

2013

Local Health Officer Online Training Handbook

Prepared by:

Maine Center for Disease Control and Prevention

Local Public Health



State of Maine

Public Health Districts and Tribal Health Geographic Area

Aroostook
Micmac



Aroostook



Houlton
Maliseet



Downeast



Passamaquady
Indian Township



Passamaquady
Pleasant Point



Penquis



Penobscot Nation



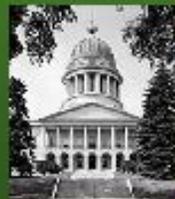
York



Mid Coast



Central



Western



Cumberland



To obtain a copy of this handbook please contact:

Maine Center for Disease Control and Prevention
Local Public Health
LHO Coordinator
286 Water Street, SHS 11
7th Floor
Augusta, Maine 04333

Please specify whether you are requesting a paper copy, or a CD.



Public Health
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Table of Contents

Table of Contents	i
Section 1: Introduction	
1.1 Welcome	2
1.2 Local Health Officer Training in Context	3
1.3 Public Health Districts	4
Additional Information	
Local Health Officer Infrastructure	6
Maine Public Health Districts	7
Section 2: Learning Objectives	8
2.1 You will be able to describe the LHO's overall role	8
2.2 You will be able to describe commonly occurring nuisances	8
2.3 You will be able to describe and resolve nuisances	8
2.4 You will be able to describe appropriate actions in enforcing the law	9
2.5 You will learn about other useful resources.	9
Section 3: I am a new Local Health Officer	10
3.1 The Law	10
3.2 How to read Maine's Statutes	11
3.3 State Agency Rules	13
3.4 Guidance Documents	13
3.5 Sample Knowledge Check #1	14
Section 4: Appointment and Duties – Part I	15
4:1 Appointment of the Local Health Officer	16
4:2 Qualifications and Training of the Health Officer	17
4.2.1 Training of the Health Officer	17

4:3	Statutory Duties	18
	4.3.1 Reporting	20
4:4	Examples of Likely Complaints	21
4:5	Limits of Duties	23
Part II		25
4:6	Prepare for the Work Ahead	25
4:7	Handling Specific Local Health Officer Situations	26
4:8	Standard Local Health Officer Complaint [Steps to follow]	27
4:9	Local Health Officers Best Practices	30
	4.9.1 What Highly successful LHOs Do	
4:10	Sample Knowledge Check #2	34
Section 5: Solving the Problem		35
5:1	How do I solve the Mold Problem? - Case Study #1	36
5.2	Mold?	36
5:3	Using the LHO Complaint Chart to Solve the Mold Problem	37
5.4	Prepare Before You Act	37
5:5	Verify the Complaint – Check the facts	39
5.6	Implied Warranty and Covenant of Habitability	41
5:7	More to the Situation than Meets the Eye	43
5:8	Follow – up and Follow – through	44
5.9	Final Visit	45
	5.9.1 Customer Service Best Practices	47
5.10	Sample Knowledge Check #3	49
Section 6: You Make the Call		50
6:1	Resolution of Complaints beyond Municipality’s Control	50
6.2	Noisy Cow and Other Animal Concerns – Case Study #2	51
6.3	Animal Complaints other than Farming Situations	53

6.4	Improper Manure Handling – Case Study #3	53
6.4.1	“Right to Farm”	55
6.4.2	“Farm Issues” Department of Agriculture Complaint Process	55
6.5	Outdoor Wood Boiler	57
6.5.1	Special Outdoor Wood boiler Consideration	58
6:5	Last Words	59
6:6	Sample Knowledge Check # 4	61
Section 7: How do I enforce the law?		62
Part I: Due Process		63
7:1	What is Due Process?	63
Part II: Nuisances		64
7.2	Handling Common Nuisances	64
7:2	Land Use Violation - Rule 80K - Maine Rules of Civil Procedures	65
7:3	Malfunctioning Sewage System – Case Study #5	67
7.3.1	Determine what has Occurred and your next action	67
7.3.2	Take Necessary Action	67
7.3.3	Next Steps	68
7.3.4	Call for Assistance	69
7.7	Conclusion	69
7:8	Sample Knowledge Check # 5	70
Section 8: Conclusion and Course Review		71
8:1	Conclusion	71

8:3	Review of Major Points	73
8:4	Certificate of Completion	73
8:5	Final Knowledge Check	73

Appendices

Acronyms:

ACO – Animal Control Officer

CEO – Code Enforcement Officer

Department of Agriculture – Department of Agriculture, Food, Conservation and Forestry

DHHS – Department of Health and Human Services

DLPH – Division of Local Public Health

EQ – Emotional Quotient

IQ – Intelligence Quotient

LHO – Local Health Officer

Maine CDC – Maine Center for Disease Control and Prevention

NIOSH – National Institute for Occupational Safety and Health

OWB - Outdoor Wood Boiler

PLI – Plumbing Licensed Inspector

Section 1 Introduction

Welcome to the self-directed online local health officer (LHO) training developed by the Maine Center for Disease Control and Prevention (Maine CDC). Every LHO must perform his or her duty as effectively as possible, using means that are most applicable to the circumstances and must be familiar with the law they are appointed to enforce, investigate or report, referring to the law itself as well as to guidance documents as needed.

Disclaimer: The information in this online training handbook is meant to serve as a guide; you and your community should apply these ideas and principles locally in the way that is most appropriate. The information contained in this handbook is not legal advice; if you have questions about a specific law or its application you should consult your town's legal counsel.

Resource: Information on Health Alerts (HAN)

CDC's Health Alert Network (HAN) is CDC's primary method of sharing cleared information about urgent public health incidents with public information officers; federal, state, territorial, and local public health practitioners; clinicians; and public health laboratories. To read more: <http://www.maine.gov/dhhs/mecdc/newhan.shtml>

To receive Health Alerts from the Maine Center for Disease Control and Prevention Health Alert Network, sign-up at:

<http://www.maine.gov/tools/whatsnew/rss.php?tid=775>

1.1 Welcome!

Welcome to the local health officer online training.

Local health officers have a variety of statutory duties and responsibilities. This training will provide you with a basic understanding of the laws, rules, and your authority in

carrying-out your duties. During this training, you will come across a number of resources that will help you perform your job with ease and success.

Thank you for taking the time to complete this course.

Maine CDC Organizational Chart - Appendix 1-A



Shelia Pinette, D.O.
Director Maine CDC

1.2 The Local Health Officer Training in Context



A “Local Health Officer” (LHO) is a term established by State Statute. An LHO can be a town employee, contractor, or volunteer and is always linked to a municipality. The LHO serves in legal terms as a municipal employee who has knowledge of his or her community and meets educational, training, and experience standards as set by the Department of Health and Human Services rule to comply with **Title 22 M.R.S.A. §451 et. seq.** ***Appendix -1- B***

Maine LHOs are individuals from various backgrounds, professional experiences, qualifications and many other important occupations, who unite around the common goal of improving and caring for the health of their communities. At the town level, an LHO monitors the community through identifying and/or responding to immediate and trends in health risks to individuals or the community through town resident queries and/or the sharp eyes of the LHO.

Maine law requires all LHOs to obtain certification, within six months of appointment by the municipality, regardless of how long individuals have been in the role. The purpose of this training is to provide you with the knowledge, tools, and relevant resources to use while performing your duties.

The title “Local Health Officer” has come to mean a certified LHO; using this title assures the community that all LHOs share the same baseline level knowledge in the performance of their duties.

Equally, it illustrates the current scope of specific LHO duties, responsibilities, and authority as defined in the LHO statute. We believe that a system of certified and connected LHOs is a system on which all towns and the state can rely.



The Division of Local Public Health (DLPH), along with your district public health liaison, stand ready to answer your questions and help you find the resources you need to succeed in your role as your town's LHO. DLPH will reinforce your learning experience by providing periodic training opportunities through webinars, other online training modules, and especially through your regular meetings with your district public health liaison.

Maine CDC would like to thank you for accepting the responsibilities of your appointment, your caring dedication, and your community service. We hope this online training manual will become a valued resource for you to begin or advance a rewarding experience. Your contribution as an LHO is vital to your community's well-being and safety.

1.3 Public Health Districts in Maine

To improve coordinated delivery of essential public health services, Department of



Health and Human Services (DHHS) and the Maine Legislature approved the establishment of eight public health districts. District boundaries were established using population size, geographic areas, hospital service areas, and county borders. A District Liaison coordinates a Public Health Unit with co-located Maine CDC staff in

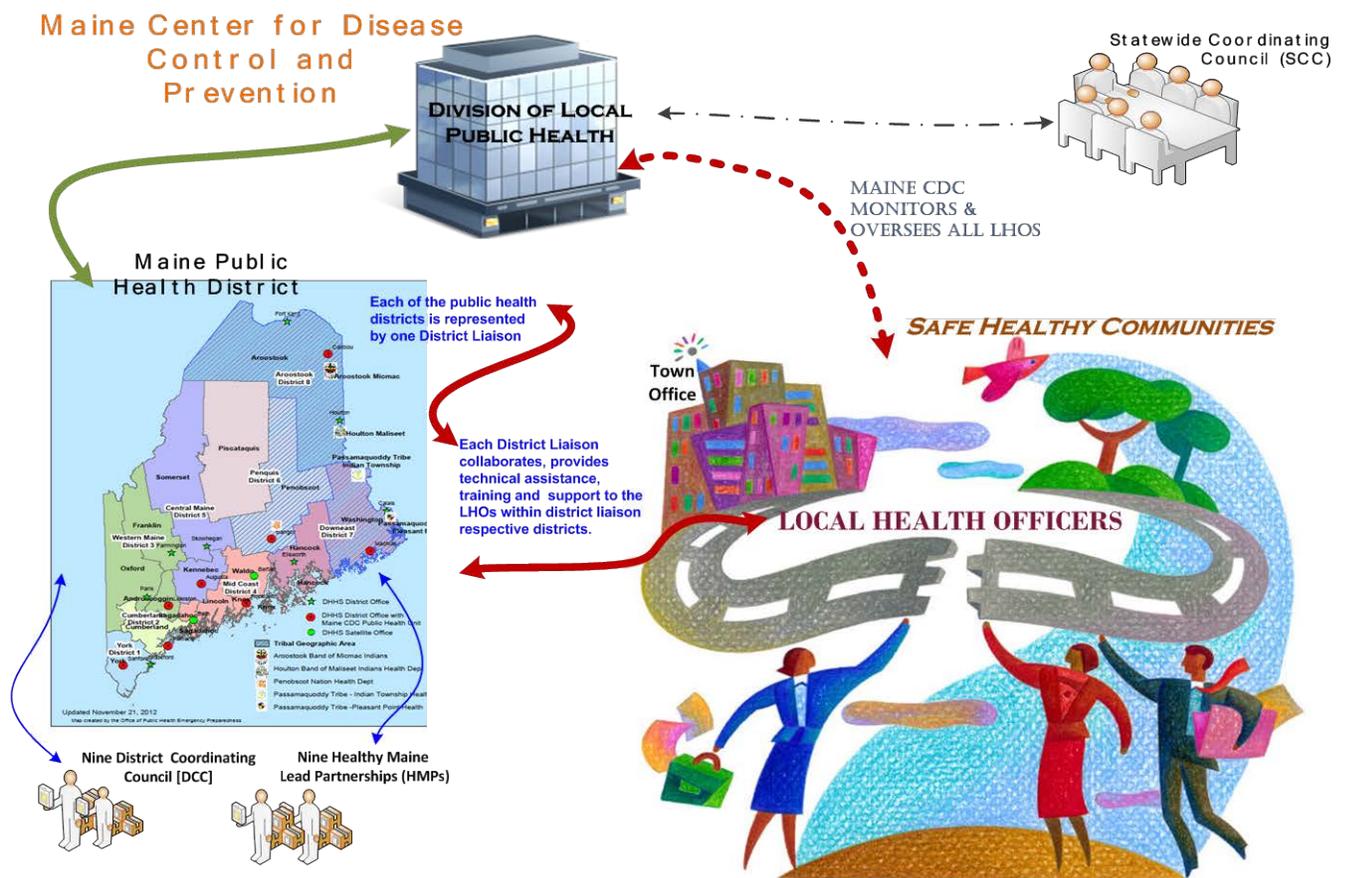
one DHHS regional office of each District. The Public Health Districts are: Aroostook District 8; Central District 5; Cumberland District 2; Downeast District 7; Mid-Coast District 4; Penquis District 6; Western District 3; and York District 1.

Similarly, in collaboration with Maine Tribes, a Tribal Health District was established with its boundaries determined by the Tribal Health Center service areas and staffed by a Tribal District Health Liaison. The Tribes have their own LHOs to serve Tribal members on reservation homelands; however, they are also available to serve Tribal members

who reside in municipalities covered in the geographic area served by Tribal Health Centers.

Appendix-1- C- An Act to Amend the Laws Regarding Public Health Infrastructure.

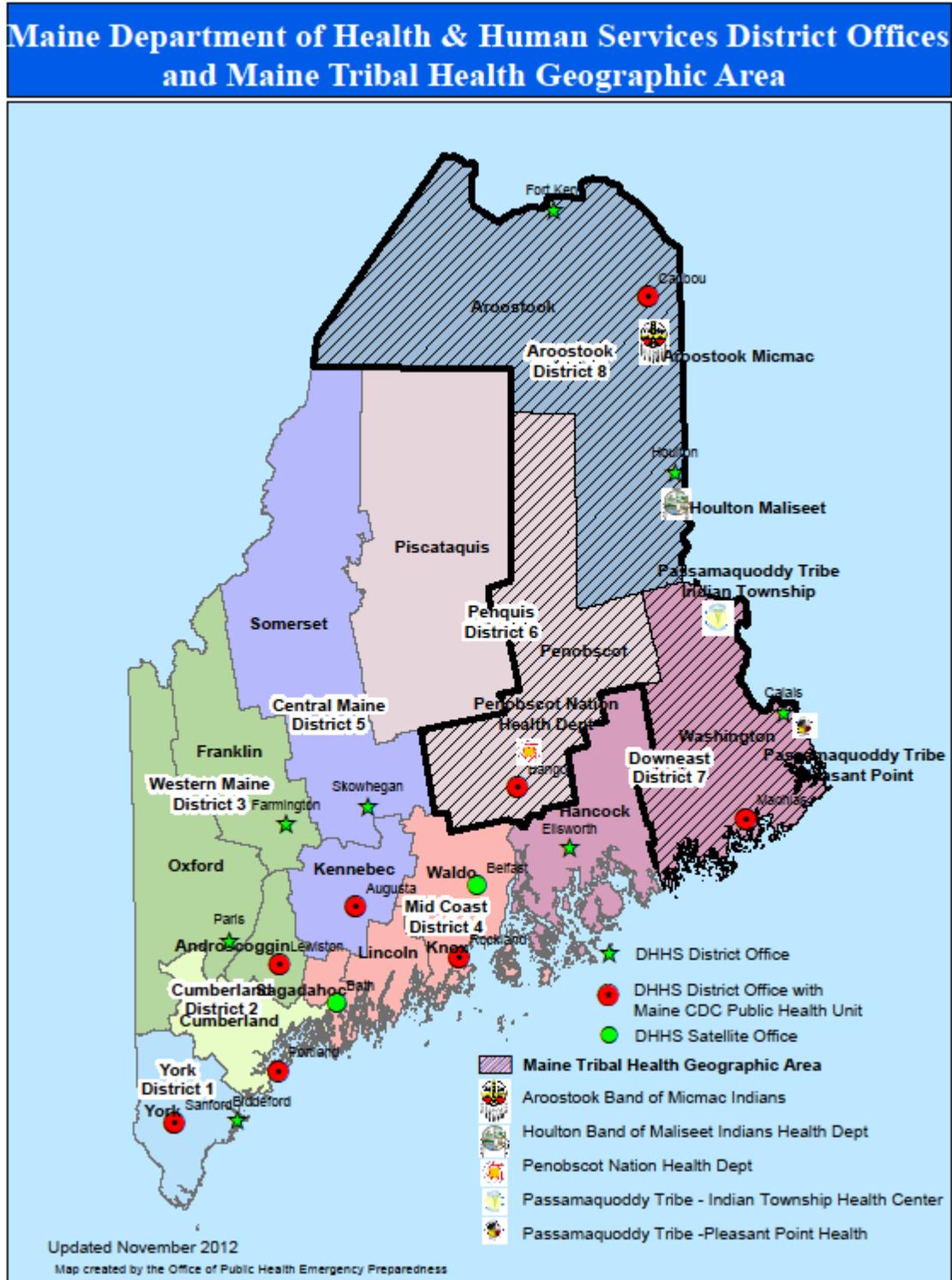
Municipal LHOs should seek to work with the Tribal District Liaison if there are issues of concern related to the health risks of town residents who are also enrolled members of a Tribe. Title 22 M.R.S.A. §411, subsection 4 & 5 was amended to legally recognize the Tribal District.



LOCAL PUBLIC HEALTH INFRASTRUCTURE

Developed by J.H.Gopaul, February 2012/
Updated 2/2013/.2v





Section 2**Learning Objectives**

1. You will be able to describe the LHO's overall roles.
 - i. You will understand the differences between mandatory duties and those duties that are authorized but not mandatory.
 - ii. You will learn about the scope of the LHO authority.
 - iii. You will test your knowledge of the LHO roles through short knowledge checks.
2. You will be able to describe how an LHO addresses commonly occurring situations where the nuisance comes with a variety of legal penalties.
 - i. You will understand where the LHO is empowered by the fact this course outlines the procedures to follow in these common situations.
 - ii. You will test your knowledge of mandatory duties through short knowledge checks using brief examples.
3. You will be able to describe nuisances that are more difficult to resolve because they are not explicitly covered by Maine law.
 - i. You will understand strategies to use in these non-explicit situations that include prevention, consultation, and advice.
 - ii. You will review the LHO's role in documenting the facts of cases in an unbiased, organized manner.
 - iii. You will see that communication, interpersonal skills, and troubleshooting skills are important to the LHO success.
 - iv. You will test your knowledge by analyzing simulated situations and apply the best LHO actions.



4. You will be able to describe appropriate actions in terms of enforcing the law.



- i. You will understand how each LHO faces different conditions that require an ability to gather and assess information for appropriate actions.
- ii. You will understand how to get the support of others as you carry out your LHO duties.
- iii. You will test your knowledge to help you consider ways to be a more effective LHO.

5. You will learn about resources and contacts that will enable you to do your job more confidently.

- i. You will be able to effectively find and apply resources.
- ii. You will be able to identify and associate issues with the appropriate contact information to accomplish your work

Section 3 I'm A New LHO

Statutes, Rules and Guidance Documents

Local health officer service has a long and proud history that began in 1885. Your role as an LHO is certainly an important position in protecting the health of Maine's people. [VIDEO](#)



<http://www.maine.gov/dhhs/mecdc/local-public-health/lho/training/New/New-1.html>

In this section we will cover:

- **The Law**
- **How to Read Maine Statutes**
- **State Agency Rules**
- **Guidance Documents**

This section also provides you with many resource materials. You do not have to memorize it as you read. The goal for you is to understand the basics, and establish a system for finding the information.

Section 3 should take approximately 90 minutes to read, process, and work on sample knowledge check.

3.1 The Law

The term “law” relates to a system of rules and guidelines made by a government’s legislators. Maine laws, rules, and guidance documents are tools that the LHO uses in performing his or her job. The key issue in investigating different complaints or problems is identifying which state statute is relevant to resolving a particular problem. Therefore, in resolving the problem, it is important to know how to research and



find the appropriate law or rule. *How Our Laws are made in Maine - Appendix -3-A*

3.2 Maine Law: How to Read Maine Statutes

A **statute** is a formal written law passed by the Maine legislative branch. Statutes provide a general system of law that can be used in the resolution of specific situations.

A statute can prohibit a certain act, direct a certain act, make a statement, or lay down



governmental processes and procedures to help society.

Statutes are assembled by volumes and published in book form as part of a **code**, and are available electronically.

Generally, statutes are organized by subject matter and are referred to as **codified law**. On the other hand, local statutes or "laws" are usually called "ordinances." Regulations, rulings, opinions, executive orders, and proclamations are not statutes.

Typically, a state has several types of codes, such as civil codes (laws related to domestic violence, divorce), criminal codes (murder, theft), welfare code (which contains laws related to public benefits), and many other codes dealing with a wide variety of topics. Statutes and Rules are updated annually, repealed, or allowed to expire.

The **title** of a law ordinarily starts-off with a broad subject heading that gives a concise summary of its contents, such as "An act for the prevention of the abuse of narcotics."

Other statutes are given titles that briefly describe the subject matter, such as the "Americans with Disabilities Act."

The main parts of the Maine statutory provisions consist of these elements:

1. The title number followed by a space and "M.R.S.A." for (Maine Revised Statutes Annotated) Health and Welfare - **Title 22 M.R.S.A.**
2. The section (a piece of the law) number preceded by the section symbol (**§**) and no space. Example- Title 22 M.R.S.A. **§451**
3. The subsection that deals with the issue, for example-Title 22 MRSA **§451(4)**

How to Read a Statute and Diagram of how to read a statute - Appendix – 3-B

An example of a Maine Statute: Title 22 M.R.S.A. refers to Health and Welfare; Title 22-A M.R.S.A. refers to Department of Health and Human Services; Title 30-A M.R.S.A. refers to Municipalities and Counties. If you are given the title and section numbers, you will be able to locate the law.

Important: Statute Titles

- Have no punctuation separating these elements.
- Nothing is italicized or underlined.

This section also provides you with many resource materials. You do not have to memorize it as you read. The goal for you is to understand the basics and establish a system where to find the information.

3.3 State Agency Rules

Rules and guidelines are issued and enforced by government agencies to control



behavior or standards for activities. Regulation is an administrative ruling or directive that either establishes or limits your rights and allocates responsibilities. The Code of Maine Rules (CMR), are arranged by unique numbers that identify the department, departmental unit, and chapter. Rules Governing Qualifications of

Local Health Officers **Maine CDC rules (10-144 CMR Ch. 294) Appendix-3- C**

3.4 Guidance Documents

The term “**guidance document**” does not have a clear legal definition. Guidance documents are not usually enforceable rules or requirements by themselves. Guidance documents are written guidelines/explanations which provide broad advice in following a procedure or process, instead of providing a set of precise requirements or standards. They usually are used to explain the objective or interpretation of a vague or non-specific law or requirement.

An important guidance document is Maine CDC Health Alerts. Health Alerts are informational and are sent to keep LHOs updated on priority public health issues in Maine. This health alert information is emailed or faxed to all LHO. An explanation of the Health Alert Network (HAN) alerts can be found in the introduction section of this manual.

Sample Knowledge Check # 1

Multiple choice

What are the likely job roles an LHO may perform?

- A) Reports community's public health status to municipal government and Maine Center for Disease Control and Prevention
- B) Investigates and enforces public health threats
- C) Testify in court
- D) Mediate and solve public health problems
- E) All of the above

Question 1 of 3

Matching

Indicate which of the following formats refers to a law or a regulation.

A) Title 22 §451 M.R.S.A.	A) <input type="text"/>
B) 10-144 CMR 201	B) <input type="text"/>
C) T 4 section 179	C) <input type="text"/>
D) 01-015 CMR Ch. 1	D) <input type="text"/>

Question 2 of 3

Multiple choice

In the event of incapacity or absence of the local health officer, who shall perform the duties of the health officer?

- A) CEO
- B) Municipal Officer
- C) Plumbing Inspector
- D) Animal Control Officer

Question 3 of 3

Section 4

Appointment and Duties

In this section, we will cover:

Part I

- Appointment of the LHO
- Qualifications and Training of the Local Health Officer
- Statutory Duties
- Examples of Likely Complaints
- Limits of Duties

Part II

- Prepare for the Work Ahead
- Handling Specific Local Health Officer Situations
- Standard Local Health Officer Complaint -Steps to follow
- Diagram of the Local Health Officer Complaint Flow Chart
- Best Practices of the Local Health Officer
- Sample Knowledge Check #2

Section 4 should take approximately 60 minutes to read process and complete a short knowledge check

Section 4 Part I**4.1 Appointment of an LHO**

Your town has appointed you as the local health officer because you possess the qualities necessary to perform the tasks that will arise while you are the LHO. The basis for this appointment is found in **Title 22 M.R.S.A. §451**. [The words town and municipality are used interchangeably.]

Title 22 M.R.S.A. §451-1 authorizes every municipality in the State to employ a local health officer, who must be appointed by that municipality's *municipal officers*. A person may be appointed and employed as the local health officer by more than one municipality.

Within ten days of the appointment, a municipal official or the clerk must complete the written notice of the LHO's appointment, which is to include the LHO's name, address, the date of appointment and starting date of the 3-year term. This letter can be mailed, faxed, or emailed.

The *municipal official* or clerk will notify the department in writing of your appointment. A notification letter is proof of your appointment. Send the appointment letter to:
Maine Center for Disease Control and Prevention, Division of Local Public Health, LHO Coordinator, 286 Water Street, 7th Floor, SHS 11, Augusta, Maine 04333

Recommendation: In the letter of appointment, please provide other alternate means of communications such as cell phones, email addresses, pagers, and fax numbers.

4.2 Qualifications of Local Health Officers

The Rule states that the local health officer must be qualified by education, training, and experience in the field of public health or a combination as determined by standards established by these rules. 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 six months after appointment. However, a person can be appointed and serve as a local health officer *if granted a waiver* under Section 7, by the Department.

Rules Governing Qualifications of Local Health Officers - [Maine CDC Rules \(10-144 CMR Ch. 294\)](#)

4.2.1 Training & Training Attendance

The Maine CDC will provide the required six-hour training at no cost to the town or the current or proposed LHO. LHOs must complete at least one six-hour training every three years to meet the required LHO qualifications.

Definitions:

Municipal official: is defined as any elected or appointed member of a municipal government. [Title 30-A §2001(11)]

Municipal officers: is defined as (A) the selectmen or councilors of a town; or (B) the mayor and aldermen or councilors of a city. [Title 30-A §2001(10) (a) & (b)]

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. [22 MRSA §451(4)]

4.3 Statutory Duties

Your duties may be termed mandatory or implied. Therefore, it is important for you to know what you are legally required to do, and what actions are not authorized. The LHO's duties are outlined in Title 22 M.R.S.A. §454-A. The LHO has four primary functions:

- Overall health resource to the community
- Mediator-problem solver
- Investigator-Enforcer
- Report to:
 - Board of Selectman/City Council Board of Selectman/City Council on community's public health status;
 - Maine CDC/DHHS on any perceived local public health threats.



Duties Defined: *(two categories)*

1. **Mandatory duties** involve a legal duty to conduct or perform a specific task (i.e. you are obligated to act). Another legal term used is "shall" or "must," which means you have to perform certain tasks. Implied duties often support the mandatory duties, but in some cases, they may not be related.
2. **Implied duties or "authorized duties"** means you may, or are permitted to, carry out a particular act. Implied duties improve the quality of life and help keep the community functioning at the best possible level. In most cases, these duties depend on individual initiative. They improve the situation and motivate LHOs to carry out a duty because they want to, not because they are required to do so.

Statutory Duties

Title 22 M.R.S.A. §454-A lists the specific (statutory) duties the LHO is required to assume.

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;
- 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 CDC; 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 brown tail 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.

4.3.1 Reporting

Maine law requires all local health care providers/personnel, including LHOs, to report



diseases, conditions, or public health threats believed to be of public health importance. In accordance with [Title 22 M.R.S.A. §801-825](#)

Maine CDC rules and procedures to provide a uniform system of reporting, recording, and collecting information concerning

notifiable diseases and conditions.

NOTE: Excerpt: 2-A-7. Health Officers: Local Health Officers shall report any pertinent information related to any case, suspect case, carrier, or death from any disease entities or conditions listed in part 2-I and the information specified in part 2-B.
[10-144, Chapter 258: Rules for the Control of Notifiable Conditions](#)

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.*

However, if you have any questions about the reporting of health threats, contact your DHHS [District Public Health Liaison](#) or the Maine CDC, Division of Local Public Health at (207)287-4397.

4.4 Examples of Likely Complaints

In [Title 22 M.R.S.A. §454 A \(H\)](#), especially subsections 1-5, are public health safety laws



you are required to enforce. The wide range of complaints you receive will require solutions ranging from informal to challenging. At the easy or informal level is an ordinance giving the municipality the authority to fix the problem then place a formal lien on the property. On the challenging or difficult level

is an uncompromising property owner who will not act on (or fix) a problem. In a situation such as this, your last resort is for the town to file a claim/complaint in court against the owner. Going to court is the least desirable action to resolve a problem, simply because this process requires the use of a town's resources, which includes money and time. On other occasions, you may come across a problem that may have no legal solution.



The following are **examples of complaints** an LHO may be asked to address:

- **Protect occupants in a “dangerous building:”**
 This is covered in Title 17 M.R.S.A. §2851 - Dangerous buildings. The statute authorizes the town to obtain a court order to require either abatement or demolition of the property.
<http://www.mainelegislature.org/legis/statutes/17/title17sec2851.html>

- **Public health threat:** Inspect and examine any place or premises where filth or a public health threat may exist. This is covered under Title 22 M.R.S.A. §461 - Notice to owner to clean premises; expenses on refusal. The law authorizes the LHO to have the premises 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 M.R.S.A. §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.

- **Removal of dead animals:** (domesticated - such as cow, horse, fox, rat, etc., includes fowl). This is covered under Title 22 M.R.S.A. §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 face 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 M.R.S.A. §1313-A is the associated law. <http://janus.state.me.us/legis/statutes/22/title22sec1562.pdf> (new window)

- **Unlawful dumping:** This is covered under Title 30-A M.R.S.A. §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> (new window)

- **Malfunctioning sewage system:** This is covered by Title 30-A M.R.S.A. §3428 - Malfunctioning domestic wastewater disposal units; abatement of nuisance. Municipal Officials (generally the Local Plumbing Inspector with the assistance of the LHO) can either issue an abatement order or apply for a court order to require the owner to reimburse the town for repairs to the system. <http://janus.state.me.us/legis/statutes/30-A/title30-Asec3428.pdf> (new window)



- **Landlord tenant issues:** These issues are covered by Title 14 M.R.S.A. §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 the dangerous building.

<http://janus.state.me.us/legis/statutes/14/title14sec6021.html> (new window)

As you can tell from these examples, the LHO investigates all types of complaints and may enforce, as appropriate, his or her town's ordinances or state law. However, when exercising this authority the LHO/town must follow the "due process" procedures and notice requirements.

Due process means the government must act fairly and in accord with established rules using fair procedures. The 5th Amendment of the U.S. Constitution says that the government must use fair procedures. Fair procedures however, mean little if used to administer unfair laws. The states have the power to protect and promote the public health, safety, morals, and general well-being of all people. This power is called the **police power**, and the states may not use their police power to violate a person's due process rights.

4.5 Limits to Duties under Title 22 M.R.S.A. §454-A

Under Title 22 M.R.S.A. §454-A, the LHO is "**authorized**" or permitted to carry out a particular task, or take action to fix a problem. Title 22 M.R.S.A. §454-A sets the limits of your authority, and the extent of your authority to act in resolving public health threats and nuisances. The actual language states that your authority extends to complaints, nuisances, and threats that can result in any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

Other municipal officials, such as, animal control officers, local plumbing inspectors, and code enforcement officers have responsibilities and duties similar to yours. You may oftentimes call one of these three positions to assist you. When you receive a complaint, the general duties of an LHO imply you are responsible for assessing the situation and taking appropriate steps to correct the problem. However, you are not necessarily responsible for determining the remedy on your own.

The LHO considering action must ask the question based on law: ***Is this a situation “that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease”?***

In Section 4 Part I we covered:

- Appointment & Qualifications of the LHO
- Qualifications and Training
- Statutory Duties
- Examples of Likely Complaints
- Limits of Duties

Section 4 Part II

In this section we will cover:

- Prepare for the Work Ahead
- Handling Specific Local Health Officer Situations
- Standard Local Health Officer Complaint - Steps to follow
- Diagram of the Local Health Officer Complaint Flow Chart
- Best Practices
- Sample Knowledge Check #2



4.6 Prepare for the Work Ahead

As an LHO, you act as a mediator, a problem solver, an enforcer, an investigator and a reporter. For this reason, you will receive calls from people who have no idea who to ask for assistance regarding public health matters. 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 is beneficial that the community knows you as the LHO. A notice in the local paper, or the “Know Your LHO” poster help get the word out – as do introductions at annual municipal meetings or at city council meetings. *“Know your LHO” poster – Appendix – 4F*

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 aid you along these lines, there is a resource chart on the next page showing who might assist with a specific problem. There is also a decision-making flow chart to help guide you through the process – it is a two-page document coming right after the resource chart.



You cannot be all things to all people – but you can provide assistance and refer problems if you cannot resolve them personally.

4.7 Handling Specific LHO Situations

All complaints can be resolved by following the logical steps outlined in the Standard LHO Complaint Flow Chart. The suggested timeframes are only examples. In very serious situations, the town may decide to go to court immediately and seek an *injunction*. In less serious situations, you may give the alleged offender five days to give you a rough plan of how he/she might correct the problem, with a 30- day follow up after that. The length of time you may ask for corrective action varies and relates directly to how complex and how urgent the matter is. *Standard Local health Officer Complaint Flow Chart Diagram - Appendix-4-G*

Abbreviations (used in the chart below) :

- **LPI:** Local Plumbing Inspector
- **CEO:** Code Enforcement Officer
- **ACO:** Animal Control Officer
- **IFW:** Department of Inland Fisheries and Wildlife Professional
- **PR:** Professional resource
- **MHB:** Manufacturing Housing Board
- **DHHS:** Department of Health and Human Services Personnel

Chart: Handling Specific LHO Situations

Abbreviations:

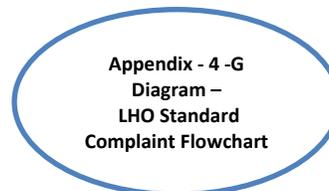
- **LPI/CEO:** Local Plumbing Inspector or Code Enforcement Officer
- **ACO:** Animal Control Officer
- **IFW:** Department of Inland Fisheries and Wildlife Professional Resource:
- **PR** Third party contractor
- **MHB** Manufacturing Housing Board
- **DHHS:** Department of Health and Human Services personnel

Problem	Title & Section Reference	LHO	LPI or CEO	A C O	IFW	P R	M H B	D H H S
Landlord tenant issues - implied warranty and covenant of habitability	T14 §6021	Lead	Assist					
Environmental Lead hazards	T22 Ch252	Assist						Lead
Dangerous buildings	T17 §2851	Assist	Lead					
Unclean premises	T22 §1561	Lead	Assist					
Removal of private nuisances that could be injurious to health	T 22 § 461	Lead	Assist					
Removal of private nuisances	T22 §1561	Lead	Assist					
Removal of dead animal	T22 §1562	Assist	Assist	Lead	Assist			
Reporting adult abuse	T22 §3477	Assist						Lead
Reporting child abuse	T22 §4011	Assist						Lead
Bathing beaches	T 22 § 461	Lead	Assist					
Malfunctioning sewage disposal systems	T30-A §3428	Assist	Lead					
Automobile junkyards	T30-A §3751	Assist	Lead					
Cemeteries	T13 §1343	Lead	Assist					
Mobile home parks and Manufactured Housing Communities	T10 §9003	Assist				Lead	Lead	

This table is meant for general guidance. Please check with your town attorney for specific guidance

Steps to Follow When Processing Reported Complaints and Situations

- 1. Document**
- 2. Verify**
- 3. Meet**
- 4. Follow Up**
- 5. Get Support**
- 6. Check Status**
- 7. Second Request to Resolve the Problem**
- 8. Town decides on next plan of action**



STEPS TO FOLLOW WHEN PROCESSING REPORTED COMPLAINTS AND SITUATIONS

1. Document - Take notes of the call in a notebook that the town keeps for complaints. Often times you can return to these notes and save time. If the complaint is about a third party, make sure you obtain all contact information, including the name of the landlord, eating place, etc. Give the caller a date and time you anticipate following up by making an on-site visit. In many situations, you can ask the caller to obtain further information. For example, maybe the landlord, neighbor, or whomever the complaint is about has not been contacted. This is an important first step.

2. Verify - Visit the property of complaint to confirm the complaint. It is best to have someone accompany the LHO, someone who may also have a special skill to reinforce those of the LHO. For example, code enforcement officers or the local fire chiefs are good to have onsite, as they are familiar with the National Fire

Protection Association (NFPA) Life Safety Code. Remember to take many photographs to document the situation – the more, the better.

3. Meet - Discuss the problem with the owner or owner's representative. Since you will need to follow-up with a letter, you have to document what is being said during the meeting. Ask probing questions to obtain information or intent that you can restate in the letter. It would be preferable to include the complainant in the meeting. However, that decision is up to the LHO. Tell the owners you will be following up with a letter and will expect him/her to respond within a short time period as to what his/her intentions are.

4. Follow up - Call the owner after five days and ask what they are going to do. Do not accept a vague response as a solution. You must receive sufficient supporting statements from the owner so you have a good idea whether the owner will comply with the request to fix the problem. This is done by asking in-depth questions such as who, what, when, where, and why? Again, take notes of all answers. Tell the owner you will expect action within 30 days or less, depending upon the severity of the situation.

5. Support - Communicate with the town officials on the problem, the owner's response, and the actions needed to fix the problem. You must make sure you have the 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 take further action.

6. Check Status - At the appointed time, contact the owner and determine the status of his or her corrective action. If you return to the site to inspect the

repairs, you should typically plan on someone (CEO, LPI, etc.) being at the site with you to confirm the conversations during the meeting, and to make observations regarding the problem. Make sure that the owner understands that the town will proceed with legal action if the problem is not satisfactorily resolved.

7. Second Request to Resolve the Problem – If, after the owner has had the opportunity to fix the problem, and on your second visit to the site, the problem has not been resolved in the approved and agreed way, it may be time to establish a Second Request to Resolve the Problem action. Prepare a letter to the owner stating that because the repairs were not completed within the time you both agreed on, you will have to take further action. This action may involve putting a lien on the property, going to court, or committing the town to cleaning up the area and billing the owner. This may include all three actions.

8. Town's Decision: If all else fails, the town would have to consider alternative course of action. Prepare to go to District court to enforce the statute or ordinance – only if authorized by the Town Council. If there is nothing that you can do based on current law or ordinances, suggest to the complainant that he or she could consult a private attorney.

Use the State as a Resource

If the State has a specific program that deals with the problem, contact the State. Examples of relevant State programs include drinking water, restaurant inspection, emergency response, and school health. Should the services of Maine CDC's on-call Epidemiologist be needed, you can call: 1 - 800 - 821 – 5821, 24 hours a day. If you are unable to locate the resource you need, contact the Division of Local Public at (207) 287-4397. The LHO website resources list can be found at-

<http://www.maine.gov/dhhs/mecdc/local-public-health/lho/resources.shtml> (new window)

4.9 LHO Consultation Best Practices**LHO Consultation Best Practices****I. Fact-Finding**

1. Emphasis is placed on gathering facts; not to place blame, or determine the cause of the problem
2. Inspect the problem site to verify the complaint, if warranted
3. Take notes as you speak with the complainant or the property owner
4. Take photographs of the problem.
5. Interview the complainant and the property owner as soon as possible. Record (take notes) on the condition of the affected area(s). Document the location of injured employee, witnesses, machinery, equipment, energy sources, and hazardous materials.
6. Ask *who, what, when, where, why, and how* during investigations.
7. Remain completely objective during interviews and in documentation – no opinions, just the facts.
8. Keep complete and accurate notes.

II. Interviews

1. Verify the statements made by the complainant.
2. Introduce yourself and whoever accompanies you to the site. Explain the purpose of the investigation and put each witness at ease.
3. Let each the complainant speak freely and take notes without distracting the person.
4. Record the exact words used by the complainant (caller) to describe each observation/problem.
5. Take the same steps (1-4) when speaking with the property owner.
6. Verify contact information for both parties. (page 1of 2)

LHO Consultation Best Practices (cont'd)**III. Investigation Reporting**

1. Provide complete, thorough information about the problem (*who, what, where, when, why, and how it will be resolved*).
2. Describe the Problem/issue. Document all conversations. Identify the extent of the problem.
3. Provide short-term and long-term corrective actions that prevent or eliminate the identified hazardous/problematic conditions.
4. Describe the corrective actions recommended, the persons who are accountable for each corrective action, and the approximate time frame for correction.

V. Corrective Actions

1. Recommend immediate corrective actions to eliminate or reduce hazardous conditions.
2. Request the property owner develop an action plan for corrective action
3. Estimate the time to implement the corrective action.
4. Monitor implementation of the action plan to ensure appropriate corrective action is taken. (page 2 of 2)

Sample Knowledge Check # 2

True/False

A LHO is required, by law, to inspect and investigate all complaints brought to his or her attention.

A) True
 B) False

Question 1 of 4

True/False

In rental housing, tenants are protected under an implied warranty” and a “covenant of habitability.”

A) True
 B) False

Question 2 of 4

Matching - Choose the right answer for each

Who would you collaborate with in the public health situations related to the following?

A) Reporting child abuse A)

B) Bathing beaches B)

C) Mobile home parks C)

D) Dangerous buildings D)

Question 3 of 4

True/False

The Department of Inland Fish and Wildlife deals with undomesticated animals suspected of having rabies unless the animal is a wolf hybrid.

A) True

B) False

Question 4 of 4

I Am a New LHO

In Section 4 Part I & II, we covered:

Part I

- Appointment & Qualifications of the LHO
- Qualifications and Training
- Statutory Duties
- Examples of Likely Complaints
- Limits of Duties

Part II

- Prepare for the Work Ahead
- Handling Specific Local Health Officer Situations
- Standard Local Health Officer Complaint [Steps to follow in processing complains]
- Diagram of the Local Health Officer Complaint Flow Chart
- What Highly Successful Local Health Officers Do
- Consultation Best Practices doe the Local Health Officer
- Sample Knowledge Check #2

You can review the frequently asked questions from this section.

If you have reached a level of comfort with the material presented so far then you are ready to move on to the next section.

Section 5**Solving the Problem****5.1 How Do I Solve The Problem?**

We designed this training with the understanding that each LHO faces a unique set of challenges and opportunities. – And that Maine’s LHOs are a diverse audience in more ways than the size of your towns.

VIDEO

<http://www.maine.gov/dhhs/mecdc/local-public-ealth/lho/training/Problem/Problem-1.html>

In this section, we will cover:

- **How do I solve the mold problem**
- **How to Use the LHO Complaint Flowchart**
- **Verify the complaint, if necessary, take appropriate action**
- **Follow up and follow through**



This section walks you through the steps associated with resolving a complaint using the LHO Complaint Flowchart. Many state statutes provide legal remedies that can be used when solving a problem, without having to go to court.

Section 5 should take approximately 90 minutes to read, process, and complete one short knowledge check.

How do I Solve the Mold Problem?

Although perseverance is one factor in resolving the problem, you also have to understand the problem, listen carefully to the statements made, show your professionalism when dealing with the parties, and be fair in your dealings to encourage cooperation between the parties. We will touch on how to obtain the appropriate information, how to verify the complainant's statement, and how to get good advice for solving the complaint problem. In this section you will have to refer to the *Standard LHO Complaint Flow Chart*



Important: A tool that will assist in assessing the presence of mold in residential buildings. We suggest, when investigating a mold site, that you use the [Mold Assessment Form](#) (Word) (when investigating mold site). This form was adapted from the National Institute for Occupational Safety and Health (NIOSH).

5.2 Mold?

There are many types of mold in many colors, but none of them will grow without water or moisture. There are two types of moisture problems—(1) leaks; and (2) condensation. The source of the moisture may not be as simple as a leaking pipe. Although, molds are not usually a problem indoors, unless mold spores land on a wet or damp spot and begin growing. It is common to receive several mold complaints from Maine residents. The majority of the mold growth in a home is due to poor ventilation.



5.3 Using the LHO Complaint Chart to Solve the Mold Problem

It is the responsibility of all LHOs to handle complaints received from constituents. As previously stated, the LHO will deal with many problems that may not fit within a set of predetermined solutions. Nonetheless, to successively accomplish your duties and responsibilities, it is essential that you approach each challenge confidently and positively.

*Professional investigations
bring professional results*

5.4 Prepare before you Act

Solving the Mold Problem at the Old Turner Place

1. Write down, in your notebook, all the relevant information from the complainant. It is important to maintain records for future reference and in case you need the

PREPARE BEFORE YOU ACT...



information for legal reasons. Once the person making the complaint furnishes the information and you have asked appropriate follow-up questions, end your interview and verify you have all necessary contact information. For example you would ask for the caller's name, address and telephone number, if you plan to make a site visit.

2. Stay professional: since complaints may be due to disputes or misunderstandings, do not choose sides or give the appearance of choosing sides.
3. Do not promise anything to anyone.

Always be prepared when investigating a problem. Do your homework!

The **next step** is to review the LHO manual and relevant Maine statutes that specifically apply to the resolution of the mold problem.

- Determine whether the Maine statutes provide a procedure, penalty, or other remedy.
- Contact your town’s building inspector (Code Enforcement Officer) to discuss the complaint and your intention to visit the property to verify the complaint.
- Ask the CEO to accompany you when you visit the property. The reasons: The CEO can provide technical advice, evaluate the situation and can verify what was said during the interviews.
- Next, contact the residence and set up an appointment.

Title [17 M.R.S.A. §2853](#), authorizes the municipality to order a nuisance abated. This municipality’s order should be signed by the LHO and the Select Board/City Manager. If no appeal is filed by the person creating the nuisance, municipal officers can have the nuisance abated or removed. The owner may have to repay the municipality costs or the municipality can assess a special tax.

In this case of mold, you can also reference other informational material or your contact resources. One such reference is the US Environmental Protection Agency’s web site <http://www.epa.gov/mold/moldcourse/>.

Speak with the owner about resolving the problem

5.5 Verify the complaint, if necessary, take action

Mold Problem at Turner House

As you continue with the mold investigation, visit the complainant’s residence to verify that there is a mold problem and to interview the complainant. Take as many pictures



as needed to document the situation. Include the town’s CEO in your visits and discussions with the landlord and tenant. Even though rentals are private property, tenants have the right to permit a third party to enter their own apartment

over the owner's objection.

Introduce yourself and the CEO to the owner, explain that you received a complaint about mold growth in the apartment, and that you have examined and taken pictures of the affected area. Discuss the complaint with the property owner. Discuss the mold situation and why you believe that the mold growth is due to excessive presence of moisture. If the owner begins to understand the problem and has proposed a solution, ask the owner to put, in writing, his proposed solution and how he intends to resolve the problem as well as how much time he would need to complete the job. If the tenant is willing to tell the owner about the mold problem, you do not need to identify the complainant. However, if the tenant is reluctant to speak with the owner, but wants to remain anonymous, you should not disclose any information about the complainant, even though the owner may insist. Explain that *the rules of confidentiality* prevent you from sharing or disclosing the complainant's personal information.

**MOLD GROWTH
ON BREAD**



Confidentiality has long been held as critical to gaining trust between parties. A key principle of ethically maintaining information must not be disclosed to the complainant, but rather only to interests, which means the LHO is prohibited from disclosing the information.



confidentiality is that the to the detriment of the advance the complainant's

Recap: (i) **Continue to take notes** so you can document the conversation in a follow-up letter.

(ii) **Tactfully inform** the owner that you are relying on the Maine statutes – specifically, the “implied warranty” law and the “covenant of habitability” law - that deal with this type of situation.

NOTE: Refer to these statutes:

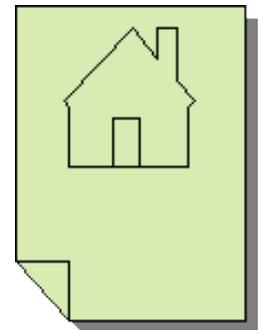
Title 14 §6021: IMPLIED WARRANTY AND COVENANT OF HABITABILITY,

[<http://www.mainelegislature.org/legis/statutes/14/title14sec6021.pdf>];

Title 17, §2851: Dangerous buildings

[<http://www.mainelegislature.org/legis/statutes/17/title17sec2851.html>]

- (iii) If the **owner refuses to abate** the problem within the agreed timeline, you are required to inform the town officials of the refusal to remedy the situation. At that time the town officials would decide what course of action is appropriate, which may include remedying the problem at the owner's expense.
- (iv) Inquire from the **owner what his/her plans** are, and that you will expect a written answer within three working days. Most likely the severity of the situation will dictate the length of time need to accomplish the tasks.
- (v) Explain that if the owner **fails to correct** the situation, you will have no option but to immediately inform the town officials that the landlord is refusing to resolve the problem, and that the town may have to abate the problem at his/her expense.



5.6 Implied Warranty and Covenant of Habitability

The “**implied warranty of habitability**” is a legal principle that requires landlords to maintain livable apartment/premises for their tenants and will make the repairs necessary to keep the apartment in that condition. This promise exists because the courts have ruled that all landlords have made that implied promise to their tenants.

The Maine Consumer Law Guide § 14. 5A. **Tenants Have a Right to a Livable Apartment.**

“Warranty of Habitability” – The law states, in part: *[By] law, all landlords in the State of Maine promise that all rented dwelling units are fit for human habitation—that is, the dwelling is reasonably safe and decent places to live.*

This means that your landlord must promise that your home is safe and fit to live in. Therefore, the landlords have to keep the tenant's home safe and in decent condition. This law gives tenants an "implied warranty of habitability."

So what does it mean to say that your landlord is expected to fulfill an ***implied warranty of habitability***?



This means that the property owner **must**:

- Keep basic structural elements of the building, including floors, stairs, walls, and roofs, safe and intact
- Maintain all common areas, such as hallways and stairways, in a safe and clean condition
- Keep electrical, plumbing, sanitary, heating, ventilating, and air-conditioning systems and elevators operating safely
- Supply cold and hot water and heat in reasonable amounts at reasonable times
- Provide trash receptacles and arrange for trash pick-up
- Manage known environmental toxins such as lead paint dust and asbestos so that they don't pose a significant danger
- In most states, provide rental property that is reasonably safe from the threat of foreseeable criminal intrusions, and
- Exterminate infestations of rodents and other vermin. In virtually every state, these rights are yours, no matter what the landlord has asked you to sign or agree to. (In narrow situations, landlords and tenants in Maine can agree that certain habitability requirements will be the responsibility of the tenant.) In other words, the landlord cannot shrug off these responsibilities in a "disclaimer" when the tenancy begins. And the landlord cannot effectively ask you to waive your right to them. (Any so-called waiver will not be upheld by a court.)

5.7 More to the Picture Than Meets the Eye

Mold is a good example of a unique situation requiring a case-specific solution.



Since mold always involves excess moisture, the solution to correcting a mold problem, is simply to **remove the source of moisture** in the home. Without removing the moisture's source, mold will return even if you remove it completely. In other words, you must determine the cause

It is best to identify the source of moisture that allowed the mold to grow in that location. Inform the landlord that the source of the moisture must be repaired first, or the mold growth will reappear. Generally, if mold is present, and depending on the size of the affected area, the landlord should clean the area as soon as possible.

Investigate the situation thoroughly without finding fault. Speak with the tenant and then the owner to determine where the moisture is coming from. The problem can



originate from sudden water releases, like a burst pipe or large spill that goes untreated, or from a chronic condition, such as a leaking roof or plumbing.

If you determine that the owner or landlord is on the property, be prepared to visit that individual as a common courtesy. The owner in these situations should not be made to feel blindsided about the problem. They may say something like: "If the tenant had a problem why didn't she just call me...."

Recognize that owners of rental properties may have to deal with many stresses. Do not assume they do not care or are uncooperative - it is usually the opposite.

It is not always necessary to hire a professional to cleanup mold growth from a home. In fact, some mold simply requires a little household mold removal- using liquid dish detergent and water - to get the home back to being healthy once again.

5.8 The First Follow-up and follow through

- a) When you return to your office, discuss the situation with the CEO, or other individual with knowledge or expertise in this area.
- b) When you get back to your office, prepare a letter about what was said at the meeting and mail or hand delivered the letter to the owner.
- c) This letter to the owner must be signed by the Chair of Selectpersons/Town or City Manager and you. This will let the owner know that the town has an interest in resolving the issues.
- d) Periodically give the Chair of Selectpersons or Town Manager an update on how situation is progressing.

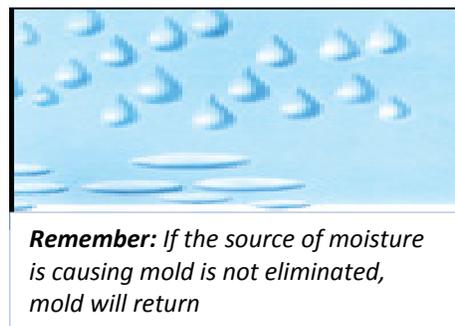
No Response from the Owner - Follow-Up and Follow-Through

If you have not received a call or a letter from the owner since your last conversation five days ago and you do not know what the owner intends to do to resolve the issue, it is time you follow-up with the owner. Visit the property with someone to confirm what happens. Locate the tenant and speak to him/her to find out if he/she is aware of what might be happening.

If the problem has not been resolved and the tenant knows nothing, find the owner and ask what his/her plans are.

Talking Points:

- 1) Tell the owner you had expected a phone call about what he/she is going to do.
- 2) It is now time to find out, as specifically as possible, what the owner plans to do.



- 3) Remind the landlord of the authority the law gives the town and that you are prepared to use that authority.
- 4) Inform the owner that you will be delivering a letter to him regarding an extension of seven days in which to correct the problem. In the event that the owner refuses to correct the problem, the town officials may decide to correct the problem at the owner's expense. Or the town may not pursue the matter because of the town's budget limitations.
- 5) Emphasize that the mold cleanup and repairs must be done correctly. If it is not done properly the mold will recur, which will again be the owner's responsibility.
- 6) Depending on the facts surrounding the mold problem, both the landlord and the tenant may have to share the expense of making the repairs. [For instance, if the tenant actually caused the problem, the owner may not be responsible for the entire repair tenant.]

Mold cleanup and removal can be simple - accomplished by washing easily cleanable surfaces and removing un-cleanable material like rough wood surfaces. On the other hand, the area of the mold may be imbedded in the walls and floor boards requiring the employment of a professional contractor.

If after this second request to abate, the landlord has neither completed the work, or he now refuses to abate the mold problem, you are required to inform the landlord that you will inform the town council as to the status of the situation. If, the town council decides to intervene in the mold abatement, the owner will have to reimburse the town for all monies it spent.

The more you understand a problem, the better you are able to identify the solution.

5.9 The Final Visit

It is clear the owner is unwilling to take corrective action. The municipality council may decide whether it wants to take the matter to District Court. Who is authorized, to represent the town in District Court? Does the town hire an attorney to represent the town in this court matter?



Maine law states that if there is an appeal to any order –to abate the mold - or there are excessive delays to any orders given, an authorized municipality official can ask the District Court Judge to require the owner to act, or correct the situation.

In all court cases the principles of “due process” requires the municipality and the court to protect citizens from actions taken by state government, counties, towns, and cities. This means that the parties are to follow and administer the due process standards for fair treatment of citizens. Therefore, do not expect the court to simply agree with the municipality’s version of the facts. The court may request that the parties settle the matter through negotiations and ultimately to work out a reasonable solution and agreement to the problem.

Although an attorney is not required to represent the municipality in District Court,



Maine Rules of Civil Procedure requires non-attorneys to have completed the **Rule 80K Certification** program before representing the municipality in District Court. If the code enforcement or local health officers have been trained and certified under the requirements of Rule 80K, either one may represent the municipality in court, without an attorney. Prior to starting an action in District Court, obtain a properly executed document from the selectperson or council, which authorizes you to act on behalf of the municipality, if you are certified under Rule 80K.

In addition, make sure you have the facts, and an understanding of the relevant law. You can review the Dangerous Building and Implied Warranty and Covenant of Habitability laws by using the links under Additional Materials to the right.

If you have exhausted all the possible steps in resolving this situation, it is the end of the road. However, if a land use violation creates a danger, a health risk to its citizens or the property owner is a repeat offender the municipality may decide as a matter of principle, to take the case to the Superior Court. The town's attorney will have to represent the municipality in this case.

5.9.1 Customer Service Best Practices

EQ NOT IQ: BETTER CUSTOMER SERVICE THROUGH EMOTIONAL INTELLIGENCE



Strategies for Difficult Customers

- ❖ Listen
- ❖ Empathize
- ❖ Respond professionally
- ❖ Recognize underlying factors
- ❖ Ask Questions
- ❖ Give Feedback
- ❖ Summarize

Strategies for saying "No"

- ❖ Explain why it cannot be done
- ❖ Do not quote policy
- ❖ Do not be patronizing
- ❖ Offer alternatives when you can
- ❖ Avoid making excuses
- ❖ Eliminate negative phrases
- ❖ Do not mention other or similar complaints

Sometimes you have to say "no,"but if you do it right, you can still get a "thank you" for your service

Limited English Speakers

- ❖ Be patient and concentrate
- ❖ Speak in a normal tone of voice
- ❖ Speak Slowly and distinctly
- ❖ Avoid using slang or industry jargon
- ❖ Be extra courteous
- ❖ Repeat what has been said
- ❖ Have customer say what he/she will do

Argumentative Customers

- ❖ Speak softly
- ❖ Ask for their opinion
- ❖ Take a break, do not get drawn in

Verbally Abusive Customer

- ❖ Remain Calm
- ❖ Let the caller know the consequences, calmly and objectively

To read more: [The Emotional Competence Framework](#)

[Emotional Intelligence \(EQ\) - Five Key Skills for Raising Emotional Intelligence](#)

In this section, we covered:

How to Use the LHO Complaint Flowchart

1. **Prepare before you act**
2. **Verify the complaint; if necessary, take action**
3. **Follow up and follow through**



If you have reached a level of comfort with the material presented so far then you are ready to move on to the next section.

5.10 Sample KNOWLEDGE CHECK #3**Solving the Problem**

Multiple choice

Mold is becoming very common in homes due to inadequate ventilation. What is the most important thing required in order for mold to exist?

- A) Moisture
- B) Warmth
- C) Cellulose
- D) Food Source

Question 1 of 4

Multiple choice

What is the most important thing to do when working with the owner and a nuisance?

- A) Increase your Emotional Quotient
- B) Use due process and remain fair and objective
- C) If you know you are right, stand your ground
- D) Make sure the County Sheriff is standing by

Question 2 of 4

True/False

Rule 80K is a Rule of Court that allows the Code Enforcement Officer to represent the municipality in court without an attorney.

A) True

B) False

Question 3 of 4

True/False

Due process is designed to safeguard the legal rights of the individual.

A) True

B) False

Question 4 of 4

Section 6**You Make the Call****6.1 Resolution of Complaints Beyond Municipality Control**

It became clear that Maine needed a more coordinated local public health infrastructure. All local health officers work within one of eight districts – and in each of these districts there are great opportunities to network and learn from others. **VIDEO** <http://www.maine.gov/mecdc/local-public-health/lho/training/Call/Call-2.html>

In this section, we will cover:

- How to Handle Complaints Where Resolution Is Likely to be Beyond the Municipality’s Control. We will also look at three case studies.
 - Case Study 1: Noisy cow
 - Case Study 2: Manure pile
 - Case Study 3: Outdoor wood boiler
- Sample Knowledge Check #4

Section 6 should take approximately 60 minutes to read, process, and complete the sample knowledge check.

As stated before, some complaints or issues may have no obvious solution. These case studies require the same hands on LHO involvement as in the clear cut cases covered in Section 4. We will discuss three examples of the kinds of “gray area”, *no obvious solution*, complaints you are likely to receive and how to go about resolving them.

Eventual cooperation is still the hoped for outcome. It is equally important to (a) get the correct information, (b) to verify the complaint, and (c) to get good advice for solving the problem. Use the LHO Complaint Flowchart for it is a good tool to rely on. The steps

in resolving the problem are essentially the same except –that the law may not permit the municipality to take corrective action.



Maine statutes contain laws that do not provide a direct remedy to the problem, but instead provide a legal definition or provide guidance for resolving the problem.

6.2 Case Study #1 - Noisy Cow and Other Animal Concerns

You receive a complaint about a noisy cow. The complaint sounds like a legitimate cause for concern. You prepare by reviewing the appropriate statute and other relevant materials. Most complaints can be addressed by using or combining several statutes.



For example, the landlord-tenant issues, dangerous buildings, polluting, malfunctioning sewage systems, automobile junkyards - are very common, and as a result the Maine legislature created laws to address these issues.

If there is little or nothing that appears to directly deal with animal complaints, what is your plan of action to resolve the matter?

Resolving excessive noise problems often requires either a municipal ordinance, unlikely in most Maine communities, or reaching an agreement between the parties to correct the problem.

Some statutes may provide a starting point and guidance for less common complaints. One such law can be found in [Title 17 M.R.S.A §2802, “Miscellaneous Nuisances.”](#) However, this law does not provide a direct solution, but the language contained in the law may be useful in formulating your plan of action.

Even though the town may decide to seek a remedy through the court, remember that the court will defer to the appropriate language in the law to make a decision. In many cases the court will not have to decide if the matter is “legal” or “authorized”, because the law defines what is considered acceptable. Here is a section of the “miscellaneous nuisances” law:

“**The erection, continuance or use of any building or place** for the exercise of a trade, employment or manufacture that, by noxious exhalations, offensive smells **or other annoyances**, becomes injurious and dangerous to the health, comfort **or property of individuals or of the public**; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome, substance to collect or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority...” Section 2802 (Emphasis added)

As you can tell from the language, this law has been around a long time. In the meantime, other laws have come into play. One such law, Title 17 M.R.S.A. §2805, can trump the older nuisance law.

Title 17 M.R.S.A. §2805 deals with farm and agricultural composting operations and allows their use – “providing there is no local ordinance stating otherwise”. This “right to farm” language means if the Commissioner of the Department of Agriculture determines that “best management practices” (or **BMP**) are being followed, the activity will not be considered a nuisance.

In this specific case, the LHO should contact the animal control officer (ACO) and visit the property to discuss the complaint with the owner. If local zoning permits either farming or the owning of a cow or cows (Note: These are two separate activities), a decision has to be made as to the tending to the cow in terms of BMP. If it is determined

that farming is allowed by ordinance, and if the cow is part of the farm then the “right to farm” law would permit the cow to be there as long as BMP are maintained.

Sometimes, the best course of action/approach would be to discuss the issue with the owner and to work with the owner on a plan of action. It may be a matter of relocating the cow on the property. If the health of the cow is questioned, a veterinarian may be called in to make a determination of disease.



Keep in mind that “due process” is at the forefront of all corrective actions taken by the municipality. The right to due process, found in our Constitution, is the right to be treated fairly by your government. The Constitution protects the individual right to be treated fairly by the state, local or federal government.

6.3 Animal Complaints Other than Farming Situations

All municipalities are required to employ an animal control officer (ACO). In addition, the statute authorizes the ACO to enforce the laws in Title 7, Chapter 725. Below is a list of the areas/issues in which the ACO has authority to enforce the Law.

- | | |
|-------------------------------------|--|
| §3911. Dogs at large | §3947. Animal control officers |
| §3912. Disposition of dogs at large | §3948. Animal control |
| §3916. Rabies vaccinations | §3950-A. Official refusal or neglect of duty |
| §3919. Seizure of stray cats | §3952. Keeping a dangerous dog |
| §3921. License necessary | §4041. Animal trespass |

6.4 Case Study # 2 – Improper Manure Handling

You receive a complaint about a manure pile. How do you plan to approach the problem? Do you have enough information about the complaint? Here is an opportunity to review and follow the steps in the LHO Complaint Flow Chart again and read the appropriate statutes that address this issue. This complaint is no different from other complaints. A plan:

1. Log or record the complainant's name, telephone number, location of the nuisance.
2. Your information reveals that it is a new manure pile in a barnyard close to the complainant property line.
3. The complainant's well is 50 feet away from the pile.
4. The owner of the manure pile is unwilling to work with the neighbor to remedy the situation.



You look through the statute and determine the law addresses manure as well as general nuisance – **Title 17, §2701-B “Action against improper manure handling,** provides relief through court action, and, with the assistance of the Department of Agriculture, Conservation and Forestry, a fine can be levied against the offending landowner up to \$1,000 and a \$250/day assessment. Court actions should be your last recourse in resolving complaints. Court actions are an expense the town may not want to accrue. <http://www.mainelegislature.org/legis/statutes/17/title17sec2701-B.html>

You decide to work with the landowner –farmer - to amicably resolve the matter. Schedule a visit with the owner, logs the meeting/discussion; schedule a follow-up; after the follow-up, prepare a summary letter of your discussions and any promises made by the owner.

What is the solution? – *Simply remove the pile to the side of the barn may solve the problem.*

6.4.1 “Right to Farm”

Clearly, Maine’s “Right to Farm” law, states that a farm, farm operation or agricultural composting operation may not be considered a public or private nuisance under Title 17, chapter 91, if the farm, farm operation or agricultural composting operation alleged to be a nuisance is in compliance with applicable state and federal laws, rules and regulations. (Title 7, Part 1, Chapter 6, Section 153) This right seeks to protect qualifying farmers from nuisance lawsuits filed by individuals who move into a rural area where normal farming operations exist, and who later use nuisance actions to attempt to stop those ongoing operations. As with any law or rule there are always exceptions in the law or rule.



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

The law also refers to “best management practice” or BMP. Best practices would require that a manure pile be located at least 100 feet from a domestic water supply. Your information also reveals that the well location pre-dated the establishment of the manure pile, it would appear reasonable to re-locate the manure pile. Relocating the manure pile would be a prudent and less costly solution. If the owner is unwilling to move the pile, the LHO and the ACO should request a determination from the Department of Agriculture, Food, Conservation and Forestry.

The Maine Agriculture Protection Act -Title 7, Chapter 6, ¶156 – defines complaint resolution and the way that farm complaints are processed.

6.4.2 Farm Issues - Department of Agriculture Complaint Process:

At the end of the complaint process the Department of Agriculture, Food, Conservation and Forestry (Department of Agriculture) will make a **(1) decision or determination** as to its findings, or **(2) a written report** on the use of best practices. The first type of decision is a determination. Department of Agriculture, Food, Conservation and Forestry will provide a written determination as to whether the farmer (the person responsible for dumping the manure) used best management practices when locating the manure pile.

(1) If the Department of Agriculture, Food, Conservation and Forestry find that the person responsible for the manure pile is following best management practices for manure handling, it is unlikely that a court would request removal of the pile. The complainant and the property owner will receive a copy of the Department of Agriculture, Food, Conservation and Forestry determination.

(2) The second type of decision is a written report which states that the person responsible for the manure did not follow best management practices. The Department of Agriculture sends the report to the Department of Environmental Protection and the Maine Attorney General.

The Attorney General can then seek an order which may result in a court order to abate the nuisance. Court costs can be assessed. If the Department of Agriculture, the Department of Environmental Protection, and the Attorney General's office decide to take the matter to court, the municipality has the authority to do so as well.

It is entirely possible that due to excessive legal actions costs, and the time involved in this type of matter, the municipality will not be willing to go to court. Ultimately, the law



favors the complainant and the complainant has the option of pursuing the matter in court.

6.5 Case Study # 3 - Outdoor Wood Boiler

You receive a complaint about a newly installed Outdoor Wood Boiler. This “outside the home heating unit” emits a large amount of smoke. The complainant states he has to close his windows; he cannot use his backyard or sit on his patio when the boiler is

“burning”. **Consult the LHO complaint flow chart, Statutes, and other reference materials.**



The Maine Department of Environmental Protection established regulations for Outdoor Wood Boiler (OWB) under “Control of Emissions from Outdoor Wood Boilers Rule” 6-96 CMR 150.

[Http://www.maine.gov/sos/coc/rules/06/096/096c150.doc](http://www.maine.gov/sos/coc/rules/06/096/096c150.doc) (Word*)

Highlights of the Control of Emissions from Outdoor Wood Boilers Rule

- a. Only the burning of clean wood is permitted.
- b. Horizontal setback distances, particulate emissions requirements, and smoke stack heights are specified.
- c. If an abutting residence is located less than 500 feet from the outdoor wood boiler, the OWB must have an attached stack height 2 feet higher than the peak of the roof of the structure being served by the outdoor wood boiler.
- d. If visible emissions totaling twelve minutes in any hour, cross onto any land or buildings immediately adjacent to a dwelling or commercial building not owned by the owner of the OWB the operation of the OWB is prohibited. (See [Emissions from Outdoor Wood Boilers, 6-96 CMR 150 \(.pdf*\)](#) (new window))

Once you have an understanding of the allowances and rules, visit the owner of the OWB, preferably with the fire chief. You may want to observe the location, and other compliances of the rule. It is important to have the fire chief present, because the fire

chief has the experience and expertise in fire safety and fires. Present the complaint to the owner. Armed with what the rules allow, you and the fire chief should be able to make a decision regarding the validity of the complaint.



6.5.1 Special Outdoor Wood Boiler Considerations

The Maine Department of Environmental Protection (MDEP) understands that some outdoor boilers are causing air quality problems. Some existing boilers are not as efficient as the newer OWB, which are designed to reduce the particulate matter and hydrocarbons in their exhaust.

Emissions from outdoor wood boilers can sometimes cause **air pollution problems** when not sited, installed, or operated properly. New state regulations have addressed these concerns by implementing strategies to reduce emissions along with siting requirements for new OWBs and operational practices for both existing and new outdoor wood boilers. The rule addresses the need for cleaner burning units, establishing emission limits that new outdoor wood boilers must meet beginning in April 2008.

Complainants can also call the Department of Environmental Protection toll free –

Augusta Phone: 1-800 452-1942
Presque Isle Phone: 1-800 769-1053
Bangor Phone: 1-888-769-1137
Portland Phone: 1-888-769-1036.

Persons who have complaints can report them directly to the Department of Environmental Protection on the Internet.

<http://www.maine.gov/dep/air/woodsmoke/woodcombustion.html>

6.6 Last Words

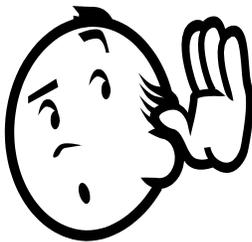
As the LHO, you will receive a variety of complaints. You may have to determine whether a complaint is legitimate before



proceeding. Every complaint is important; treat every case seriously. Consult the professionals in your town (CEO, Selectpersons) and the flowchart so you are consistent in your actions. As can be seen by these three differing situations, there will generally be a statute appropriate for most situations. Some statutes will help more than others.

As stated previously, the LHO has to present himself/herself in a professional, polite, and respectful manner. Most importantly, use the due process law when dealing with the public.

It is unlikely that all situations will be the same. People often see the same situation differently. It is important to make sure you have someone visit the property with you, as in the case of the OWB. Although you cannot be all things to all people, you can be an important contributor to the overall health of your community.



Whether the problem is simple or complex, analyze the facts, and determine whether the situation is LHO appropriate. If you have done your best to resolve the complaint but the situation cannot be easily resolved, the municipality has the options to: (a) put a lien on the property, if allowed, or (b) have the CEO go to court under the authority of **Rule 80K**, or an attorney can be hired to represent the town in court. In such cases the municipality may not want to make the investment (time and money). However, the complainant can take the matter to court. The municipality is only required to solve some problems - but not most.

Section 6: You Make the Call

In this section, we looked at three case studies:

- How to Handle Complaints Where Resolution is Likely to be Beyond the Municipality's Control, using three case studies.
- 3 Case studies:
 - Case Study #1 Noisy cow
 - Case Study #2 Manure pile
 - Case Study # 3 Outdoor wood boiler

You can review the frequently asked question for this section at any time.

If you have reached a level of comfort with the material presented so far then you are ready to move on to the next section.



6.7 Sample Knowledge Check #4:

You Make the Call

True/False

The role of the LHO is made easier because for every complaint the LHO receives, there is a statute that directly provides a remedy.

A) True

B) False

Question 1 of 4

True or False

The "right to farm" law in Maine permits farm related activities to exist in a municipality - including related effects - such as odors and flies. As stated in Maine law, in order for the farm activities to continue, should there be a complaint, it must be shown that:

A) the farm must be registered by the Department of Agriculture, Food and Rural Resources

B) the farm must use "Best Management Practices" with regard to the particular farming activity.

C) the farm must be inspected by the Animal Control Officer yearly

Question 2 of 4

Order of Preference

In order of preference, what is the most favorable way to resolve nuisances brought before the LHO? (place in order)

1)

2)

3)

4)

Question 3 of 4

True/False

No Outdoor Wood Boiler (OWB) may be used unless it meets the regulations established by the Maine Department of Environmental Protection.

A) True

B) False

Question 4 of 4

Section 7

How Do I Enforce the Law?

In this section, we will cover, in general terms - An approach to resolving a health problem that cannot be remedied under a mutual agreement between the municipality and the property owner.

In addition, we will cover:

Part I- Due Process

- What is Due Process

Part II: Nuisances

- Land Use Violation - Rule 80K - Maine Rules of Civil Procedures
- Malfunctioning Sewage System – Case Study #5
 - Determine What has Occurred and Where to Go From There
 - Take Necessary Action
 - Next Steps
 - Call for Assistance
- Conclusion
- Sample Knowledge Check # 5

Section seven should take approximately 45 minutes to read, process, and complete a sample knowledge check.

7.1 What is Due Process?

Protecting Individual Rights- The Essential Elements of Due Process of Law

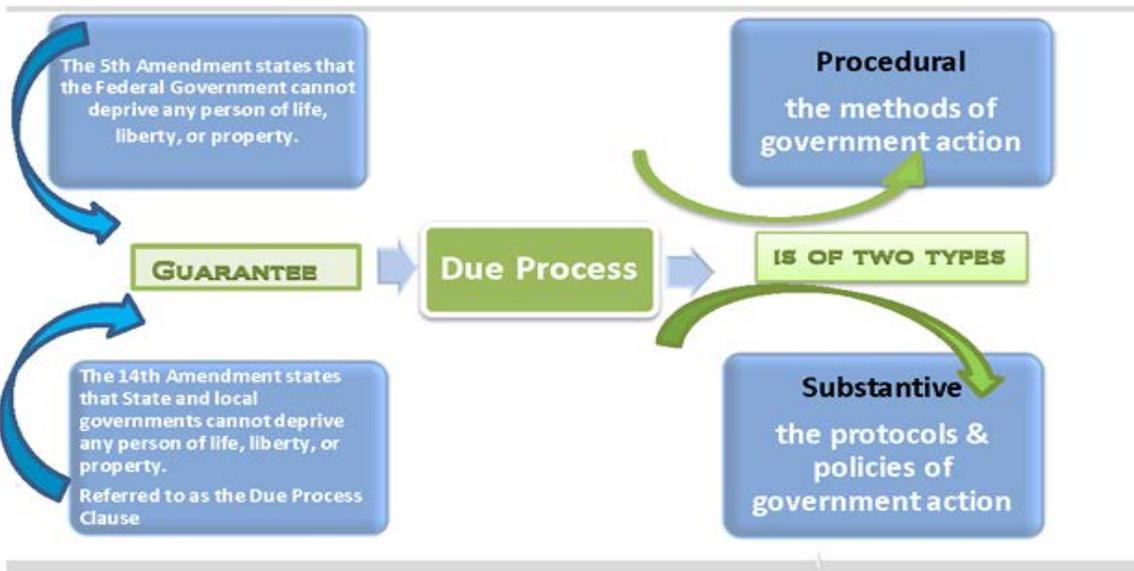
The 5th Amendment says that the government cannot deprive a person of “life, liberty, or property, without due process of law.” The 14th Amendment extends this restriction to the states. **Due process** means the government must act clearly and in accordance with established rules – it must use fair procedures. **Procedural due process** refers to the methods government must use; **substantive due process** refers to the fair policies under which government must operate.

THE BIG IDEA

In examining due process of law, the government must act fairly and in compliance with established rules.

The states have the power to protect and promote public health, safety, morals, and general well-being of all of the people. This power is called the **police power**, and the states may not use it in violation of two process. When its use conflicts with civil rights protections, the court must balance the needs of society against individual rights.

Graphic Summary: Due Process



Part II Nuisances

7.2 Malfunctioning Sewage System

Using a common example of a nuisance, we will cover the preparatory steps before a town official or an official who is Rule 80K-certified goes to court under [Rule 80K](#).

Some problems simply do not get resolved easily.

While the law may be in your favor, the language usually provides an opportunity for the property

owner to challenge the accusation – sometimes your only option is the court. A court matter is costly and it may not be an option for the town. Other times, local politics is the roadblock to court. The important thing is to be diligent and get as many issues resolved as quickly as possible.



7.3 Land Use Violations -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.

Definitions:***Agent:***

An agent is a person authorized to act for and under the direction of another person when dealing with third parties. The agent should not have a conflict of interest in carrying out the act. Note that this agency must be given or obtained ahead of time.

Agency: 'Principal-Agent Relationship'

An 'agency' is a relationship or an agreement between a principal and an agent; a relationship in which the agent – **town employee** - has legal authority to act, on behalf of the principle – **the municipality**. This 'agency' is either, expressed or understood, between the parties, by which the agent has legal authority to act, on behalf of the principle and to make an account of the transaction.

Municipal: Municipal means associated with or belonging to a city or town that has its own local government. Municipalities create authorities from various state and federal statutes. For reasons of public policy and convenience, a municipal authority comes from it being a separate and distinct body.

7.4. Case Study #5

The Malfunctioning Sewage System



Our case study is about a malfunctioning sewage system. In order to be efficient, investigate, and log all the facts. Do not repeat the investigation or steps someone has already completed.

7.4.1 Determine what has occurred and consult with town officials. Discuss your plan and how you will proceed with the town officials.

Example: The LHO discusses the situation with the Local Plumbing Inspector (LPI) for more information. Previous actions taken:

- ✓ The L P I had received a complaint 10 days before and visited the property to investigate.
- ✓ The LPI prepared an order he served to the owner in person (as provided for in the “malfunctioning sewage system” statute)
- ✓ This order was signed by the City Manager and contained the facts of the malfunctioning sewage system; the owner was given 10 days to remedy the malfunction.
- ✓ Immediately after the LPI inspection, the LPI prepared a sworn statement indicating he conducted the inspection and notified the owner of the repair deadline. The statement was witnessed and signed by the City Clerk.

7.4.2 Take the necessary action(s)

Since ten days have lapsed with no action taken by the owner to repair the system, the LHO and the LPI agree re-visit the property to speak with the homeowner.

- a. During their visit, the LHO and LPI see sewage seeping out from the top of the septic tank with the effluent running down the back slope behind the house.
- b. The LHO notes that there are three neighbor homes located within the radius of the influence of the malfunction – and that all three properties had drilled wells.



The owner is at home and the LHO introduces himself as well as the LPI. The options in the law are explained to the owner.

1. The City can file a civil action in District Court, in which case the costs, including reasonable attorney fees would be borne by the owner, or
2. The City can assess a special tax (essentially a lien) against the land on which the sub-surface disposal system is located for the expenses, and the amount would be placed in the next annual warrant for the city tax collector to collect with accrued interest.



7.4.3 Next Steps

The LHO and the LPI return to the City Manager's office and explain what occurred.

- The City Manager indicates he wants the LHO to prepare a letter for the City Manager's signature outlining what occurred between the LPI, the LHO, and the owner.
- The letter is to ask the owner to respond within 5 days as to what course of action he/she chooses to take.

- After that time, the City will be filing a motion in court to abate the malfunction. The City Manager says if the owner refuses to comply, the LHO will represent the City in Court.

As the LHO, if you were duly trained through the State Planning Office, you are authorized allowed to represent the municipality in Court.

7.4.4.. Call for Assistance

Always consult with your peers, State agencies, and organizations, such as the Maine Municipal Association, as well as the Division of Local Public Health or your Local District Liaison, to obtain their opinions and suggestions. It may also be helpful to determine if the neighboring LHO has gone to court under the authority of Rule 80K.



For more information - Links, References:

- Title 30-A M.R.S.A. §3428. **Malfunctioning domestic waste water disposal units; abatement of nuisance** <http://janus.state.me.us/legis/statutes/30-A/title30-Asec3428.html>
- Title 17 M.R.S.A. §2851 *et seq.* **Dangerous buildings.** <http://janus.state.me.us/legis/statutes/17/title17sec2851.html>
- Title 14 M.R.S.A. §6021 **Implied warranty and covenant of habitability** (landlord tenant issues) <http://janus.state.me.us/legis/statutes/14/title14sec6021.html>
- Title 30-A M.R.S.A. §4453. **Certification for representation in court** <http://janus.state.me.us/legis/statutes/30-A/title30-Asec4453.html>

Enforcement of Land Use Violations Using Rule 80k of the Maine Rules of Civil Procedure, State of Maine, State Planning Office. Edited by Durward W. Parkinson, Esquire, January 2006.

7.5 Conclusion to Section 7

In this section, we covered an approach to resolve a health problem that cannot be remedied under a mutual agreement between the municipality and the owner.

Using a common example of a nuisance, we covered the needed preparatory steps before an LHO goes to court and represents the community under Rule 80K contained in the Maine Rules of Civil Procedure.

If you have reached a level of comfort with the material presented so far then you are ready to move on to the next section.

Sample Knowledge Check #5

How Do I Enforce The Law?

True/False

If the law does not provide a direct remedy, due to costs, it is recommended that the LHO not bother with continuing to correct the problem?

A) True

B) False

Question 1 of 2

Multiple choice (Choose all that apply)

What are some resources where the LHO can obtain assistance?

A) The County Commissioner

B) Animal Control Officer

C) Local Plumbing Inspector

D) Code Enforcement Officer

E) State employees in your region

Question 2 of 2

Section 8

Course Review and Evaluation

This section provides the major points covered in this LHO online training.

As you have seen in this introductory course, the LHO position is more complex than one might think. You will play many roles as the LHO: mediator, problem solver, enforcer, investigator, and a reporter to Maine CDC. A great positive is that you are not alone. By working with other municipal officials in your municipality, as well as the District Liaison within your district, you will be forming important relationships to assist each other in resolving problems.

Promote Excellent Customer Service.

Good customer service is generally being polite and helpful in a problematical situation.



8.2 Review of Major Points

The following short summary covers the major points of the course.

- ✓ Title 22 M.R.S.A. §451(2) requires that all LHOs meet the qualification requirements that are in rules (10-144 CMR Ch. 294. The state will provide 6 hours of training using various methods, such as this web based training, or in a classroom setting. Training is offered by the State at no charge to the participating LHOs.
- ✓ It is important to remember that if the LHO is incapacitated or absent, the chairperson of the municipal officers is required to perform those duties until the LHO is back on the job or a new one is appointed.
- ✓ Maine law has established other municipal officials who have responsibilities similar to yours. For example, the Animal Control Officer, the Local Plumbing Inspectors, and the Code Enforcement Officer. You should work with these people as they can often be a big help in remedying a problem.
- ✓ The general duties of an LHO apply to complaints, nuisances, and threats ***that can result in any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.***
- ✓ When working to resolve the various problems you will face, the length of time you may ask for corrective action varies and relates directly to how complex and how urgent the matter is. It may be 5 days or 30 days. It is up to the situation.
- ✓ If all else fails, prepare to go to court. If there is nothing that you can do based on current law or ordinances, suggest to the complainant that he or she could individually take action at District Court.
- ✓ 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.

- ✓ Remember to use your “Emotional Intelligence Quotient” - speak to people in a tone and manner as you would like to be spoken to yourself. You will get a lot more accomplished.
- ✓ Maine statutes contain laws that do not provide a direct remedy but instead provide a legal definition or provide guidance so solving the problem becomes easier.
- ✓ Many nuisances, such as those dealing with noise (squealing tires, barking dogs, etc.) require a municipal ordinance in order to effectively resolve the complaint.
- ✓ The LHO will come up against many animal and some domestic complaints. It is very important to have a relationship with the municipal animal control officer to assist in correcting the problem.
- ✓ In order to be efficient, you need to learn all the facts and not repeat steps someone has already completed.



8.3 Certificate of Completion

Congratulations on finishing the training!

The local health officer has been an important resource for Maine people for 125 years. Thanks again for being part of that proud tradition.

In order to receive credit for this course, please complete the form below before you exit this site. A certificate of completion for this mandatory training will be emailed to you upon completion of this form. This form also serves as your registration form. Please keep a copy of this submittal for your records.

Please note that in order to receive your certificate of completion; the Maine CDC, Local Public Health must receive your town's letter of appointment within 15 working days from completion of the on-line training, or your appointment.

8.4 Certificate of Completion

LHO Online Training Completion Form

<http://www.maine.gov/dhhs/mecdc/local-public-health/lho/training/Perfect/Perfect-4.html>

MAINE CDC - DIVISION OF LOCAL PUBLIC HEALTH LOCAL HEALTH OFFICER ONLINE TRAINING

Knowledge Check 1: I Am a New LHO

Multiple choice

What are the likely job roles an LHO may perform?

- A) Reports community's public health status to municipal government and Maine Center for Disease Control and Prevention
- B) Investigates and enforces public health threats
- C) Testify in court
- D) Mediate and solve public health problems
- E) All of the above

Question 1 of 3

Matching

Indicate which of the following formats refers to a law or a regulation.

A) Title 22 §451 M.R.S.A.	A) <input type="text"/>
B) 10-144 CMR 201	B) <input type="text"/>
C) T 4 section 179	C) <input type="text"/>
D) 01-015 CMR Ch. 1	D) <input type="text"/>

Question 2 of 3

Knowledge Check 1 (CONT'D)

Multiple choice

In the event of incapacity or absence of the local health officer, who shall perform the duties of the health officer?

- A) CEO
- B) Municipal Officer
- C) Plumbing Inspector
- D) Animal Control Officer

Question 3 of 3

ANSWERS TO KNOWLEDGE CHECK 1

- Question 1: **E** - all of the above
- Question 2: **A**- law
B - regulation
C - law
D - regulation
- Question 3: **B** - Municipal Officer

KNOWLEDGE CHECK 2: Appointment and Duties

Answers to Knowledge Check - 2013

True/False

A LHO is required, by law, to inspect and investigate all complaints brought to his or her attention.

- A) True
- B) False

Clear

Back

Skip

Submit

Question 1 of 4

True/False

In rental housing, tenants are protected under an implied warranty” and a “covenant of habitability.”

- A) True
- B) False

Clear

Back

Skip

Submit

Question 2 of 4

KNOWLEDGE CHECK 2 (CONT'D)

Matching - Choose the right answer for each

Who would you collaborate with in the public health situations related to the following?

A) Reporting child abuse A)

B) Bathing beaches B)

C) Mobile home parks C)

D) Dangerous buildings D)

Question 3 of 4

True/False

The Department of Inland Fish and Wildlife deals with undomesticated animals suspected of having rabies unless the animal is a wolf hybrid.

A) True

B) False

Question 4 of 4

ANSWERS TO KNOWLEDGE CHECK 2

Question 1: **False**

Question 2: **True**

Question 3: **A - DHHS**

B - Local Plumbing Inspector or Code Enforcement Officer

C - Manufacturing Housing Board or Professional Resource

D - Local Plumbing Inspector or Code Enforcement Officer

Question 4: **True**

KNOWLEDGE CHECK 3: Solving the Problem

Multiple choice

Mold is becoming very common in homes due to inadequate ventilation. What is the most important thing required in order for mold to exist?

- A) Moisture
- B) Warmth
- C) Cellulose
- D) Food Source

Clear

Back

Skip

Submit

Question 1 of 4

Multiple choice

What is the most important thing to do when working with the owner and a nuisance?

- A) Increase your Emotional Quotient
- B) Use due process and remain fair and objective
- C) If you know you are right, stand your ground
- D) Make sure the County Sheriff is standing by

Clear

Back

Skip

Submit

Question 2 of 4

KNOWLEDGE CHECK 3 (CONT'D)

True/False

Rule 80K is a Rule of Court that allows the Code Enforcement Officer to represent the municipality in court without an attorney.

A) True

B) False

Question 3 of 4

True/False

Due process is designed to safeguard the legal rights of the individual.

A) True

B) False

Question 4 of 4

ANSWERS TO KNOWLEDGE CHECK 3

- Question 1: **A**
- Question 2: **B**
- Question 3: **A**
- Question 4: **A**

KNOWLEDGE CHECK 4: You Make the Call

True/False

The role of the LHO is made easier because for every complaint the LHO receives, there is a statute that directly provides a remedy.

- A) True
- B) False

Question 1 of 4

Clear

Back

Skip

Submit

True or False

The "right to farm" law in Maine permits farm related activities to exist in a municipality - including related effects - such as odors and flies. As stated in Maine law, in order for the farm activities to continue, should there be a complaint, it must be shown that:

A) the farm must be registered by the Department of Agriculture, Food and Rural Resources

A)

B) the farm must use "Best Management Practices" with regard to the particular farming activity.

B)

C) the farm must be inspected by the Animal Control Officer yearly

C)

Question 2 of 4

Clear

Back

Skip

Submit

KNOWLEDGE CHECK 4 (CONT'D)

Order of Preference

In order of preference, what is the most favorable way to resolve nuisances brought before the LHO? (place in order)

1)

2)

3)

4)

Question 3 of 4

True/False

No Outdoor Wood Boiler (OWB) may be used unless it meets the regulations established by the Maine Department of Environmental Protection.

A) True

B) False

Question 4 of 4

ANSWERS TO KNOWLEDGE CHECK 4

Question 1: **False**

Question 2: **A (False)**

B (True)

C (False)

Question 3: **1** - Use “due process and “consultation best practices to get the owner to correct the problem on his/her own

2 - Have the municipality correct the problem with owner reimbursing through a lien

3 - Rule 80K; the town may authorize the CEO to represent the town in court

4 – Town may hire an attorney to pursue the matter in court against the person causing the problem

Question 4: **True**

KNOWLEDGE CHECK 5: How Do I Enforce The Law?

True/False

If the law does not provide a direct remedy, due to costs, it is recommended that the LHO not bother with continuing to correct the problem?

A) True

B) False

Question 1 of 2

Multiple choice (Choose all that apply)

What are some resources where the LHO can obtain assistance?

A) The County Commissioner

B) Animal Control Officer

C) Local Plumbing Inspector

D) Code Enforcement Officer

E) State employees in your region

Question 2 of 2

ANSWERS TO KNOWLEDGE CHECK 5

Question 1: **B**

Question 2: **B, C, D, E**