

Changes to THO authority from Act 15 (2021)

The Town Health Officer's authority in inspections, and to issue health orders and emergency health orders are explained in 18 V.S.A. §§ 107, 126 and 127. Act 15 (2021) updates this authority as described below, changes noted in italics:

18 V.S.A. 107: Health officer investigations

THOs may conduct inspections to detect violations of any State or local health statute, rule, ordinance or permit, or any public health hazard or public health risk. During an inspection and investigation, *THOs may review records, and take samples, photographs, and other evidence* to detect violations, or any public health hazard or public health risk. THOs should take detailed notes and write a thorough investigation report to document all findings regardless of whether a public health hazard is uncovered. These records, reports, and notes are public record. The THO should keep copies of all records with the town office in accordance with the town's public recordkeeping practices.

18 V.S.A. 126: Serving a notice of intent to seek a health order

The notice of intent to seek a health order, including the supporting evidence and statement of procedural rights, must be served to the person who would be subject to the health order, *in person by the THO or according to Rule 4 of the Vermont Rules of Civil Procedure.*

The documents must be served *either in person by the THO or* by a sheriff or deputy sheriff, constable or other person authorized by law, by delivering a copy of the documents to the individual personally, or to a person of suitable age and discretion residing in that individual's home.

If the THO serves the notice of intent to seek a health order in person, the THO should utilize the THO Service of Process form (available online at <http://www.healthvermont.gov/tho/forms>) to document when, where and to whom the notice of intent to seek a health order was served.

If a sheriff or deputy sheriff, constable or other person authorized by law serves the notice of intent to seek a health order, they must make proof of the service either on the original process or a certificate of service attached for that purpose. The proof of service should be returned with that person's fees to the town or city attorney.

If, after due diligence, personal service cannot be made, the THO should contact their town attorney to seek assistance in pursuing alternative methods of service. *When the person to be served resides outside of Vermont, notice of intent must be served through certified mail.*



18 V.S.A. 127: Serving an emergency health order

An emergency health order is effective upon actual notice to the person against whom the order is directed. *The order must be served in person by a health officer or in accordance with Rule 4 of the Vermont Rules of Civil Procedure as discussed above for regular health orders. If the person resides out of state, the emergency health order must be served through certified mail.*

If the THO serves the emergency health order in person, the THO should utilize the THO Service of Process form (available online at <http://www.healthvermont.gov/tho/forms>) to document when, where and to whom emergency health order was served.

For additional details about the requirements THO investigations, please see Chapter 2 of the Town Health Officer Manual. For health orders and emergency health orders, please see Chapter 3:

https://www.healthvermont.gov/sites/default/files/documents/pdf/Env_THO_THOManual.pdf