensed by the Health Inspection Program, the Health Inspection Program would want to establish a dialogue with any willing LHO to work together to mitigate any future problems with that establishment.

### **8.12 Public Bathing Beaches**

The Maine Healthy Beaches Program <http://www.mainehealthybeaches.org/> oversees a voluntary effort of municipalities to keep bathing beaches safe. In response to growing concern about public health risks associated with pollution at bathing beaches, the Maine Healthy Beaches Program (MHBP) was established in accordance with the federal Beaches Environmental Assessment, Closure and Health (BEACH) Act of 2000. The Beach Act was designed to help states monitor their *public* salt water beaches for disease-causing microorganisms and to notify the public when a potential health risk is present. The MHBP is administered by the Maine Cooperative Extension through an EPA grant to the Maine Coastal Program of the State Planning Office. The purposes of the MHBP include public education, measurement of water quality and assessment of factors impacting water quality at participating beaches. The number of participating beaches has grown in the five years of the program's existence from 5 to 44. Many steps have been taken by the MHBP to establish an effective procedure for monitoring beach water quality including:

The Local Health Officer may be asked to evaluate public bathing beaches by visual inspection and/or by sending water samples to a certified laboratory for bacterial analysis. The Department of Health and Human Services has established a guideline of 33 *enterococci* per 100 milliliters (ml) and 126 *E. coli* per 100 ml for fresh waters; and a geometric mean of 35 *enterococci* per 100 ml for marine waters. Representative samples that exceed these numbers would indicate that the Local Health Officer should

post the area as “closed to swimming” and notify the Department of Health and Human Services. The Division of Environmental Health provides current information on posting public bathing areas. Consultation with the Department of Environmental Protection should occur with regard to marine waters (287-3901). Contact the Division of Environmental Health at 287-5671.

Water-related illness can be caused by bacteria and viruses in the swimming water, resulting in ear and eye infections, stomachaches, diarrhea and flu-like symptoms. If the LHO becomes aware of anyone with such symptoms after swimming, it may be a water-related illness, and it should be reported by calling: 800-821-5821.

Beach closures guidance is available on-line or at the Maine State Planning Office, <http://www.maine.gov/dep/blwq/beaches/coastalnotificationguidance.pdf>

### **8.13 Maine Laws on Tobacco Smoke, Title 22 §§1541-1580-E (Revised 9/1/2015)**

**Smoking** includes carrying or having in one's possession a lighted or heated cigarette, cigar, or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. “Smoking” includes the use of an electronic smoking. [Title 22 M.R.S.A §1541](#)

Maine has implemented comprehensive smoke-free laws, which is an extraordinary public health achievement. The smoking prohibition law applies to all enclosed public places into which the public is invited or allowed, all public restrooms, and a private residence used as a daycare or babysitting service during the hours of operation as a daycare or babysitting service. Examples of enclosed public places include: bars and restaurants, beauty salon and spas, business facilities, common areas (residential housing, hotels and motels), convenience stores, grocery stores, government offices, movie theaters, redemption centers, recreational facilities, retail stores, public transportation (buses, taxi cabs, trains, and watercraft), vehicle sales (repair and maintenance facility), and waiting rooms. [Title 22 M.R.S.A §1542](#)

Smoking prohibition law also applies to units/apartments within residential facilities licensed by Maine DHHS (Department of Health and Human Services), and private residences only during the period of time that an employee is physically present to perform work there. Examples include: carpentry and home repair, home health care, and telecommunication installation. [Title 22 M.R.S.A §1580-A](#)

The outdoor eating area law prohibits smoking in a patio, deck or other property that is partially enclosed or open to the sky that is permitted for outdoor eating or drinking under the control of an eating establishment when open and available for dining and beverage service. Examples of an eating establishment includes: bars, cafeterias, cocktail lounges, coffee shops, grills, luncheonettes, mobile eating places, night clubs,

restaurants, retail frozen dairy product establishments, roadside stands, sandwich shops, soda fountains, and take-out restaurants. [Title 22 M.R.S.A §1550](#)

**Exceptions to the Smoking Prohibition Law:** [Title 22 M.R.S.A §1542](#)

- Beano and bingo games (run by a federally recognized Indian tribe)
- Hotel and motel rooms that are rented to members of the public, where sleeping accommodations are furnished to the public for business purposes.
- Non-betting and non-sales areas smoking areas in an off-track betting facility or simulcast racing facility at a commercial track, subject to additional conditions and other prohibitions.
- Qualifying club during active exemption, when the qualifying club members or members invited guest are present only. [*Active Exemption: For Veteran Service Organization file for exemption with DHHS and hold a vote to permit smoking. Each vote is only good for up to 3 years. If a club does not hold a vote to permit smoking and provide documentation to DHHS then the club must adhere to smoking prohibition law by default. Furthermore, if a Veteran Service Organization has filed for exemption, but then holds a public event in which members of the public are invited or allowed must adhere to smoking prohibition law by default*]
- Religious ceremony or as part of a cultural activity by a defined group
- Theaters performer as part of the performance play, lecture, or recital.

**Smoking Policies in Rental Housing Disclosure Policy Law**

Maine's disclosure law requires property owners and managers to notify tenants, in writing, about where smoking is allowed, if anywhere, on the property. The landlord is required to obtain a written acknowledgment of the notification of the smoking policy. This requirement is similar to other Maine disclosure laws around lead paint, bedbugs, and energy efficiency [Title 14 §6030-E](#)

**Posting Signs**

Signs must be posted conspicuously in buildings where smoking is regulated. Designated areas must have signs that read "Smoking Permitted" with letters at least one inch in height. Places where smoking is prohibited must have signs that read "No Smoking" with letters at least one inch in height or the international symbol for no smoking. [Title 22 § 1543](#)

**Enforcement**

[Title 22 §1548](#) authorizes the Attorney General to bring an action to enforce §§1541-1548 in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this chapter by a person or any person

controlling such person. The court may award a fine of \$100 in civil violation, except that a fine of up to \$1,500 may be imposed for each violation in cases when a person engages in a pattern of conduct that demonstrates a lack of good faith in complying with the law. *Penalty* [Title 22 §1545](#) *Violations* [Title 22 §1580-A](#)

Definition of terms used in Maine law can be found at *Statutory Definitions*: [Title 22 M.R.S.A. §§1541- 1580-A](#)

For more information contact the Tobacco program, "Partnership for a Tobacco Free Maine" at 287-4627.

## **9. CONSUMER LAW GUIDE AND TENANTS RIGHTS**

The Maine Department of the Attorney General has prepared the Consumer Law Guide which addresses a large number of consumer rights issues. This is found on line: [http://www.maine.gov/ag/consumer/consumer\\_law\\_guide.shtml](http://www.maine.gov/ag/consumer/consumer_law_guide.shtml)

### **9.1 Tenant's Rights**

One particular area where numerous problems and concerns have arisen is in the area of tenant's rights. The consumer Law Guide does address this, and in particular, Title 14 §6021 discusses the *implied warranty and covenant of habitability*. This law, in subsection 2, states that "In any written or oral agreement for rental of a dwelling unit, the landlord shall be deemed to covenant and warrant that the dwelling unit is fit for human habitation."

This means that, if a condition exists in a rental dwelling unit which results in the unit being unfit for human habitation, then a tenant may file a complaint against the landlord in the District Court or Superior Court.

The complaint shall state that:

- A. A condition, which shall be described, endangers or materially impairs the health or safety of the tenants;
- B. The condition was not caused by the tenant or another person acting under his control;
- C. Written notice of the condition without unreasonable delay, was given to the landlord or to the person who customarily collects rent on behalf of the landlord;
- D. The landlord unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy the condition; and
- E. The tenant was current in rental payments owing to the landlord at the time written notice was given.

### **9.2 Provisions for the tenant to make minor repairs**

Additionally, the warranty of habitability provides additional protection for the tenant. Title 14, §6026 Dangerous conditions requiring minor repairs, provides relief to the



tenant. This law does not apply to an apartment building with five or fewer apartments, one of which is occupied by the landlord.

If a landlord fails to maintain a rental unit in compliance with the standards of subsection 1 and the reasonable cost of compliance is less than \$500 or an amount equal to 1/2 the monthly rent, whichever is greater, the tenant shall notify the landlord in writing of the tenant's intention to correct the condition at the landlord's expense. If the landlord fails to comply within 14 days after being notified by the tenant in writing by certified mail, return receipt requested, or as promptly as conditions require in case of emergency, the tenant may cause the work to be done with due professional care with the same quality of materials as are being repaired. Installation and servicing of electrical, oil burner or plumbing equipment must be by a professional licensed pursuant to Title 32. After submitting to the landlord an itemized statement, the tenant may deduct from the tenant's rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection. This subsection does not apply to repairs of damage caused by the tenant or the tenant's invitee.

As an example, the tenant can hire a licensed oil burner technician to come in and fix the oil burner if the apartment is without heat. This statute can also be applied to the cost of buying oil if the landlord has allowed the oil to run out. This right to repair and then deduct the cost from the rent owed does not apply if your apartment is in a building of five or less dwelling units, one of which is occupied by the landlord. You should be sure to review the tenant requirements in 14 M.R.S.A. § 6026, Dangerous Conditions Requiring Minor Repairs before withholding rent and making your own repairs.

This right to repair and then deduct the cost from the rent you owe does not apply if your apartment is in a building of five or less dwelling units, one of which is occupied by the landlord. If there are 5 units or less and the landlord is not living in one of them, or if there are 6 units or more regardless of whether the landlord is living in one of them, the tenant does have the right to repair and deduct the cost from the rent.

<http://www.mainelegislature.org/legis/Statutes/14/title14sec6021.html>

<http://www.ptla.org/ptlasite/cliented/housing/tenants.htm>

#### **9.4 Municipal intervention**

In 2009 14 MRSA §6026-A, was amended allowing for municipal intervention in certain tenant issues. In accordance with the procedures provided in this section, the municipal officers of any town or city or their designee may provide for basic necessities and any repair activities to ensure the continued habitability of any premises leased for human habitation. For the purposes of this section, "basic necessities" means those services, including but not limited to maintenance, repairs and provision of heat or utilities, that a landlord is otherwise responsible to provide under the terms of a lease, a tenancy at will agreement or applicable law.

## **9.5 Treatment of bedbug infestation**

Bed bugs are becoming much more common in Maine. As with other health and safety issues, the first step for a tenant with bedbug problems is to contact the landlord and ask to have the building professionally treated. Maine law, 14 MRSA §6021-A prohibits a landlord from renting an apartment that he or she knows (or suspects) to have bedbugs. The landlord must also tell the tenant whether other nearby apartments in the building have bedbug problems.

After notification, the landlord must inspect the apartment within 5 days. Next, the landlord must contact a state certified pest control expert within 10 days of inspecting and finding bedbugs. Then the landlord must take all reasonable steps to treat the problem, based on the expert's advice. Your landlord and the pest control expert will need access to the bed, furniture and other belongings of the tenant. The tenant is responsible to cooperate to get rid of the bedbugs, such as removing furniture out of the room. The landlord can make the tenant cover the costs of treating the apartment if the tenant "unreasonably" refuses to cooperate.

If the landlord doesn't do anything to get rid of the bedbugs, the tenant can take the landlord to court and recover at least \$250 or any "actual damages" (which could be whatever the tenant lost). The tenant must show that:

- They did not cause the problem;
- They gave the landlord oral or written notice of the problem when they learned about it;
- The landlord didn't take prompt steps to get rid of the bedbugs; and
- The tenant did not owe the landlord any back rent when notice was given.

## **10. OPTIONAL ACTIVITIES**

Beyond the many duties prescribed by law, there are many optional activities in which Local Health Officers can become involved to serve the health related needs of their communities. These range from educational programs in schools or the adult community, to setting up or helping with screening programs for high blood pressure, emphysema, diabetes and other common serious diseases. The variety of these optional services is limited only by imagination and by time. A re-emphasis on small town initiative and responsibility is still very much a part of our Maine heritage and a Local Health Officer can be a prime asset to any community.

## **11. DIRECTORY OF RESOURCES**

Local Health Officers may, in the course of their work, need assistance or direction in a particular area. The following list of available resources indicates those services most frequently needed. It has been kept brief for purposes of easier and more rapid reference; the resources listed here may also be used as referrals to other agencies not listed.

## **11.1 Maine CDC, Department of Health and Human Services**

The following link allows the LHO to search for all programs within all Divisions within the Maine CDC; <http://www.maine.gov/dhhs/boh/index.shtml>

The Maine CDC is the state's public health agency. Public health is focused on disease prevention and health promotion interventions with populations. This is in contrast to medicine, which is traditionally focused on individuals and is illness-based. Today, public health and medicine work together increasingly toward the common goal of improving health status of Maine people. The Maine CDC has responsibility for public health within the Department of Health and Human Services. The Director of the Maine CDC has the dual role of State Health Officer.

### **Contact Information**

#### **DHHS Central Office**

221 State Street, Statehouse Station 11, Augusta, Maine 04333-0011

#### **Maine Center for Disease Control and Prevention**

286 Water Street, State House Station 11, Augusta, ME 04333-0011

**General Information / Receptionist: 287-8016**

#### **MCDC Organization Units:**

Division of Chronic Disease

<http://www.maine.gov/dhhs/bohdcfh/>

Division of Environmental Health

<http://www.maine.gov/dhhs/eng/>

Division of Family Health

<http://www.maine.gov/dhhs/bohdcfh/FamilyHealth/family.html>

Division of Infectious Disease

<http://www.maine.gov/dhhs/boh/ddc/epi/disease-reporting/index.shtml>

Division of Public Health Systems

<http://www.maine.gov/dhhs/bohodr/ovrpage.htm>

MCDC Organization Chart:

[http://www.maine.gov/dhhs/boh/documents/Current\\_Org\\_Chart.pdf](http://www.maine.gov/dhhs/boh/documents/Current_Org_Chart.pdf)

## **11.2 Bureau of Elder and Adult Services, Department of Health and Human SERVICES**

<http://www.maine.gov/dhhs/oes/>

The Office of Adult Services promotes programs and services for older adults, their families and for people with disabilities. Visit the site often to stay updated on important issues.

Address: 11 State House Station, 32 Blossom Drive, Augusta, Maine 04333-0011

Telephone: 287-9200; (800) 262-2232

Fax: (207) 287-9229, TTY: (800) 606-0215

## **11.3 Office of Child and Family Services, Department of Health and Human SERVICES**

<http://www.maine.gov/dhhs/ocfs/index.shtml>

The Office of Child and Family Services (OCFS) serves Maine's children and their families through the Divisions of Child Welfare, Children's Behavioral Health, Early Childhood, and Public Service Management. For a complete listing of services provided by OCFS go to <http://www.maine.gov/dhhs/ocfs/programs.shtml>

Address: 11 State House Station, 221 State Street, Augusta, Maine 04333-0011

Crisis and hotline numbers: Telephone: (888) 568-1112

<http://www.maine.gov/dhhs/ocfs/hotlines.htm>

#### **11.4 Department of Agriculture, Food and Rural Resources**

Mail: 28 State House Station, Augusta, Maine 04333-0028 Telephone 287-3701

Fax 287-7548 <http://www.state.me.us/agriculture>

##### Division of Animal Health and Industry

<http://www.maine.gov/agriculture/ahi/index.html>

The goal is to prevent the introduction and spread of contagious diseases among poultry and livestock, promote public health and food safety as it relates to zoonotic disease, to enhance the quality and health of livestock, and to maintain fair practices in the buying and selling of poultry and livestock. The objective is disease control through regulation and education and to ensure the health of animals in order to ensure the public's health. Staff provides technical assistance and law enforcement to control livestock and poultry diseases. Enforcement of permit regulations, prompt diagnosis of disease, surveillance testing programs, a reportable disease list, the accreditation of veterinarians, licensed livestock and poultry dealers and auction sales are key activities. The movement of livestock and pets entering Maine is regulated.

##### Animal Welfare Program

<http://www.maine.gov/agriculture/aw/index.html>

The purpose of the Animal Welfare Program is to insure humane and proper treatment of animals by developing, implementing and administering a comprehensive program that upholds the animal welfare laws of Maine through communication, education and enforcement. The program staff currently includes five full time state humane agents, one intermittent humane agent, a full time veterinarian and a program director that are responsible for investigating animal cruelty, abuse or neglect complaints, the training of Animal Control Officers and the inspections and licensing of boarding kennels, breeding kennels, animal shelters, pet shops, and research facilities. In addition, a program clerk who can be reached to file an animal welfare complaint at 287-3846 or toll free at 877-269-9200 staffs the program. The e-mail address for the program is [animal.welfare@maine.gov](mailto:animal.welfare@maine.gov). Complaints received on the Internet must contain the complainants' name, address and phone number, as well as a description of the complaint, the location and name of the individual (if known) involved in the filing of the complaint.

Milk Commission Telephone: 888-694-0647

<http://www.maine.gov/agriculture/mmc/index.shtml>

The Maine Milk Commission was created to arbitrate differences, establish minimum prices in designated areas after proper hearings and exercise general supervision over the milk industry. Its basic function is to assure a plentiful supply of pure, wholesome milk available at times, in all places, at reasonable prices.

Pesticides Control Board: Telephone: 207-287-2731

<http://www.maine.gov/agriculture/bpc/index.html>

The Board of Pesticides Control (BPC) is Maine's lead agency for pesticide regulation. The BPC is attached to the Maine Department of Agriculture, Food and Rural Resources for administrative and staffing purposes with policy decisions made by a seven-member, public board. The Board operates under two statutes, 7 MRSA 601 et. seq. and 22 MRSA 1471 A-W, and has been granted enforcement primacy by the U.S. Environmental Protection Agency to enforce federal pesticide law in Maine.

### **11.5 Department of Environmental Protection**

Bureau of Air Quality Control Telephone: 287-2437, Fax 287-7641

<http://www.state.me.us/dep/air/>

Bureau of Land & Water Quality Telephone 800-452-1942, Fax: 287-7826

<http://www.state.me.us/dep/blwq/>

The Bureau of Land & Water Quality administers land and water quality protection programs. Examples of instances in which the Local Health Officer may wish to contact the DEP would be: 1) any case where he/she would suspect discharges into surface waters to be the cause of disease; 2) discharge of waste into tidal water where clam-digging is taking place; and 3) any kind of waste discharge into inland waters.

Bureau of Remediation and Waste Management Tel: 800-452-1942, Fax: 287-7826

<http://www.state.me.us/dep/rwm/>

This bureau is responsible for the proper disposal of hazardous wastes and sludge as well as site clean-up. Regulatory programs include: Solid Waste, Hazardous Waste, Lead Hazard Prevention, Asbestos, Oil Conveyance, Residuals, Sludge, Composting, and Transporters & Tank Installers.

Local Health Officers are also encouraged to report oil spills or oil spill hazards (e.g., leaking storage tanks) to the Department of Environmental Protection. In the event of a spill, time is of the utmost importance. Immediate contact with the D.E.P, can assure a recovery of from 80 to 90% of the spill. Call relating to oil spills: (24 hours) 800-482-0777; calls relating to Hazardous Material Spills: (24 hours) 800-452-4664.

### **11.6 Department of Inland Fisheries and Wildlife**

The IFW is a resource where the LHO can go to assist inquiries from the public with regard to non-domesticated animals (deer, bear, coyote, moose, skunk, etc.). The Bureau of Resource management, within IFW, maintains a listing of Animal Damage Control Agents. These individuals are proficient in a number of different categories of

game handling and are a powerful resource when there are game problems, especially with regard to property trespass issues by these animals. The best way to reach the IFW game wardens is through the Maine State Police Regional Communication Center (Augusta), by calling 800-452-4664. <http://www.maine.gov/ifw/>

### **11.7 Northern New England Poison Control Center**

[http://www.mmc.org/mmc\\_body.cfm?id=2046](http://www.mmc.org/mmc_body.cfm?id=2046)

The Northern New England Poison Control Center is located at the Maine Medical Center, 22 Bramhall Street, Portland, 04102. It is a statewide service and is open 24 hours a day for answers to questions about possible poisoning. Diagnosis, treatment recommendations and medical referrals when poisoning occurs are immediately available.

Emergency Phone: (800) 222-1222 (ME only)

### **11.8 Maine Municipal Association**

<http://www.memun.org/>

The Maine Municipal Association is a voluntary membership organization of the State's cities, towns, plantations and organized townships to provide a unified voice for Maine's municipalities to promote and strengthen local government. It provides numerous and varied services to municipalities and municipal officials with the goal of assuring more effective delivery of public services for Maine citizens, providing support services to affiliated professional associations and creating a greater public awareness and understanding of municipal government.

Of particular interest to Local Health Officers is the Legal Services Department. The MMA employs attorneys, a technical advisor, and a legal secretary to provide a direct legal assistance program that is unique to state municipal leagues.

There are a number of affiliate groups with official ties to MMA. Two of note is the Maine Building Officials & Inspectors Association, and the Maine Association of Public Housing Directors. Contact MMA in Augusta for additional information. 623-8428

### **11.9 Publications**

There are a number of excellent references available to the Local Health Officer from the MCDC. <http://www.maine.gov/dhhs/boh/newpubs.htm>

CDC INFECTIOUS DISEASE PUBLIC HEALTH FACT SHEETS: This extremely thorough site contains dozens of fact sheets on "Health Topics A to Z" which provides a listing of disease and health topics found on the CDC Web site. New topics are added on an on-going basis. <http://www.cdc.gov/az/a.html> and

[http://www.maine.gov/dhhs/boh/disease\\_specific\\_information.htm](http://www.maine.gov/dhhs/boh/disease_specific_information.htm)

# APPENDICES

## Appendix A. LHO Statutes - Appointment and Duties

### Maine Revised Statute Title 22, Chapter 153: LOCAL HEALTH OFFICERS

#### Appointment and Duties

#### 22 §451. APPOINTMENT

The following provisions govern the appointment and employment of local health officers. [2007, c. 462, §1 (NEW).]

**1. Role of municipality.** Every municipality in the State shall employ a local health officer who is appointed by the municipal officers of that municipality. A person may be appointed and employed as a local health officer by more than one municipality.

[ 2007, c. 462, §1 (NEW) .]

**2. Qualifications.** The local health officer must be qualified by education, training or experience in the field of public health or a combination as determined by standards adopted by department rule no later than June 1, 2008. A person who is employed as a local health officer who is not qualified by education, training or experience must meet qualification standards adopted by department rule no later than 6 months after appointment. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2007, c. 598, §5 (AMD) .]

**3. Duration of appointment; notification.** A local health officer is appointed for a term of 3 years and until that officer's successor is appointed. The municipal officers shall appoint a successor within 30 days of any resignation or expiration of term. The municipal officers or clerk of each municipality shall within 10 days notify the department in writing of the appointment of a local health officer. Notification to the department must include the local health officer's name, age and address and the dates of the appointment and the beginning of the 3-year term. A local health officer in a town or plantation contiguous to unorganized territory shall perform the duties of a local health officer in that territory.

[ 2007, c. 462, §1 (NEW) .]

**4. Incapacity or absence.** In the event of incapacity or absence of the local health officer, the municipal officers shall appoint a person to act as local health officer during that incapacity or absence. The chair of the municipal officers shall perform the duties of a local health officer until the regular local health officer is returned to duty or another person has been appointed and employed. In a municipality with a manager form of government, when the charter so provides, the appointments provided for in this subsection may be made by the manager and the duties prescribed for the chair of the municipal officers during incapacity or absence of the local health officer are performed by the manager.

[ 2007, c. 462, §1 (NEW) .]

**5. Conflict of interest.** A person may not be appointed to hold office as a local health officer or to serve as a member of the local board of health under section 453 if that person has a pecuniary interest, directly or indirectly, in any corporation or other entity over which that officer or board has general supervision.

[ 2007, c. 462, §1 (NEW) .]

**6. Duties.** Local health officers may be employed on a part-time or full-time basis. The offices of local health officer and town or school physician may be combined when, in the opinion of the municipal officers, the health needs of the public would be better served.

[ 2007, c. 462, §1 (NEW) .]

#### SECTION HISTORY

1981, c. 703, §A7 (AMD). 1989, c. 487, §3 (AMD). 2007, c. 598, §5 (AMD). 2007, c. 462, §1 (RPR).

### 22 §453. LOCAL BOARD OF HEALTH

Any municipality may appoint, in addition to the local health officer, a board of health consisting of 3 members besides the local health officer, one of whom shall be a physician if available in the community, and one a woman. When first appointed members of the board shall be appointed one for one year, one for 2 years and one for 3 years. Subsequent appointments shall be for 3-year terms.

The local health officer shall be secretary ex officio of said board and keep a record of all proceedings. The local board of health shall constitute an advisory body to the local health officer.

### 22 §454-A. POWERS AND DUTIES

**1. Supervision.** For the purposes of this section, a local health officer is subject to the supervision and direction of the commissioner or the commissioner's designee.

[ 2007, c. 598, §7 (NEW) .]

**2. Duties.** Within jurisdictional limits, a local health officer shall:

A. Make and keep a record of all the proceedings, transactions, ordinances, orders and rules acted upon by the local health officer; [2007, c. 598, §7 (NEW).]

B. Report to the commissioner or the commissioner's designee facts that relate to communicable diseases and cases of communicable disease as required by department rules; [2007, c. 598, §7 (NEW).]

C. During a declared health emergency, as defined in section 802, subsections 2 and 2-A, report to the commissioner or the commissioner's designee facts regarding potential notifiable diseases and cases that directly relate to the declared health emergency, as the rules of the department require; [2007, c. 598, §7 (NEW).]

D. Receive and examine the nature of complaints made by members of the public concerning conditions posing a public health threat or a potential public health threat; [2007, c. 598, §7 (NEW).]

E. With the consent of the owner, agent or occupant, enter, inspect and examine any place or premises where filth, whether or not the cause of sickness, or conditions posing a public health threat are known or believed to exist. An agent with special expertise appointed by the local health officer may inspect and examine the place or premises. If entry is refused, the local health officer shall apply for an inspection warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the inspection; [2007, c. 598, §7 (NEW).]

F. After consulting with the commissioner or the commissioner's designee, order the suppression and removal of nuisances and conditions suspected of posing or found to pose a public health threat; [2007, c. 598, §7 (NEW).]

G. Act as a resource for connecting residents with the public health services and resources provided by the Maine Center for Disease Control and Prevention; and [2007, c. 598, §7 (NEW).]

H. Enforce public health safety laws, including:

- (1) Laws pertaining to the exclusion of students from school under Title 20-A, section 6356;
- (2) Laws pertaining to control of browntail moths under section 1444;



- (3) Laws pertaining to the removal of a private nuisance or nuisance of a dead animal under sections 1561 and 1562;
- (4) Laws pertaining to the establishment of temporary health care facilities under section 1762; and
- (5) Laws pertaining to prohibited dumping under Title 30-A, section 3352. [2007, c. 598, §7 (NEW).]

For purposes of this subsection, "public health threat" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

[ 2007, c. 598, §7 (NEW) .]

SECTION HISTORY  
2007, c. 598, §7 (NEW).

## **22 §461. NOTICE TO OWNER TO CLEAN PREMISES; EXPENSES ON REFUSAL**

The local health officer, when satisfied upon due examination, that a cellar, room, tenement or building in the town, occupied as a dwelling place, has become, by reason of want of cleanliness or other cause, unfit for such purpose and a cause of sickness to the occupants or the public, may issue, in consultation with the department, a notice in writing to such occupants, or the owner or the owner's agent, or any one of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to quit the premises within such time as the local health officer may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the local health officer may cause the premises to be properly cleansed at the expense of the owner, or may close the premises, and the same shall not be again occupied as a dwelling place until put in a proper sanitary condition. If the owner thereafter occupies or knowingly permits the same to be occupied without putting the same in proper sanitary condition, the owner shall forfeit not less than \$10 nor more than \$50 for each day that the premises remain unfit following written notification that the premises are unfit. [1989, c. 487, §9 (AMD).]

SECTION HISTORY  
1989, c. 487, §9 (AMD).

## **22 §462. ASSISTANCE IF OBSTRUCTED IN DUTY**

Any health officer or other person employed by the local health officer may, when obstructed in the performance of the person's duty, call for assistance from a law enforcement officer. [1989, c. 487, §10 (AMD).]

SECTION HISTORY  
1989, c. 487, §10 (AMD).

## APPENDIX B. LHO RESOURCE CHART

<b>Problem Area</b>		<b>LHO</b>	<b>LPI/CEO</b>	<b>ACO</b>	<b>IFW</b>	<b>Professional Consultant</b>	<b>Manufact'd Housing Board</b>	<b>DHHS</b>
	<b>Reference</b>							
<b>Landlord tenant issues - Implied warranty and covenant of habitability</b>	T14 M.R.S.A. §6021	Primary	Assist				x	
<b>Bed Bugs</b>	T14 §6021	Primary	Primary			x		x
<b>Dangerous buildings</b>	T17, M.R.S.A. §2851	x	Primary			x		
<b>Unclean premises</b>	T17 §2851	Primary	Assist			x		
<b>Removal of private nuisances that could be injurious to health</b>	T 22 § 461	Primary	Assist			x		
<b>Removal of private nuisances</b>	T22 §1561	Primary	Assist			x		
<b>Removal of dead animal</b>	T22 §1562	Assist	x	x	Assist	x		
<b>Reporting adult abuse</b>	T22 §3477	Primary	Assist				x	x
<b>Reporting child abuse</b>	T22 §4011	Primary	Assist					x
<b>Bathing beaches</b>	T 22 § 461	Assist	Primary					
<b>Malfunctioning sewage disposal systems</b>	T30-A §3428	Assist	Primary			x		
<b>Automobile junkyards</b>	T30-A §3751	Assist	Primary					
<b>Cemeteries</b>	T13 §1343		Primary					x
<b>Mobile Home parks</b>	T10 §9003	Assist	Primary			x	x	
<b>LHO: Local Health Officer</b>								
<b>CEO: Code Enforcement Officer</b>								
<b>LPI: Local Plumbing Inspector</b>								
<b>ACO: Animal Control Officer</b>								
<b>Professional Resource: Third party contractor</b>								
<b>Manufacturing Housing Board</b>								
<b>DHHS: Department of Health and Human Services personnel</b>								

## APPENDIX C. QUICK REFERENCE - TELEPHONE NUMBERS

Abuse & Neglect	800-452-1999	Children's Protective Services
Accident Prevention	287-5356	Injury Prevention Program
Acid Rain	287-7036	Environmental Protection
Adolescent Services	287-9917	Division of Family Health
AIDS Program	287-3960	Division of Infectious Disease
Alcohol & Drugs	287-2595	Maine Office of Substance Abuse
Animal Welfare	287-3846	Department of Agriculture
Asbestos Testing	287-2727	Health & Environmental Testing Lab
Attorney General	626-8800	Department of the Attorney General
Auto Safety Belts	287-5356	Injury Prevention Program
Baby Care	287-4112	Public Health Nursing Program
Bathing Beaches	287-5671	Division of Environmental Health
Maine CDC Admin.	287-8016	Maine CDC
Cancer Clusters	287-8135	Division of Chronic Disease
Cancer Screening	287-8135	Division of Chronic Disease
Catastrophic Illnesses	800-321-5557	MaineCare Services
Childhood Development	287-3311	Division of Family Health
Childhood Mortality	287-4112	Public Health Nursing Program
Cholesterol Screening	287-8135	Division of Chronic Disease
Citizens Assistance	800-452-4617	Maine CDC
Clinic Services	287-4112	Public Health Nursing Program
Communicable Diseases	800-821-5821	Division of Infectious Disease
Coordinated Care Services	287-3311	Division of Family Health
Day Care/Children	287-5060	Child and Family Services
Dental Health	287-4502	Oral Health Program
Diabetes Education	287-5380	Diabetes Prevention & Control
Disease Reporting	800-821-5821	Division of Infectious Disease
Drinking Water	287-2070	Division of Environmental Health
Emergency Medical	287-3953	Emergency Medical Services
Emergency Public Health	800-452-1999	Maine CDC Hotline
Environmental Hazards	800-821-5821	Toxicology Program
Epidemiology	800-821-5821	Division of Infectious Disease
Exercise	287-5388	Community Health Promotion
Family Planning	287-5388	Community Health Promotion
Family Violence	888-568-1112	Family Violence Project
Fluoridation	287-2361	Community Health Promotion
Food & Drug Admin.	622-8268	U.S. Federal Building
Food Stamps	800-452-4643	Income Maintenance
Foodborne Illness	800-821-5821	Division of Infectious Disease
Genetics	287-9917	Division of Family Health
Healthy Communities	287-5388	Community Health Promotion
Hepatitis	800-821-5821	Division of Infectious Disease
Home Nursing Visits	287-4112	Public Health Nursing Program

Immunizations	800-867-4775	Division of Infectious Disease
Infectious Diseases	800-821-5821	Division of Infectious Disease
Injury Control	287-5356	Injury Prevention Program
Insect/Tick Disease Lab	287-2431	Department of Conservation
Labor Safety Standards	287-6460	Department of Labor
Laboratory Analyses	287-2727	Health & Environmental Testing Lab
Law Library	287-1600	Law & Legislative Library
Lead Poisoning	287-4311	Division of Family Health
Legal Assistance	622-4731	Pine Tree Legal Assistance
Licensing Boards	582-8723	Professional & Financial Regulation
Lodging Licensing	287-5671	Division of Environmental Health
Low Cost Drugs for Elderly	800-321-5557	MaineCare Services
Lyme Disease	800-821-5821	Division of Infectious Disease
Maine Municipal Association	623-8428	Maine Municipal Association
Maternity Care	287-4112	Public Health Nursing Program
Measles	800-867-4775	Division of Infectious Disease
Medicaid Program	800-452-4694	Bureau of Medical Services
Milk Commission	287-3741	Department of Agriculture
Mumps	800-821-5821	Division of Infectious Disease
Newborn/High Risk Infants	287-9917	Division of Family Health
Newborn/High Risk Infants	287-4112	Public Health Nursing Program
Notifiable Diseases	800-821-5821	Division of Infectious Disease
Nutrition Consultation	287-3311	Division of Family Health
Occupational Hazards	877-723-3345	Bureau of Labor Standards
Oil & Haz. Material Spills	800-482-0777	Environmental Protection
Parenting Skills	287-3311	Division of Family Health
Pesticides	287-2731	Environmental Protection
Physical Fitness	287-5388	Physical Activity & Nutrition Program
Physician Consultant	287-8016	Maine CDC
Physician Consultant	800-821-5821	Division of Infectious Disease
Physician Consultant	287-3311	Division of Family Health
Poison Control Center	800-442-6305	Maine Medical Center
Polio	287-3746	Division of Infectious Disease
Prenatal Care	287-3311	Division of Family Health
Preschool Clinics	287-3311	Public Health Nursing Program
Preventive Health Children	287-2674	Bureau of Med. Services (EPSDT)
Quarantine	800-821-5821	Division of Infectious Disease
Rabies	800-821-5821	Division of Infectious Disease
Radiation Protection	287-5676	Division of Environmental Health
Rape Crisis	626-0660	Rape Crisis Hotline
Refugee Program	287-6227	Division of Infectious Disease
Rehabilitation Services	624-5300	Office of Rehab. Services
Reportable Diseases	800-821-5821	Division of Infectious Disease
Restaurant Licensing	287-5671	Division of Environmental Health
Rubella	800-867-4775	Division of Infectious Disease

Salmonella	800-821-5821	Division of Infectious Disease
School Health	287-4718	Public Health Informatics
School Health	624-6688	Department of Education
School Lunch Programs	287-5338	Division of Environmental Health
School-Based Health Ctrs	287-7856	Coordinated School Health
Seafood Processing	624-6550	Department of Marine Resources
Sewage Disposal	287-5672	Division of Environmental Health
SIDS	287-4112	Public Health Nursing Program
Smoking in Bars	287-3571	Maine Bureau of Liquor Enforcement
Smoking Legislation	287-4627	Partnership/Tobacco Free ME
Social Security Admin.	800-772-1213	U.S. Federal Building
State Police	800-452-4664	Maine State Police
STD (Sexually Trans Disease)	287-3747	Division of Infectious Disease
Stress	287-8135	Division of Chronic Disease
Supermarket, food	287-3841	Department of Agriculture
Support Enforcement	287-2886	Income Maintenance
Swimming Areas	287-5338	Division of Environmental Health
TANF (Temporary Assistance to Needy Families)	287-6897	Income Maintenance
Tent/Trailer Areas	287-5675	Division of Environmental Health
Tobacco Control	287-4627	Partnership/Tobacco Free ME
Toxicology	287-5338	Environmental Health
Tuberculosis	800-821-5821	Division of Infectious Disease
Vaccinations	800-867-4775	Division of Infectious Disease
Veterinary Services	287-3701	Department of Agriculture
Vital Records	287-3181	Health Data & Program Mgt
Warden Services	287-2766	Inland Fisheries & Wildlife
Wastewater Disposal	287-5672	Division of Environmental Health
Water Testing	287-2727	Health & Environmental Testing Lab.
Weight Management	287-5388	Physical Activity & Nutrition Program
Well Child Clinics	287-4112	Public Health Nursing Program
WIC	287-3991	Division of Family Health
Women's Health	287-9917	Division of Family Health
X-ray Equipment	287-5338	Division of Environmental Health
Please notify our office of errors found within this contact list. Thank you! 287-6372		

## APPENDIX D. LHO COMPLAINT FLOWCHART

### Steps to Follow when Processing Complaints and Situations Reported to a LHO

\*Note: The timeframes suggested below are only examples. The length of time you may ask for corrective action varies and should be directly related to how complex and how urgent the matter is. In very serious situations, you may simply go to court immediately and seek an injunction. In less serious situations, you may give the alleged offender 5 days to give you a rough plan of how he/she might correct the problem, with a 30 day follow-up after that.

Take notes of the call in a notebook just for your LHO duties. An electronic journal may be a suitable alternative. Many times you can return to these notes in future actions which will save you time. If the complaint is about a third party, make sure you obtain all contact information, e.g., the name of the landlord, neighbor, etc. Give the caller a date and time you anticipate responding to the complaint by conducting a personal on-site visit. Remember, the complaint may be unsubstantiated so do not jump to conclusions, nor do you have any idea as to how long it may take to resolve.

Contact the person who complained on-site, if possible. Sometimes, they wish to remain anonymous — which puts the LHO in a difficult position. Depending on the circumstances, and your experience, you may wish to have someone accompany you. This person could be someone who has a special skill to reinforce those of the LHO. For example, a Code Enforcement Officer or the local Fire Chief may be a big help as they are familiar with building issues and the Life Safety Code® issues. If the complaint seems plausible, speak to the owner (or landlord) and explain why you are there.

Discuss the problem with the owner or owner's representative. Always remember to use "due Process." This involves being fair and giving the other person the benefit of the doubt. This includes hearing all sides of the argument before a decision is made. After the meeting, it is critical to follow-up with a letter to document what was said. As a result, you must ask probing questions to obtain information and intent that you can restate in the letter as leverage. If the person who complained can be present, that may be helpful. Tell the owner you will be following up with a letter (that you can hand deliver) and will expect him/her to respond within a short period (such as 3 days) as to what his/her intentions are. At that time, you are seeking their intentions, not exactly how they will resolve the issue – that may take a week to a month, maybe longer.

Call the owner, based on the timeframe stated in the letter and ask what they are going to do. Do not accept a casual or disingenuous response as a solution. You must hear adequate supporting statements from the owner so you have a good feeling that the action(s) will be carried out to fix the problem. Take notes. Tell the owner you will expect action in 30 days (or less depending upon the severity of the situation). If the state law that supports this corrective action contains penalties, make sure they are discussed with the owner during the visit.

If you have not already done this you must make sure you have the complete backing of the Board of Selectmen/Town Council/Mayor/City Manager. Eventually an elected official will have to take responsibility for giving the LHO the authority to undertake the corrective action – which in many cases involves the town paying someone to fix the problem and get reimbursed through a lien.

Thirty days later (or at the stated timeframe), contact the owner and determine the status of the corrective action. You should normally plan on someone else being with you to corroborate everything said, and for another set of eyes. Remind the owner that legal action will be taken if the problem is not resolved.

If the problem hasn't been properly addressed, it may be time to establish a "last chance" letter. After this time, you will have to take further action. This may involve putting a lien on the property, going to court, committing the town to cleaning up the area, with the intention to be repaid by the owner.

If all else fails, be prepared to go to court. If there is nothing that you can do based on current law or ordinances, be prepared to suggest to the person who initiated the original complaint to take the complaint to District Court.

## **APPENDIX E. MODEL PROCEDURES, FORMS AND LETTERS**

### **E.1 Remedy a Dilapidated and/or Dangerous Building**

It is important to remember to follow the steps outlined in the complaint flowchart. Once the LHO has met with the owner of the property which is the subject complaint, a follow up letter has to be written.

#### STEP 1. Informal follow-up letter to owner of a dilapidated building

Write an informal follow up note to the owner of record asking that he/she repair or remove the dilapidated building. A suggested letter follows:

Mr. John J. Jones  
123 East Street  
Westville, Maine 04000

Dear Mr. Jones:

Thank you for meeting with me this morning at your vacant property on West Street. As I indicated to you, we have been compiling a listing of buildings in the Town of Westville that are dilapidated to a point where repairs or removal is necessary. These buildings have been determined to be dangerous as described in Maine law (see Title 17 MRSA §2851. Dangerous buildings). A lien is authorized in this law. These buildings pose a hazard to citizens of our community and are a nuisance. This listing is to go to the Town Council and Town Attorney for legal action at some time in the future and I note that the list contains dwellings that are alleged to be owned by you, located at 345 and 347 West Street.

During our meeting I pointed out a number of particularly critical repairs, notably the east end of the roof, portions of the east wall, and the start of a collapsing granite foundation on the east end of the building.

I certainly have no desire to bring this matter to the attention of the aforementioned officials until you have been personally notified in writing by me, as I know you will wish to avoid a situation that could well result in inconvenience or loss on your part as well as ours. This matter is being brought to your attention as I know you will want to cooperate with us.

One option we have is to make the repairs and put a lien on the property, or, due to the low value of the building, obtain a court order to have the building removed. All of this would be at your expense, or against the value of the property.

I would appreciate hearing from you at your earliest convenience. We will be making a decision in thirty days.

Sincerely,

Samuel S. Smith  
Town Manager [or Local Health Officer]

This letter should result in corrective action in most of the cases. If step 1 does not work, proceed to Step 2.

#### STEP 2. Formal letter to owner of a dilapidated building

Have the attorney prepare a formal notice to the owner of record, that the building is structurally unsafe, unstable, unsanitary, constitutes a fire hazard, is unsuitable or improper for the use and occupancy to which it is put, constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment or is otherwise dangerous to life or property. A typical letter follows:

Mr. John J. Jones  
123 East Street  
Westville, Maine 04000

Dear Mr. Jones:

The Local Health Officer, accompanied with the Building Inspector of the Town of Westville has found that your building at 345 and 347 West Street is structurally unsafe, unstable, unsanitary and constitutes a fire hazard, unless corrective measures are taken immediately. [Insert actual condition. Be sure to use the same -- or very closely similar -- terminology used in §2851 of Title 17 MRSA]. It has been declared unsuitable or improper for use and must be repaired to the complete satisfaction of the Building Inspector and the Local Health Officer prior to the next meeting of the Town Council which will occur on September 4, 20XX.

Very truly yours,

Samuel S. Smith  
Town Manager [or Local Health Officer]

This letter should be sent by certified mail, return receipt requested. The receipt should be retained on file.

Services of an attorney are suggested initially. If there is any hint that a property owner intends to challenge the action, call in an attorney at once, even if the CEO is Rule 80K certified.

#### STEP 3.

The Municipal Officers should then set a date for a public hearing. The date for the hearing should be at least four weeks from the date of the meeting at which the hearing date was established. Maintain a record of the meeting of the Municipal Officers.

#### STEP 4.

Publish a notice in a newspaper at least once a week for at least three successive weeks before the date of the hearing. (Clip and file the notices.)



STEP 5.

Hold a public hearing and if all attempts at repair have failed, order the building demolished with proper notice. Maintain a record of the hearing.

STEP 6.

Allow at least thirty days for the owner to appeal the Municipal Officer's order. If the owner has not appealed, demolish the building.

STEP 7.

Have the assessor assess a special tax against the land on which the building was located covering the amount of the expenses of the town. (This tax should be included in the next annual warrant to the Tax Collector and should be collected in the same manner as any other property taxes.)

## **E.2 Nuisance Investigation Report**

Municipality of:

Nuisance Investigation Report:

Complainant's Name:

Referred By Date:

Address:

Offender's Name:

Location of Nuisance:

Nature of Nuisance:

Investigation and Remarks:

Re-inspection Date:

Disposition and Date:

Investigator (Local Health Officer):

**E.3 Violation Form Letter – Request to Comply**

Municipality of: \_\_\_\_\_ Date : \_\_\_\_\_

This letter is the result of an Environmental Health Inspection of your property located at \_\_\_\_\_ that noted conditions in violation of \_\_\_\_\_ [cite law, regulation or ordinance violated] on [date] \_\_\_\_\_.

You must correct the violations detailed on the attached inspection report no later than \_\_\_\_\_ to provide a safer and more healthy environment. Failure of voluntary compliance may result in an ORDER being issued against you by the Local Health Officer to correct environmental health conditions.

If additional information or further clarification is desired, contact this office.

Local Health Officer

**E.4 Violation Form Letter – Order to Comply**

Municipality of \_\_\_\_\_

Date \_\_\_\_\_

On \_\_\_\_\_, an inspection was made of the premises located at \_\_\_\_\_ indicating non-compliance with the \_\_\_\_\_ [cite ordinance, law or rule] violated as noted on the attached report, specifically \_\_\_\_\_

In accordance with the provision of the above [law, ordinance, regulation], you are hereby ORDERED by the Local Health Officer to correct these defects according to specifications outlined in the attached, prior to \_\_\_\_\_. Failure to comply by this date may result in a complaint being filed against you in Court so as to collect a fine for each day's civil violation, of not less than \$\_\_\_\_\_ nor more than \$\_\_\_\_\_ per day. If you feel aggrieved by this Order, you may file an Appeal in the office of the Municipal Clerk within seven working days following the day of receipt of the Order for consideration by the Municipal Officers.

If additional information is desired, visit or telephone this office. (Provide office hours and telephone number.)

Suzanne Duegood  
Local Health Officer

## E.5 Violation Letter – Improper Trash Storage (example)

*JIM DOE, LOCAL HEALTH OFFICER  
R.F.D. #1  
ANYTOWN*

March 13, 20XX

To: Mrs. John Smith, Owner  
Anycity, Maine  
To: Occupants 100 Main Street  
Anytown, Maine  
RE: Trash bin behind 100 Main Street, Anytown

Dear Mrs. Smith and Occupants:

A complaint has been filed regarding improper storage of trash at 100 Main Street, Anytown. The property was inspected on March 10 and March 11, 20XX. The trash bin was found to be overflowing and trash bags were lying on the ground. Some of these bags were ripped open and trash was scattered about. This condition is in violation of Maine Statutes (Title 22 MRSA §454-A and §461). [Use whatever descriptive language most accurately characterizes conditions found during the inspection.]

The occupants have a responsibility to maintain the property in a healthful condition by insuring that all trash is properly disposed. The occupants are hereby ordered to cease contributing to this violation and to make proper disposition of their trash until the situation is remedied. Occupants disregarding this order may be subject to a fine. The owner is hereby ordered to have the trash removed and the premises put in proper order within 48 hours of receiving this notification. Failure to comply may result in a fine of not less than \$10 nor more than \$50 for each day that the premises remain unfit following written notification that the premises are unfit. Additionally, you may be charged for the removal of the trash by the town at your expense. In the future it will be the tenants' responsibility to notify the owner or garbage collector when the trash bin is full. Tenants shall not contribute to creating unsanitary conditions by putting garbage in an unprotected space.

Sincerely,

Jim Doe  
Local Health Officer

## **E.6 Compliance Form Letter – Non-Compliance to Previous Request**

Municipality of \_\_\_\_\_ Date \_\_\_\_\_

This letter is to inform you that we are now prepared to commence legal action against you for noncompliance with the previous ORDER dated \_\_\_\_\_. Please notify us immediately if the noted conditions (has) (have) been corrected or if you believe you can show that such action would otherwise be inappropriate. Only under exceptional circumstances or upon payment of costs, will the court action be voluntarily dismissed for compliance by the Municipality.

John Jones  
Local Health Officer

## **E.7 Compliance Form Letter – Mold in Rental Housing**

Mr. John J. Jones  
123 East Street  
Westville, Maine 04999

Subject: Turner House, Water Street, Westville, ME 04999

Dear Mr. Jones:

The Local Health Officer of the Town of Westville reports that your building at 345 Water Street has been found to contain a noticeable amount of mold in the living space of Ms. Jane Doe. It has been declared unsuitable or improper for use. In accordance with the Warranty of Habitability statute, Title 14 M.R.S.A. §6021, landlords must maintain their rental units free from any condition which endangers or impairs the health or safety of tenants. Furthermore, Title 17, M.R.S.A. §2851 states that municipal officers may take steps to remedy a building that constitutes a hazard to health or safety.

The apartment unit the Local Health Officer visited on March 28<sup>th</sup>, 2009, must be repaired to the complete satisfaction of the Local Health Officer. Please advise how you intend to resolve this matter, including a time estimate, within 5 days, prior to the next meeting of the Town Council which will occur on July 16<sup>th</sup>, 2008.

Please feel free to contact Mr. Smith, the Local Health Officer, at 207-999-9999 should you have any questions.

Very truly yours,

Samuella Smith  
Town Manager

## E.8 Placard for Posting on the Premises – Occupancy Not Permitted

### -NOTICE-

Location: \_\_\_\_\_

Occupancy of these premises is not permitted until conditions dangerous or detrimental to life or health are corrected, specifically, (conditions).

Subject to approval by the Local Health Officer, Municipality of \_\_\_\_\_.

[--Date--]                      [--Signature--] Local Health Officer

## E.9 Small Animal Bite Report

(Note: Applicable to Dogs, Cats, and Ferrets only - consult with the Animal Control Officer) Report of Dog (or Animal) Bite

Date of Injury

Hospital or Physician Name

Address

Date of Report

Person Bitten

Address

Type of Animal

Animal Owner

Address

Telephone

## E.10 Form - Animal Bite Investigation

(Consult with the Animal Control Officer) Victim Owner

Date

Inspector

Animal Owner

Address

Phone

1. Animal Description

Sex:  Male  Female

Age

Color

Breed

2. Has the animal been ill, acted strangely, or bitten anyone recently?  Yes  No

Describe:

3. Has the animal had rabies immunization?  Yes  No

Veterinarian:

Date of Immunization:

Date of Expiration:

4. Is the animal licensed?  Yes  No

License No.  
Expiration Date

5. Circumstances of the biting incident:

Victim:  
Address:  
Phone:

6. Date of incident:

7. Injury: Bite Scratch Site of Injury:

8. Medical treatment:

9. Name of Physician or Hospital:

## **E.11 Animal Bite Letter**

(Note: Applicable to Dogs, Cats, and Ferrets only)

TO: Animal Owner  
Address

The Local Health Officer has received a report that a person [or animal] was bitten and/or scratched by your [dog, cat, or ferret] on [date].

To rule out the possibility of rabies, it is required by law that your animal be quarantined for a period of ten (10) days. This means that the animal must be caged or securely tied in a manner that absolutely prevents contact with humans or other animals. The animal must be observed daily by a qualified person for signs of illness, abnormal behavior or other indications of rabies. If the animal dies or sickens and is euthanized, the Local Health Officer must be notified and the animal's head must be transported to the Health and Environmental Testing Laboratory in Augusta for rabies examination.

In most cases, this ten (10) day confinement is best handled by arranging with your veterinarian for him/her to keep the animal. If this is not possible, supervised and secure home confinement or arrangements with the local animal shelter may be considered. You may contact your Local Health Officer or Animal Control Officer for advice by telephone at: \_\_\_\_\_

## **E.12 Environmental Health Violations – Procedures to follow**

Location of Violation:

Nature of Violation:

Inspection date:

Recording of Evidence (Inspection Form, Photos):

Pre-Notification Research:

Note: Research includes, but is not limited to, selection of applicable ordinance, statute, regulation; consultation with municipal attorney, allied agency(ies), etc.

Referral will occasionally be made to the State Department of Environmental Protection if it is felt that their measures and enforcement tools are more appropriate.

### **E.13 Remedy an Environmental Health Violation**

Routine - A letter (Model Letter #11.3, notice, and a copy of inspection form should be sent to the offender

Urgent - A certified letter, or letter delivered by sheriff should be sent to the offender. Generally, this will include an order for immediate correction or correction within specified period. If indicated, the letter should be accompanied by photos (Model Letters 6.3 or 6.4).

Critical - A phone call or personal contact should be followed by a certified letter or a letter hand delivered by constable ordering immediate correction. Action includes summary suspension or revocation of any applicable licenses, permits, and placing a placard indicating the housing code violations.

### **E.14 Follow-Up Inspection**

The length of time between initial and follow-up inspections depends on nature of violation. It may be 24 or 48 hours or as much as 1 to 2 weeks.

### **E.15 Resolution of Problem**

Violation corrected: Once the violation is corrected, it should be noted and kept on file. A letter should be sent to the violator acknowledging abatement, if indicated.

Violation is not corrected: If the violation is not corrected, or is not fully corrected, or is still in process of correction, follow the procedures as previously outlined. If administratively indicated, allow additional time to complete the corrections. Alternative actions refer to municipal attorney for legal action.

In housing code violations, the structure may be placarded as unfit for human habitation. In this situation, a letter should be submitted to the municipal office of zoning and code enforcement (Model Placard 11.8)

The importance of documentation in the above procedures and giving due process to the individual cannot be overstressed. Every step should be taken with the idea that the process may end up in court. Certified mail or sheriff delivery for notices -- and especially orders -- should be used whenever it is judged important to have proof of receipt. The entire enforcement process should also be augmented by periodic ordinance, regulation review to be certain that enforcement procedures continue to be timely and effective.

In the case of malfunctioning sewage disposal systems, the Local Health Officer needs to work with the Local Plumbing Inspector and the Division of Environmental Health. Again, if closure of any establishment is contemplated, consult an attorney. Contact the State Plumbing Inspector at the Department of Health and Human Services at (207) 287-5689.

## Appendix F.

1. Keep notes of all discussions and statements made regarding the complaint.  
**These statements can be used as leverage in follow-up letters (“...during my visit at 2 PM on July 28th, 2008, you stated you would contact a contractor to have the trash removed from your lawn.”)**
2. **Have someone accompany you when visiting the property**  
Because you are the LHO doesn't mean you can or should solve problems on your own. Have someone with expertise on the problem come along to give his or her opinion. This person will assist you and confirm statements made by all parties.
3. **Always use due process with the owner, or the owner's representative.**  
This involves being fair and giving the other person the benefit of the doubt. It means you need to hear both sides before you decide what to do.
4. **Write a follow-up a letter to document what was stated or promised.**  
It's critical to do this after all meetings and conversations where commitments or changes in status have occurred that have bearing on the situation. If there is not sufficient time to mail the letter, you should hand deliver it.
5. **During discussions with the owner, try to determine what his/her intentions are about taking corrective action.**  
While you would like to find out **how** they will resolve the issue - a more important thing to learn at first is **what** their intentions are.
6. **Follow-up by on-site visits as much as your time will permit.**
7. **Inform the Town Manager/City Manager/Chair of Board of Selectman as soon as it appears that quick corrective action is not going to happen due to an uncooperative owner.**  
They will need to know what can be done according to Maine law.

## Appendix G. Tips for LHOs



## G.1: LHO Body Language in Conversations and Interviews

One thing you can control in LHO conversations and interviews is the message you project. You want to show confidence and professionalism while maintaining a human touch – a balance that will make things easier for you. It has been established many times that, when it comes to communication, the words we use sometimes matter less than our appearance and our tone. There are many cultural and individual differences in the way people send and receive body language, and these tips are based on general norms. The suggestions are meant as a guide only – with plenty of exceptions.

Although these ideas may seem “touchy-feely” to some, they actually work. Most studies say body language and tone make up more than 90% of the communication we exchange.

### The Power of “SOFTEN”

<b>The Acronym:</b>	SOFTEN stands for an appropriate use of <i>smiling</i> , <i>open</i> body language, <i>forward</i> listening, <i>touch</i> on handshakes, <i>eye-contact</i> , and <i>nodding</i> .
<b>Smiles:</b>	Unless the situations are too “serious” and a smile is inappropriate, a real smile at the beginning helps set the tone for the rest of the conversation or interview.
<b>Open:</b>	Open shoulders, arms, and hands show confidence. Projecting strength and professionalism makes it more likely people will cooperate with you.
<b>Forward:</b>	If sitting, leaning slightly forward shows your attention. If standing, try to be close enough to the person to signal you are listening – but don’t go too close as it may seem intimidating. The accepted space between speakers varies by culture and individuals.
<b>Touch:</b>	The professionally firm handshake is generally a great way to begin, but it is always wise to consider gender and cultural issues.
<b>Eye Contact:</b>	The basic guideline is to give 3-5 seconds of eye contact; more seems intimidating, less seems distant or nervous. In interviews, try to make some eye contact while talking instead of just writing things down.
<b>Nodding:</b>	Nodding is an affirmative gesture. Not enough seems passive and too much seems anxious. It may be useful to avoid nodding when people are being uncooperative, as you don’t want to appear to agree with them.

Acknowledgement: Cover page photo courtesy of Judy Gopaul

### **Non-Discrimination Notice**

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