

Rental Housing Advisory Board 2020 Recommendations

Since the Legislature adjourned last spring the Rental Housing Advisory Board (RHAB) has been meeting to refine the recommendations made in 2019. The work of RHAB can be found on the ACCD website <https://accd.vermont.gov/housing/partners/Act188>.

In 2019 the legislature passed Act 48 ([attached¹](#)). In it were a number of provisions that assist in making the work of enforcing the Rental Housing Health Code (RHHC) somewhat easier for municipalities. But, the fundamental flaw in the system still remains. That is that most small towns and cities are ill equipped to enforce the State's Rental Housing Health Code

The RHHC is in rules ([attached²](#)) developed by the Dept. of Health, but it is a municipal responsibility to enforce them. Most municipalities carry this out using volunteer Town Health Officers (THO). This is an antiquated concept and increasingly towns cannot find volunteers to fill this role. In that case it defaults to the Chair of the Select Board, which many do not realize. Some towns have begun operating their own rental housing inspection programs (see attachment of [Municipalities with Periodic Inspections of Residential Rental Units³](#)), but most find themselves too small to do this efficiently. All other building related inspections in the state are done by professionals, either employed by the Dept. of Fire Safety, the Dept. of Health, or the Agency of Natural Resources.

The RHAB recommendations have not varied much since 2019. We have had broad input that the RHHC inspection and enforcement should be a state responsibility, not a municipal one; but it has been extremely difficult to get over the hurdle that this must be a service of government that is paid for in some fashion. Like what is being done now in many towns (and states), RHAB believes that this activity can be funded by charging a modest fee to property owners. Landlord representatives we have spoken with seem to understand the issue and are looking for consistent service and support, and also better tools to deal with tenants who violate the health codes. In towns where fees are already being charged, we have seen no real effect on the rental housing market.

As one Town Health Officer said, we are just waiting for a serious accident to happen. Meanwhile many tenants continue to live in substandard housing and many towns are finding that the quality of some of their rental housing is deteriorating and affecting the economic development of their small towns.

One of the main requests of Act 48 was that the Department of Health and the Department of Public Safety, in collaboration with the Rental Housing Advisory Board, develop recommendations for the design and implementation of a comprehensive system for the professional enforcement of State rental housing health and safety laws.

The Health Dept. did complete a needs assessment last summer. This can be found in the attached, "[Dept. of Health Rental Housing Safety Report 2019 Report to the Legislature](#)"⁴. They found that many of the issues the Town Health Officers (THO's) get called in on overlap with Dept. of Fire Safety (DFS).

In reviewing this and other options RHAB looked at over the summer, it was very clear that it makes the most sense for Dept. of Fire Safety (DFS) to take the lead in enforcing the state's Rental Housing Health Code (RHHHC) rather than the Dept. of Health. DFS has the systems in place for residential inspection. However, for them to take on the RHHHC they would need more inspectors and overhead support. Because Vermont has no county government, any sort of regional approach seemed unrealistic and would require setting up a new program redundant of DFS. Health Dept. inspectors focus on commercial buildings, are not spread around geographically, and have little expertise in residential buildings.

In legislation RHAB is recommending the following components:

- Move the responsibility for the enforcement of the Rental Housing Health Code from municipalities to the Dept. of Fire Safety.
 - DFS has identified the need for at least five new FTE's plus overhead support to carry this out. (Their proposed budget is in the final Health Dept. Report below).
 - THO's would remain in place to support DFS and carry out the other duties assigned to them.
 - Communities with programs already in place would retain that and operate under an MOU as they do now with Fire Safety. This proposal would only cover communities that do not have, and do not want, an inspection program.
 - RHAB believes there needs to be one-time bridge funding for the start up.
- Establish a registry of rental housing units.
 - Ongoing funding for a complaint-driven program could come through a per unit fee as is done now in a number of communities and for mobile home parks.
 - The fee could also support increased education for landlords and tenants, and provide an interactive website to keep them up-to-date.
 - RHAB recommends transitioning into this program. For example, St. Johnsbury allowed for a year free to increase participation.
 - We have attached a draft budget for creating and operating a registry, however we have been a little stymied because the Agency of Digital Services (ADS) does not give "free" advice to state agencies on how to set up additional projects.
 - Health, DFS and DHCD felt strongly that we might get a better product by going outside to VHFA or VSHA. But in talking with VHFA, while they could probably do the backend work, they felt, as does the RHAB committee, this should really be a state function.
 - We discussed that the Dept. of Taxes has much of the information we now need through the publicly available data from the Landlord Certificate and probably have the capacity to collect a fee, but they would be very reluctant to do so, and landlords would be reluctant to deal with them.

- However, the Dept. of Health, by law now, is required to keep a housing registry of who performs Essential Maintenance Practices (EMP) for lead poisoning prevention. Since that affects all pre-1978 rental housing, we felt that would be a good start on a statewide registry. In theory this should cover an estimated 50,000 (66%) of Vermont's 76,000 rental units. The problem is that the actual EMP data base is cumbersome to use and DOH has no staff or resources to maintain it. Since most landlords are already required to enter information every year and put in most of the information you need for a registry, it makes the most sense that this portal and data base be upgraded and expanded to cover all rentals. The Dept. is already in the planning phase of upgrading the EMP database.
 - We believe about 27% of rental units are already covered in communities that have an active code enforcement program. Owners would not be charged twice.
 - A sub-committee of the RHAB spent a considerable amount of time reviewing all the issues of a fee-based system and those were adopted by the full RHAB and contained in the [attached report](#)⁵.
- In addition to the two above recommendations, RHAB wants to support a program for small grants to landlords. We see this as a very cost-effective way to get more housing on line and “encourage” landlords do repairs. This would be similar to the VHIP program proposed last year. DHCD would take the lead.
 - In discussions with the Vermont Apartment Owners’ Association and other landlords, we have heard that one of their biggest concerns is the number of evictions based on non-payment of rent.
 - As was identified in last year’s Vermont Legal Aid (VLA) report, an increased investment in a back-rent fund would go a long way, and RHAB supports that.
 - RHAB itself did not get into any landlord-tenant law issues, but it has been identified to us that many of the problems with the eviction process are inconsistencies and protocols in the judicial process and lack of landlord knowledge about the process. We hope that a focus could be put on education (and back-rent), and that work can be done outside legislation about the judicial issues.
 - Additional revenue from the rental registry system could be used for landlord and tenant education and support which is critical to a healthy rental housing system.

An overall [draft budget](#) with estimates of expenses and potential revenues is attached⁶; as well as a summary of some of the [housing numbers](#).⁷

Thank you for your consideration of this critical issue.

Respectfully Submitted,
 Sarah Carpenter
 Chair, Rental Housing Advisory Board

Attachments:

¹ [ACT 48 \(pages 11-17\)](#)

² [Vermont Rental Housing Health Code](#)

³ [Municipalities with Periodic Inspections of Residential Rental Units](#)

⁴ [Dept. of Health Rental Housing Safety Report 2019 Report to the Legislature](#)

⁵ [Provisions on a Registry of Residential Rental Housing Units](#)

⁶ [Revenue and Expense Estimates for a Rental Registry and RHHC Code Enforcement Program](#)

⁷ [Summary of Housing Numbers Used in the 2020 Report](#)

ACT 48 (pages 11-17)

<https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT048/ACT048%20As%20Enacted.pdf>

An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence.

*** * * Housing Health and Safety; Rental Housing**

Health Code Enforcement * * *

Sec. 5. 18 V.S.A. § 5 is amended to read:

§ 5. DUTIES OF DEPARTMENT OF HEALTH

The Department of Health shall:

(1) Conduct studies, develop State plans, and administer programs and State plans for hospital survey and construction, hospital operation and maintenance, medical care, and treatment of substance abuse.

(2) Provide methods of administration and such other action as may be necessary to comply with the requirements of federal acts and regulations as relate to studies, development of plans and administration of programs in the fields of health, public health, health education, hospital construction and maintenance, and medical care.

(3) Appoint advisory councils, with the approval of the Governor.

(4) Cooperate with necessary federal agencies in securing federal funds which that become available to the State for all prevention, public health, wellness, and medical programs.

(5) Seek accreditation through the Public Health Accreditation Board.

(6) Create a State Health Improvement Plan and facilitate local health improvement plans in order to encourage the design of healthy communities and to promote policy initiatives that contribute to community, school, and workplace wellness, which may include providing assistance to employers for wellness program grants, encouraging employers to promote employee engagement in healthy behaviors, and encouraging the appropriate use of the

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health care system.

(7) Serve as the leader on State rental housing health laws.

(8) Provide policy assistance and technical support to municipalities concerning the implementation and enforcement of State rental housing health and safety laws.

Sec. 6. 18 V.S.A. § 603 is amended to read:

§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.

(2) A written inspection report shall:

(A) contain findings of fact that serve as the basis of one or more violations;

(B) specify the requirements and timelines necessary to correct a violation;

(C) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(D) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by the health officer consistent with the access provisions in 9 V.S.A. § 4460.

(3) A local health officer shall:

(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and

(B)(i) if a municipality has established a code enforcement office,

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provide information on each inspection according to a schedule and in a format adopted by the Department in consultation with municipalities that have established code enforcement offices; or

(ii) if a municipality has not established a code enforcement office, provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose, or within 14 days by mail if the municipality is unable to utilize the electronic system.

(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.

(5) A municipality shall make an inspection report available as a public record.

(b)(1) A local health officer may impose a fine civil penalty of not more than ~~\$100.00~~ \$200.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.

(2)(A) If the cumulative amount of penalties imposed pursuant to this subsection is \$800.00 or less, the local health officer, Department of Health, or State's Attorney may bring a civil enforcement action in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.

(B) The waiver penalty for a violation in an action brought pursuant to this subsection is 50 percent of the full penalty amount.

(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than \$800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney may commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.

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(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.

Sec. 7. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(21) Violations of State or municipal rental housing health and safety laws when the amount of the cumulative penalties imposed pursuant to 18 V.S.A. § 603 is \$800.00 or less.

* * *

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except:

~~(1) Municipalities~~ municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

Sec. 8. RENTAL HOUSING HEALTH AND SAFETY ENFORCEMENT

SYSTEM; RECOMMENDATIONS; REPORT

(a) On or before January 15, 2020, in collaboration with the Rental Housing Advisory Board, the Department of Health and the Department of Public Safety shall develop recommendations for the design and

implementation of a comprehensive system for the professional enforcement of State rental housing health and safety laws, which shall include:

(1) an outline of options, including an option for a State government–run system, with a timeline and budget for each;

(2) a needs assessment outlining the demand for inspections based on inspection information collected pursuant to 18 V.S.A. § 603(a)(3) and subsection (c) of this section and other stakeholders and relevant sources; and

(3) any additional recommendations from the Rental Housing Advisory Board, the Department of Public Safety, the Department of Housing and Community Development, or other executive branch agencies.

(b) On or before September 30, 2019, the Department of Health shall provide an interim progress report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs.

(c) On or before August 1, 2019, each municipality in this State shall provide to the Department of Health summary information on its inspection activity from July 1, 2018 through June 30, 2019 in order to assist the Department in completing the needs assessment pursuant to subdivision (a)(2) of this section.

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Rental Housing Health Code

Chapter 6 – Environmental Health Rules

Subchapter 6

1.0 Authority

This code is adopted pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a) and 3 V.S.A. § 801(b) (11).

2.0 Purpose

The purpose of this code is to protect the health, safety and well-being of the occupants of rental housing. This code establishes minimum health and habitability standards that all residential rental housing in Vermont must conform to.

3.0 Scope

3.1 This Rental Housing Health Code shall apply to all rented dwellings, dwelling units, rooming houses, rooming units and mobile home lots used as a regular residence.

3.2 This code does not apply to a licensed lodging establishment when the occupancy is subject to meals and rooms tax pursuant to 32 V.S.A. ch. 225. This code does not apply to tents or similar structures provided to persons choosing to live in such shelters as part of what is primarily an educational or experiential opportunity.

4.0 Definitions

4.1 “**Common Space**” means all interior passageways, hallways, foyers, stairways, basements and other rooms in a dwelling or rooming house used or intended for use by the occupants of more than one dwelling unit or rooming unit.

4.2 “**Dwelling**” means a rented building or structure, excluding tents or similar structures used for the express purpose of camping, that is wholly or partly used or intended to be used as a primary residence for living or sleeping by human inhabitants. This includes rented mobile homes and “housing provided as a benefit of farm employment” as defined in 9 V.S.A. § 4469a (a)(3).

- 4.3** “**Dwelling Unit**” means a room or group of rooms within a dwelling, or any dwelling forming a single habitable unit used or intended for use for living, sleeping, cooking and eating.
- 4.4** “**Food Residual or Food Scrap**” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with 10 V.S.A. § 6605k. Food residual may include preconsumer and postconsumer food scraps. "Food residual" does not mean meat and meat-related products when the food residuals are composted by a resident on site.
- 4.5** “**Habitable Room**” means every room or enclosed floor space, used or intended to be used for living, sleeping, cooking or eating purposes excluding bathrooms, toilet compartments, closets, halls, storage or utility spaces and similar areas.
- 4.6** “**Immediate Family**” means a person’s parents, spouse, domestic partner, children and siblings.
- 4.7** “**Infestation**” means the presence of any pest or bedbug that creates a health hazard or other risk to the preservation of public health.
- 4.8** “**Local board of health**” means the select board or city council, together with the health officer as provided by 18 V.S.A. §§ 601 and 604.
- 4.9** “**Local Health Officer**” means the properly designated and appointed health officer or deputy health officer as authorized and appointed in accordance with 18 V.S.A. § 601.
- 4.10** “**Mobile Home**” means a structure or type of manufactured home as defined in 10 V.S.A. § 6201 (1) that is designed for long-term and continuous residential occupancy.
- 4.11** “**Mobile Home Lot**” means any parcel of land not located in a mobile home park (as defined in 10 V.S.A. § 6201{(2)}) that is leased to a mobile home owner and established by the owner of the parcel of land as being the area in which the leaseholder establishes a property right by way of a lease. This code is not meant to apply to the rental of a lot in a mobile home park under the jurisdiction of 10 V.S.A. ch. 153.
- 4.12** “**Occupant**” means a tenant and every person or guest entitled to be living and sleeping in a dwelling, dwelling unit, rooming house or rooming unit or on the premises of a rented mobile home lot.
- 4.13** “**Owner**” means any person who alone, jointly or severally with others:
- 4.13.1** Has legal or equitable title to any premises, dwelling, dwelling unit, rooming house, rooming unit or mobile home lot; or

- 4.13.2** Has charge, care, management or control of any premises, dwelling unit, rooming house, rooming unit or mobile home lot; or
- 4.13.3** Is the landlord or lessor of any premises, dwelling, dwelling unit, rooming house, rooming unit or mobile home lot; or
- 4.13.4** Is the authorized agent of the property owner of any premises, dwelling, dwelling unit, rooming house, rooming unit or mobile home lot.
- 4.14** “**Person**” means every individual, corporation, partnership, government, governmental subdivision or agency, business trust, estate, trust, association, firm, group or any other legal or commercial entity.
- 4.15** “**Pest**” means any unwanted animal, including any insect, that is a potential vector for human disease and presents a public health threat.
- 4.16** “**Premises**” means the buildings, grounds and facilities associated with a dwelling, dwelling unit, rooming house or rooming unit and the grounds, areas and facilities associated with a rented mobile home lot that are held out for the use of occupants generally or whose use is promised to the occupant.
- 4.17** “**Recyclables**” means the following source separated materials: aluminum and steel cans; aluminum foil and aluminum pie plates; glass bottles and jars from foods and beverages; polyethylene terephthalate (PET) plastic bottles or jugs; high density polyethylene (HDPE) plastic bottles and jugs; corrugated cardboard; white and colored paper; newspaper; magazines; catalogues; paper mail and envelopes; boxboard; and paper bags.
- 4.18** “**Rental Housing**” means all dwellings, dwelling units, rooming houses, rooming units, or mobile home lots let by the owner to one or more persons to be used as a regular residence.
- 4.19** “**Rooming House**” means any dwelling or part thereof containing one or more rooming units and/or one or more dormitory rooms in which space is let by the owner or operator to one or more persons who are not immediate family members of the owner.
- 4.20** “**Rooming Unit**” means the room or group of rooms let to an individual or household for use as living and sleeping, but not for cooking or eating purposes, whether or not common cooking facilities are made available.
- 4.21** “**Rodent-proof**” means construction, installation and maintenance which under foreseeable conditions will prevent the movement of rodents to or from a dwelling or rooming house, or gaining access to food, water or any place where rodents can live, nest or seek shelter. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rodents by climbing, burrowing or other methods.

- 4.22** “**Trash**” means combustible and noncombustible waste materials that are not composted or recycled. This includes any products not included in the definitions of “Food Residual or Food Scrap” or “Recyclables.”
- 4.23** “**Ventilation**” means the adequate supply and removal of air to and from a space through windows, skylights, doors, grilles, ducts or mechanical devices.
- 4.24** “**Violation**” means any condition in or on the premises of a rented dwelling, rooming unit, rooming house or rented mobile home lot which fails to meet any requirement of this code.
- 4.25** “**Watertight**” means so constructed that the structure is substantially impermeable to water.
- 4.26** “**Weathertight**” means so constructed that the structure resists weather and excludes rain and snow, and prevents the infiltration of air.

5.0 Sanitation Facilities

5.1 Kitchen Facilities: Every dwelling unit shall contain within the unit space to store, prepare and serve foods in a sanitary manner, including the presence of a kitchen sink.

5.2 Bathroom Facilities:

5.2.1 Every dwelling unit shall contain within the unit a flush toilet, sink and bathtub or shower located in a room or rooms separate from the habitable rooms and which affords privacy.

5.2.2 Shared Bathroom Facilities: The occupants of not more than two dwelling units which are located in the same dwelling may share bathroom facilities under the following circumstances:

5.2.2.1 Neither of the two dwelling units contains more than two habitable rooms; however, for the purpose of this section, a kitchen with not more than 60 square feet of floor area is not counted as a room; and

5.2.2.2 The habitable room area of each dwelling unit aggregates not more than 300 square feet; and

5.2.2.3 The toilet and sink are within a room separate from the habitable rooms, which affords privacy and which is accessible to the occupants of each dwelling unit without going through the dwelling unit of another person or outside the dwelling; and

5.2.2.4 The bathtub or shower is within a room separate from the habitable rooms, which affords privacy and which is accessible to the occupants of each dwelling unit without going through the dwelling unit of another person or outside the dwelling.

5.2.3 Rooming Houses:

5.2.3.1 Every rooming house shall be equipped with at least one toilet and one sink for each 10 persons and one bathtub or shower for each eight persons or fraction thereof living within the rooming house, including members of the immediate family of the owner if they share use of the facilities.

5.2.3.2 Every toilet, sink and bathtub or shower required by this section shall be located in a room or rooms which: afford privacy and are separate from the habitable rooms and are accessible from a common hall without going outside the rooming house and are not more than one story removed from the rooming unit of any occupant intended to share the facilities.

5.3 Non-absorbent Surfaces: The floor and counter surfaces of every bathroom and kitchen in dwelling units and rooming houses shall be constructed and maintained to be a smooth, non-corrosive, non-absorbent and waterproof covering. This shall not prohibit the use of carpeting for floors in kitchens and bathrooms, or the use of wood for floors in kitchens, provided the following qualifications are met:

5.3.1 Carpeting must contain a solid, nonabsorbent, water repellent backing which will prevent the passage of moisture through it to the floor below; and

5.3.2 Wood flooring must have a water resistant finish and have no cracks to allow the accumulation of dirt and food, or the harborage of insects.

5.4 Water Supply/Wastewater Disposal:

5.4.1 Supply: Every rented mobile home lot shall have access to and every dwelling unit or rooming house shall be connected to: a supply of water sufficient in quantity and pressure to meet the ordinary needs of the occupant(s).

5.4.2 Potable Water: Water provided to a rented mobile home lot and to every kitchen sink, bathroom sink and bathtub or shower in a dwelling unit or rooming house shall be from a public water supply system that is monitored and regulated by the Water Supply Division of the Vermont Department of Environmental Conservation, or a private supply free from impurities in amounts sufficient to cause disease or harmful physiological effects as per Vermont Department of Health testing guidelines for private water supplies. Any health-based contaminant in a private water supply that is found to be elevated shall be treated to reduce levels to existing maximum contaminant levels (MCL) or Vermont Health Advisories where no MCL exists.

- 5.4.3** Hot Water: Every kitchen sink, lavatory sink, shower and tub-shower combination shall be connected with water heating facilities in working order that are capable of safely heating an adequate yield of water. Shower and tub-shower combinations must be plumbed to be able to achieve a hot water temperature greater than or equal to 100°F and remain less than 120°F at the fixture.
- 5.4.4** Water Supply Deficiencies: Owners of dwellings, rooming houses and rented mobile home lots with short-term deficiencies in water quality or quantity must provide occupants with an alternate, adequate and accessible supply of water for drinking and sanitation until a regular source of water is made available.
- 5.4.5** Sewage Disposal: Owners of rented mobile home lots shall provide hook-up to and owners of all dwellings and rooming houses shall connect all kitchen sinks, toilets, bathroom sinks, bathtubs, showers, washing machines and dishwashers to a public sewage system if available, or to a properly operating subsurface wastewater disposal system. Each wastewater disposal system shall be operated so that sewage does not back up into the dwelling, flow to the ground surface or directly into surface water.
- 5.4.6** Plumbing Connections: All plumbing systems shall be maintained in good repair.

5.5 Sanitary Conditions for Trash, Recyclables, and Food Scraps:

5.5.1 Facilities:

5.5.1.1 Trash, recyclables, and food scraps that are placed outside a dwelling or rooming house shall be stored in durable, cleanable receptacles. Receptacles for trash and food scrapes shall also be watertight and have properly-fitting covers.

5.5.1.2 The owner of any dwelling or rooming house shall provide and maintain appropriate receptacles for the removal of trash, recyclables, and food scraps in accordance with 10 V.S.A. ch. 159.

5.5.2 Collection of trash, recyclables, and food scraps:

5.5.2.1 The owner of any dwelling or rooming house shall assure that arrangements are made for the removal of trash, recyclables, and food scraps in accordance with 10 V.S.A. ch. 159.

5.5.2.2 Trash, recyclables, and food scraps shall be removed from dwellings and rooming houses as often as is necessary to maintain a sanitary structure, not less than once every week.

5.5.3 Responsibilities:

5.5.3.1 Owner Responsibilities: The owner of every dwelling or rooming house shall be responsible for maintaining in a clean and sanitary condition free of trash, recyclables, and food scraps all common areas as well as any other part of the premises not used as a dwelling space.

5.5.3.2 Occupant Responsibilities: The occupant of every dwelling unit or rooming unit shall be responsible for maintaining in a clean and sanitary condition and free of trash, recyclables, and food scraps that part of the premises which he or she exclusively occupies.

6.0 Pest and Bedbug Control and Management

6.1 Owner Responsibilities:

6.1.1 The owner of a dwelling shall maintain all common spaces free from infestation.

6.1.2 The owner of a dwelling shall be responsible for extermination of infestation in all common spaces.

6.1.3 The owner of a dwelling shall be responsible for extermination of any infestation in any dwelling unit when infestation in a dwelling unit is caused by his or her failure to maintain the dwelling or infestation exists in two or more of the dwelling units in any dwelling.

6.1.4 The owner of a rooming house shall maintain all rooming units and common spaces free from infestation and shall be responsible for extermination.

6.2 Occupant Responsibilities: The occupant of each dwelling unit shall maintain that part of the dwelling he or she exclusively occupies free from infestation and shall be responsible for extermination when the infestation is caused by his or her failure to maintain the dwelling unit except as provided for in Section 6.1.3.

6.3 Extermination of Pest Animals and Bedbugs: Extermination shall be accomplished by eliminating the harborage place of pests and bedbugs, by removing or making inaccessible materials that may serve as their food or breeding ground and by treatments including but not limited to poisoning, spraying, fumigating, heat treating, or trapping.

7.0 Heating

Heating facilities in all dwelling units and rooming houses shall meet the following standards:

- 7.1 Heating facilities shall be provided when the outside temperature is less than 55°F (13°C).
- 7.2 Heating facilities shall be properly functioning and in good repair.
- 7.3 Heating facilities shall be able to maintain a room temperature of at least 65°F (18°C) in all habitable rooms, kitchens, and bathrooms. The maintenance of required heating levels shall be accomplished without overheating one room as a means of meeting minimum heating requirements for adjacent rooms. The temperature may be read and the requirement shall be met at a point three feet above floor level and three feet from an exterior wall.
- 7.4 Heating facilities shall be vented to the outside of the building. Un-vented fuel fired space heaters are prohibited in dwellings or rooming houses.
- 7.5 Every owner who provides heat as part of the rental agreement to occupants of dwelling units or rooming units shall maintain the provided heat at all times to all habitable rooms, kitchens, and bathrooms when the outside temperature is less than 55°F (13°C).

8.0 Natural and Mechanical Ventilation

- 8.1 The owner of dwellings and rooming houses shall provide ventilation to the outdoors as follows so as to not endanger the health and safety of the occupants:
 - 8.1.1 Every habitable room shall include at least one window or door in good repair located on an outside wall that is capable of being opened to admit fresh air.
 - 8.1.2 Screens shall be provided for all operable windows and for doors that are providing ventilation when a window is not available. All screens shall be maintained in good repair and be free from tears, holes, or other imperfections of either screen or frame that would admit insects such as flies or mosquitoes.
 - 8.1.3 All hallways and stairways in common spaces shall be adequately ventilated.
 - 8.1.4 Every bath, toilet or shower room shall be ventilated by direct access with the external air either by window, airshaft or ventilation fan. If a ventilation fan is used, it shall be vented directly to the exterior of the building and be of sufficient size to prevent the buildup of moisture.
 - 8.1.5 All clothing dryers shall be vented directly to the exterior of the building.
- 8.2 Use of vaporizers/humidifiers: Vaporizers/humidifiers shall not be used by dwelling or rooming house occupants or owners in such ways that cause an elevated relative humidity (above 60%), promoting the growth of microorganisms and visible mold.

9.0 Lighting and Electricity

- 9.1** Every habitable room in a dwelling unit or rooming house other than a kitchen shall contain at least two duplex electrical outlets or one duplex electrical outlet and one electrical light fixture.
- 9.2** Every kitchen in a dwelling unit or rooming house shall contain at least one electric light fixture and two duplex electrical outlets.
- 9.3** Every other room in a dwelling unit or rooming house shall contain at least one electric light fixture.
- 9.4** All building entrances in dwellings or rooming houses and all common areas in rooming houses or dwellings containing two or more dwelling units shall be adequately lighted to provide for safe and reasonable use and safe access and egress to and from the building.
- 9.5** All electrical systems in dwellings, rooming houses and on rented mobile home lots shall be maintained in safe working condition.

10.0 Structural Elements

- 10.1** Every owner of a dwelling or rooming house shall provide and maintain the foundation, floors, walls, doors, windows, ceilings, roof, staircases, chimneys and other structural elements of his or her dwelling, dwelling unit, rooming house or rooming unit so that it is weathertight, watertight, rodent proof and in good repair.
- 10.2** Every occupant of a dwelling or rooming house shall exercise reasonable care in the use of the structural elements of the building to maintain it in good working condition.
- 10.3** Every dwelling, dwelling unit, rooming house or rooming unit shall be maintained to be free from the regular or periodic appearance of standing water or excessive moisture, which may result in visible mold growth.

11.0 Mobile Homes on Rented Lots

- 11.1** It shall be the responsibility of the owner of a rented mobile home lot to provide connection to electrical services, water supply and sewage disposal to a location on each lot from which these services can be connected to the mobile home.
 - 11.1.1** Electrical Services: The mobile home lot owner is responsible for installation and maintenance of the electrical service to the main electrical panel in the home.

11.1.2 Water Supply: The mobile home lot owner is responsible for the maintenance of water lines to a point at which the lines surface under the mobile home.

11.1.3 Sewage Disposal: The mobile home lot owner is responsible for the maintenance of the sewage disposal system to the point where it surfaces from the ground to service the mobile home.

12.0 General Responsibilities

12.1 Owners:

12.1.1 No owner shall let to another for occupancy any dwelling, dwelling unit, rooming house, rooming unit or mobile home lot which does not comply with the requirements of this code. It shall be the responsibility of the owner to maintain all premises in compliance with this code.

12.1.2 No owner shall cause any water, sewer, equipment or utility which is required by this regulation to be removed, shut off or discontinued for any occupied dwelling, dwelling unit, rooming house, rooming unit or mobile home lot except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies.

12.1.3 No rental agreement containing any provision purporting to transfer responsibilities between owner and occupant other than as imposed herein, shall be effective for the purposes of this code.

12.2 Occupants:

12.2.1 No occupant shall use or occupy his or her dwelling unit, rooming unit or rented mobile home lot in such a way as to cause non-compliance with this code.

12.2.2 Every occupant shall exercise reasonable care in the use of his or her dwelling unit, rooming unit or rented mobile home lot and shall maintain it in such a manner that it does not create a health hazard for his or her neighbors.

12.3 Existing structures and premises that do not comply with provisions in this code shall be altered or repaired to achieve compliance.

Municipalities with Periodic Inspections of Residential Rental Units – 12-15-2019

	Program	Rental Registry	Short Term Rentals <30 days	Cost Per Unit to Register	Frequency of Inspections	Number of units	Number of properties	Approx. Number of inspections per year
Barre City	Muni/FS	YES	NO	\$50/year	4 years	2,536	725	400-450
Burlington	Muni/FS	YES	NO	\$110/year**	1 to 5 years	10,264	3112	2266
Winooski	Muni/FS	YES	NO	\$100/year	4 Years	2,600	unknown	1000
St. Johnsbury	Muni	YES	NO	\$35/year	3 Years	1,421	450	320
Brattleboro	Muni/FS	NO*		\$75/4 years	4 Years	3,000		700-750
St. Albans	Muni/FS	NO*	YES	\$100/4 years	4 years	1,500	742	375
Total units paying fees						21,321		
Bennington	MOU	NO	NO	N/A	NO			
Fairfax	MOU	Voluntary	NOT YET	N/A	NOT YET	unknown	unknown	not many
Montpelier	MOU	NO	NO	N/A	NO			
Putney	MOU	NO	NO	N/A	NO			
SO. Burlington	MOU	NO	NO	N/A	NO			
Hartford	MOU	NO	NO	N/A	NO			

Program

Muni/FS = municipal inspection program with registry or rental properties list, and MOU with Fire Safety

Muni = municipal inspection program with registry; no MOU with Fire Safety

MOU = MOU with Fire Safety, but no periodic inspection program and no registry

* = LL not responsible for registering; Town notifies LL when intends to inspect and LL pays registration fee
information about location of rental properties available from Town

** = Burlington has a reduced rate for owner-occupied duplexes (\$80/yr) and a surcharge for transfer of ownership (\$50).
In Burlington only, nursing homes, community care homes, and certain publicly subsidized affordable housing units are exempt from the fee, though they are required to register and are subject to periodic City inspection.

**Report to
The Vermont Legislature**

**Rental Housing Safety Report
2019 Report to the Legislature**

In Accordance with Act 48, Section 8, An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence

Submitted to: House Committee on General, Housing and Military Affairs
Senate Committee on Economic Development, Housing and General Affairs

Submitted by: Commissioner Mark Levine, MD
Vermont Department of Health

Prepared by: Shayla Livingston, MPH
Vermont Department of Health

Report Date: January 1, 2020



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Rental Housing Safety Report **2019 Report to the Legislature**

Background

Act 48 (2019) Section 8 requires the Health Department to work with the Division of Fire Safety and the Rental Housing Advisory Board to describe a potential State-run rental housing health and safety inspection program based on needs assessment data collected over the summer of 2019.

The Health Department first promulgated rules on rental housing health on October 17, 1974. These rules are enforced by Town Health Officers. Each municipality in Vermont is required by 24 App. V.S.A. ch. 156, § 15 to have a Town Health Officer. Not all municipalities employ their Town Health Officers – many are volunteers or do their duties as part of a different municipal job. If no Town Health Officer volunteers, the Chair of the Selectboard is the designated Town Health Officer. The Division of Fire Safety conducts inspections of rental units when there are complaints related to fire safety and plumbing violations.

State-Run Program

Using data submitted to the Health Department by towns, the Division of Fire Safety and the Department of Health have determined that should the State establish a State-run inspection program it should be run by Fire Safety. Fire and building safety, electrical and plumbing complaints comprise over 70% of the violations found from the needs assessment data. Under this model, Town Health Officers would maintain their other public health-related duties (such as responding to rabid dog reports) but would no longer be responsible for rental housing inspections. Towns that run their own code enforcement/rental housing inspection programs and have granted authority from the Department of Public Safety would continue to do so.

The Division of Fire Safety would require 5 full-time equivalent (FTE) new Fire Marshals, geographically dispersed. The Division of Fire Safety has information technology systems already in place to collect and track data from inspections and would need minimal additional infrastructure to begin conducting these inspections. The program would need one-year to hire, train and place the new personnel. Such a program would require a budget of approximately \$600,000 annually.

FTE Justification:

Based on the inspection data collected by the Health Department and an estimate developed by the Division of Fire Safety, one FTE Fire Marshal can conduct an average of 350 inspections a year. Rental complaints typically require at least one follow-up, and many require multiple visits validating progress toward compliance (2-3 follow-ups). For the purposes of estimating, we assume each complaint requires at least one follow-up and that 40% (257) of the complaints require a third follow-up. Many complaints require inspections from both electrical and plumbing inspectors. For the purposes of this estimate, it is assumed these would be absorbed by Fire Safety. In order to absorb that work, Fire Safety would move the 130 rental housing complaints they currently respond to over to the new inspectors.

Effort	Calculation
Estimated THO complaints	643
Additional follow-up inspection	643 x 2 = 1,286
Complaints requiring a second follow-up (40% of original)	257 + 1,286 = 1,543
Inspections currently conducted by Fire Safety	1,543 + 130 = 1,673
Number of complaints per FTE	1,673 / 350 = 4.78
Total FTE needed	~5

Budget

Fiscal Year	2022	2023	2024
Personal services Details	5 AFM Positions with health plan \$84,584.00 x 5 = Total: \$422,920.00	5 AFM Positions with a health plan \$84,584.00 x 5 + 3.7% = \$15,648.04 Total: \$438,568.04	5 AFM Positions with health plan \$84,584.00 x 5 + 3.7% = \$15,648.04 Total: \$454,568.04
Indirect rate	1.(19.2% Indirect Rate) = \$81,200.64 (Insurance)	1.(19.2% Indirect Rate) = \$84,205.13 (Insurance)	1.(19.2% Indirect Rate) = \$87,277.06 (Insurance)
Personal Services Total	\$504,120.64	\$522,773.17	\$541,845.10
Transportation Total (Vehicle Costs, Fuel and Maintenance)	\$158,300.00	\$39,700.00	\$39,700.00
Communication Totals (Air Cards, Cell Phones and Code Books)	\$6,800.00	\$4,800.00	\$4,800.00
Safety Equipment Total (Clothing/Uniforms)	\$2,500.00	\$2,500.00	\$2,500.00
Total FY22 Cost	\$671,720.64	\$567,273.17	\$588,845.10

Transition

The Division of Fire Safety already has authority to enter and inspect rental housing units. The transition of rental housing inspections from the Town Health Officers to the Division of Fire Safety would necessitate the removal of the statutory provisions requiring Town Health Officers to respond to rental housing health and safety complaints, and the requirement that they report to the Health Department. Upon passage of legislation, the Health Department would transfer the Rental Housing Health Code Rule and cede this authority to the Division of Fire Safety.

The Division of Fire Safety would enforce all areas of the current Rental Housing Health Code Rule in their purview and refer cases to the appropriate authorities when not under their purview (e.g. lead law compliance issues would be referred to the Health Department for enforcement).

Under this structure the issue of pests has no program, funding or authority. In this area the Health Department and the Division of Fire Safety recommend incorporating language into 9 V.S.A. §§ 4457 and 4458 that would clarify responsibilities of landlords and tenants in this area similar to [2013 language](#) passed in New Hampshire.

Appendix A: Needs Assessment Data

In this report the data are broken out between those towns that use only a “complaint-based” rental housing inspection system, and those that incorporate the rental housing inspection into a broader code enforcement program and conduct regular rental housing inspections. This breakout was made because the type of inspection, rate of inspection, and violations cited differ between these two systems, and because any State-run system would continue to leave enforcement and control at the local level for those municipalities that currently run their own code enforcement programs, similar to the structure employed by the Division of Fire Safety today.

General

The Health Department collected data from Town Health Officers on rental housing inspections completed between July 1, 2018 and June 30, 2019. In summary, extrapolating from the reported data to a state-wide number (only 88 municipalities completed the reporting), in towns without professional code enforcement programs, Town Health Officers responded to approximately 640 initial rental housing safety complaints in the reporting period. Of the complaints reported, the vast majority (~70%) involved fire and building safety, electrical safety, and plumbing violations.

A total of 88 towns responded to the data request. Of these, 82 conduct only complaint-based inspections, and do not have code enforcement programs. There were 292 inspections in response to complaints completed by the 82 towns that only conduct complaint-based inspections.

Using the 2017 population estimates and assuming the unresponsive towns without code enforcement programs had similar complaint rates, there were approximately 643 initial complaints (see below). Using American Community Survey data from the U.S. Census from 2016 on the number of rental units per town and village, the estimated total complaint rate was calculated at 747 (data and calculations not shown).

Violation Data

Each inspection may or may not include a finding of a violation. There may also be multiple violations per inspection. Of the total violations (including those found by professionalized code enforcement programs), the vast majority (~70%) were related to fire and building safety, electrical safety, and plumbing issues (see Appendix B).

Enforcement Action Data

There was only one reported fine in a complaint-based town in fiscal year 2019, 16 Health Orders, and approximately 17 Emergency Health Orders (data for emergency health orders were unreliable).

Fire Safety Data

Fire Marshalls conducted approximately 130 fire safety inspections in response to complaints on rental housing units in fiscal year 2019. Some of these are duplicates of the complaints that Town Health Officers responded to as Town Health Officers often refer cases to the Division of Fire Safety when their inspection uncovers a potential violation of one of Division of Fire Safety’s codes (fire and building safety, electrical safety and plumbing).

Extrapolation of reported data to non-responsive towns:

Complaint-based Municipalities	Population	Complaints reported
<i>Municipalities that reported</i>	224,061	292
<i>Municipalities that did NOT report</i>	269,318	351**

**Formula to estimate: $(292/224,061) \times 269,318 = 351$

Towns with authority from Fire Safety (assumed that the Town Health Officer duties are included): Barre, Bennington, Brattleboro, Burlington, Hartford, Montpelier, Putney, South Burlington, St. Albans City, and Winooski.

Appendix B: Needs Assessment Data

Town Health Officer Reported Violations from July 1, 2018 through June 30, 2019. Includes towns with professional code enforcement programs. One inspection can result in more than one violation.

Violation Type	%
Smoke Alarms	13%
Carbon Monoxide Detectors	12%
Fire Extinguisher	12%
Vermont Lead Law	11%
Electrical Systems Working	7%
Trash, Recycling, Food Scrap Receptacles provided	6%
Trash, Recycling, Food Scrap Removed weekly	5%
Stairway Handles	3%
Exits Free of Obstruction	3%
Two Exits for each Dwelling	2%
Weathertight and Watertight	2%
Standing Water	2%
Hot Water Provided	2%
Electrical Outlets Working	2%
Other	2%
Pest Infestation	2%
Structurally Sound	1%
Bathroom Facilities available and constructed of non-permeable surfaces	1%
Heating Sufficient and Consistent	1%
Sewage Disposal Functioning	1%
Water Potable	1%
Water Supplied in Sufficient Quantity	1%
Ventilation	1%
Fuel Fired Heating System	1%
Electrical Service @ Mobile Home	1%
Water Supply @ Mobile Home	1%
Sewage Disposal @ Mobile Home	1%
Wood / Pellet Stove Clearance	1%
Bedroom Windows Open + Big Enough	1%
Heating System Function	1%
Kitchen Facilities available and constructed of non-permeable surfaces	0%

To: Rental Housing Advisory Board

Date: 12/17/19

Re: Provisions on a Registry of Residential Rental Housing Units for final RHAB Report

The Rental Housing Advisory Board (RHAB) has concluded that in order to have a system of professional, state-wide inspections of rental housing, the State needs to create a registry¹ and require that all owners of rental housing register their rental units. The law should require a small registration fee to, among other things, fund the inspections and provide increased resources for landlords and tenants. The purposes of such a registry are: (1) the State would know where rental housing is in times of emergency, (2) the State has greater capacity to comply with state and federal requirements for ensuring that rental housing is lead-free or is maintained to minimize the possibility of lead poisoning of children and adults, (3) the State can better measure the need for housing in Vermont, including the need for different types of housing, and (4) longer-term, the State can better understand the extent to which long-term rental housing is being shifted to short-term rental housing

Existing lists of rental housing. Vermont law already requires numerous lists of rental housing, but none completely reflects the rental housing in Vermont.

- The Department of Health maintains a list of properties that are, or have been, “EMP Compliant,” i.e. the landlord performed the essential maintenance practices required by Vermont law to minimize the lead hazards of pre-1978 housing. 18 V.S.A. § 1759(b)(1). This list should have approximately 30,000 entries (the estimated number of pre-1978 rental buildings), but in 2018, only approximately 6,200 EMP certificates were filed. The purpose of this registry is to ensure that landlords are meeting their requirements for lead safe housing and that tenants can be sure their housing is lead safe.
- Enhanced 911 maintains a database for locating a caller through addresses, geo-coding or other methods, for purposes of providing emergency services. 30 V.S.A. Chapter 87. The database should include all multi-unit housing, but is without unit specific information or identification as a rental property.
- The Department of Taxes is required to make available a sortable spreadsheet of all Landlord Certificates it receives on an annual basis. 32 V.S.A. § 6069. Theoretically, that list should include all units owned by a landlord who rents two or more units plus all with only one if the tenant has asked for the certificate to be filed. The purpose of the

¹ “Registry” refers to the collection of information which landlords are required to provide regarding their rental units when they “register” their units. “Database” refers to a list of properties and specific data points, often in an Excel spreadsheet. Per Act 48 of 2019, the Department of Housing and Community Development is constructing a database of rental housing in Vermont from information from a variety of agencies such as Enhanced-911, the Departments of Taxes and Health, and the Vermont Housing Finance Agency. Towns which have an inspection program and a fee to cover the inspection, but no requirement that the landlord register with the town, are considered to have an inspection program and inspection fee, but not to have a registry.

certificate is to allow the tenant to receive a renter rebate. The data from 2019 filings cover nearly 42,000 units.

- The Tax Department also has information on short term rentals, which are all required to file for a tax ID number.
- Many towns have rental housing data as part of their Grand List, but the content is not consistent across towns and, at this point, is not forwarded to the State.
- The Department of Housing and Community Development is required to survey rental housing as part of its federally-mandated housing needs assessment. In 2019, it contracted with the Vermont Housing Financing Agency to attempt to collect and scrub the data from various state databases above to estimate the number and locations of all rental housing in Vermont. Its preliminary report reflects 76,214 units but contains only the towns the rentals are in and not the actual location address or attributes of the rentals.
- Four towns (Barre City, Burlington, St. Johnsbury and Winooski) require apartment registration, charge registration fees, and have rental registries to enable them to conduct periodic inspections of rental units. Their annual per unit fees range from \$35 to \$110 per year. Two towns (Brattleboro and St Albans) conduct periodic inspections every four years and assess inspection fees of \$100/unit at the time of inspection. See the exhibit “Municipalities with Periodic Inspections of Residential Rental Units”.
- The Department of Fire Safety has a database of all housing units that have been inspected or have been issued a construction permit. Although municipalities with an MOU with Fire Safety have access to their database, most MOU holders do not enter reports on the DFS database. Currently, 11 towns have MOUs with Fire Safety (some of those towns also have rental registries, some do not). The Department’s database is not limited to rental units.

Proposed placement of registry of rental housing units. RHAB recommends that the Department of Health expand its EMP Compliance list to cover all rental properties. Although the EMP list is not yet comprehensive, it should be.

RHAB believes it is the best choice because:

- (1) it contains the framework for a list of all rental properties, requiring only minimal adjustment to collect the data on housing that was built in 1978 or later;
- (2) the current list has a portal for landlords to be able to provide the required information directly and they already be used to using it;
- (3) the database is going to be upgraded in the relatively near future so the addition of a dozen or fewer new fields and a move to collecting data by unit rather than by property² will cost far less than building a completely new database accessible to the public;

² This latter change to information per unit, rather than per property, will also make the EMP database more accurate and less confusing. The current database assumes that each unit in a building has EMP work and tenant-turnover at exactly the same time, which is largely not going to be the case; thus the current database forces a landlord to fudge the facts and submit at only one time annually rather than encourage reporting of accurate information submitted at the time of reportable activity.

(4) landlords will continue to have to file EMP Certifications with the Department of Health, and ideally would not have to submit information on rental units in two places in state government.³

The registry should include all long-term and short-term rentals. RHAB recommends that the registry contain all dwelling units subject to landlord-tenant law at 9 VSA Chapter 137. In the future the municipal registries could be integrated with the state data base which already should have two thirds of the rental units registered for EMP's. Because the status of a rental can change from long term to short term, RHAB further recommends that the registry contain all dwelling units subject to the short-term rental law, as defined at 8 V.S.A. § 4301, except those located within an owner-occupied home. Thus, the following would be included: rented apartments and rented rooms, rented single-family homes and condominiums, full rental units in owner-occupied multi-family buildings with one or more rental units and rented mobile homes. Excluded would be seasonal homes and establishments routinely inspected by the State of Vermont such as motels and hotels.⁴

Data to be collected. RHAB recommends that the following information be collected and available to the public. The information in bold below is currently collected by the Department of Health on EMP Compliance Statements and made publicly available.

Property Owner (person(s) or entity that is title owner of property)

- **Name**
- **Address including Company/City/State/Zip Code**
- **Phone Number**
- Email address⁵

Emergency Contact or **Property Manager** (if applicable)

- **Name**
- **Address including Company/City/State/Zip Code**
- **Phone Number**
- Email Address

Location of Property (using E-911 address of building)

- **Number of Rental Units**
- For each Unit

³ RHAB also considered placement of the list in the Department of Taxes, the Department of Fire Safety, and the Department of Housing and Community Development, but rejected those options as far more disruptive and expensive than placement in the Department of Health. RHAB also considered placement outside state government as a possible less expensive alternative, but rejected that as not appropriate for a state function, especially not one that is associated with the collection of a state-imposed fee.

⁴ There will be an unknown number of casual rentals that will never be included in the registry, such as a hunting cabin or a cabin on a lake rented out to friends a couple of weekends a year. Some hotels and motels may have long term rentals. We have not attempted to quantify or include them in our estimates of the cost of the registry

⁵ An email address is particularly important for quick and inexpensive communication with landlords. That information is collected by Burlington; we don't know about other towns.

- Unit number or letter
- Short-term or long-term
- Number of bedrooms
- Number of bathrooms
- Accessible Unit?

The database should have the following functionality:

- a. Allow a landlord to enter information on multiple occasions using a user name and PIN
- b. Save historic information
- c. Be searched easily and effectively
- d. Generate specific reports useful to Fire Safety, other state agencies, and the public
- e. Be able to integrate other databases in the future such as inspection reports
- f. Be able to accept a transfer of data from municipalities that charge a registration fee, so that affected owners will not have to register twice
- g. Indicate when a unit is subject to a compliance order

Cost of the registry and source of funds. Any registry requires substantial cost and time for creation. The first step for creating a registry would be for the agency which is going to house the registry to pay the Agency of Digital Services to develop and propose a Request for Proposal for a registry that has the functionality and flexibility needed.

The Department of Health is currently working with the Agency of Digital Services to update the EMP database and determine whether contractor licensing under the RRPM (Renovation, Repair, Painting and Maintenance) program should be integrated with it. The Department hopes to have a better idea of what that effort will cost and the timing of development during the first three months of 2020.

The cost of operating the registry should be covered by the fees generated over and above what is needed to cover Fire Safety's additional costs. However, to fund the development and startup of the registry, as well as start-up costs for Fire Safety, it is expected that a one-time appropriation will likely be needed.

The fee for registering. The fee for registering a rental unit should be as low as possible while funding the cost of inspections, the cost of maintaining the registry, community outreach, and incentives for landlords to participate; see *Benefits of Registration* below. The fee should not include the start-up costs of creating the registry or of maintaining the registry for its first year. Fees must cover the estimated cost of complaint-based inspections. (We do not anticipate periodic inspections in the near term. (6) Landlords already paying a fee to a municipality for inspections programs would not be expected to pay an additional fee.

In addition, there will be costs associated with:

⁶ In addition, several municipalities with inspection programs mentioned that they do inspections for the sale of property, particularly condominiums. Presumably, if it chose, Fire Safety could conduct those inspections for a fee.

- a. annual maintenance of the registry
- b. a registry administrator who manages the registry and handles the payments
- c. educational materials and trainings for landlords and tenants
- d. maintenance of a website such as rentalcodes.org
- e. possible grants for landlords to bring properties up to code.

According to the census, there are approximately 76,000 rental units in Vermont. Over 21,000 are in municipalities which already have housing inspection programs and charge a registration fee. Consequently, the costs of a state-wide registry should be borne by approximately 55,000 units at this time. We do not yet know how many short-term rentals might be added as this is a relatively new type of housing and not classed by census. There is overlap in whether those current short term rentals are now being counted as long term rentals or single family homes, so we have not estimated how many above the 76,000 current identified rentals this would be.

One of the difficulties of estimating the amount of an annual registration fee is that the cost per unit should be the cost of operating the system divided by the number of units. However, we know that not all units will be in compliance in the first year and may not be registered for a few years; some may never be registered.

The State can adopt multiple strategies for increasing compliance with the registration requirement. For example, if financial benefits for landlords, such as grants for lead abatement and money for repairs for bringing substandard housing up to code, were tied to registration, the number of units participating might increase to provide additional resources for rentals.

Another way to increase participation is to allow landlords to register for free the first year of mandatory registration and require a fee thereafter. St. Johnsbury set a registration fee of \$35/unit/year, but waived the first year's fee to encourage landlords to register. The town had been compiling a list of known rental units for a couple of years before the registry was enacted. They had meetings with landlords for a couple of years in advance as well. Once the registry was adopted, they sent out a notice to owners in their water bills the first year of the registry, when it was free to register, as well as in the following year as a reminder to register. St. Johnsbury found that approximately 84% of the known rentals registered the first year, and approximately the same number registered the second year. Although they have not made a concerted effort to add new registrants, they do pay attention to properties with multiple utility meters which are not in the registry, and have found that some landlords will suggest that they inquire about a specific building that is not registered.

Another approach is to have a fine that is assessed for failure to register on a timely basis. Currently, failure to file a required EMP statement potentially gives rise to a \$150 fine. If fines remain unpaid, a lien can be placed on the property for the amount due. Burlington, for example, places liens on property for unpaid fines after a certain amount of time.

RHAB recommends that registration for the first year be free and that a fee of \$35/unit/year be required thereafter. It further recommends that first-year and program start-up costs be paid for with one-time monies. RHAB also recommends that any benefits from the state to landlords be tied to all rental units owned by the landlord being on a registry.

An estimate of expenses and revenue from fees is attached. The Dept. of Fire Safety has provided a detailed budget of their additional personnel needs based on this summer's needs assessment and increased work load for the additional inspections. The expenses for the operation of the rental registry are based on additional personnel and support needed to upgrade to a fully functional, integrated registry, as well as needed educational support and outreach to landlords and tenants. These numbers have not been confirmed by the Dept. of Health. In the short term, for a much lesser cost, it might be possible to build on the current EMP Compliance Statement Registry to accommodate unit information for the properties already registered and the addition of the properties that don't currently comply with their filing requirement, as well as the estimated 7,000 post-1978 properties currently not required to participate in that registry. The Agency of Digital Services has not been able to provide an estimate of their costs.

Benefits of registration. In order to get landlords to register, the State should provide advantages to registration, not just punishment for failing to register. For example:

1. **Provide a neutral database** Inspection reports can be issued against a tenant as well as a landlord and inspection reports that show the condition of a unit before the tenant moved in can be beneficial to a landlord if the property is in disrepair when the tenant moves out.
2. **Provide risk-free consultations for landlords wanting to come into compliance with minimum housing standards.** Some landlords affirmatively want to come into compliance with state standards but are concerned that if they inquire about their obligations and are found to be wanting, they will be fined or otherwise penalized. Aside from the information available on a website, the registry administrator should provide information and guidance for landlords to encourage them to bring their properties up to code.
3. **Provide educational materials, templates and other support materials on the registry website.** For example, this could include best practices on meeting the codes, how to onboard a tenant to prevent future disputes, and the elements of the eviction process.
4. **Condition state funding for landlords on being registered.** In 2019, the Governor proposed a program to assist landlords to bring vacant or blighted housing up to minimum housing standards. If the legislature appropriates monies for such a program, a landlord should not be able to access funds unless all the units of the landlord are registered.
5. **Provide ongoing habitability funding for landlords who are registered.** St. Johnsbury plans to use a portion of the annual registration fee to disperse in grants to landlords once the fund has built up sufficiently, which they anticipate to be at least two years. They have not yet decided what the funds can be used for, but lead and asbestos abatement has been suggested along with assistance in meeting ADA standards. Should the state incorporate some monies for such incentives into the annual registration fee, the funding should go to landlords only if their units have been registered for a minimum number of years, i.e. they must pay into the system before they can draw out of it.
6. **Provide advertising for landlords with units for rent.** Assuming there is a public website related to the registry, it could be a source of advertising for landlords looking to rent vacant units, with a description of the unit, rental amount, and an easy way for the tenant to contact the landlord.

Attachment 6

RHAB Recommended Budget - RHHC Enforcement and Rental Registry 12-15-19

Revenue Potential*

eligible units	55,000	50% participation 27,500	60% participation 33,000	70% participation 38,500	80% participation 44,000
Fee Income		\$962,500	\$1,155,000	\$1,347,500	\$1,540,000

* RHAB estimates there are currently 55,000 rental units not paying an inspection or registry fee to a municipality. This is based on a proposed fee of **\$35 per unit per year fee** for those units.

See chart of Municipalities with Periodic Inspections of Residential Rental Units – 12-15-2019

Some of the 21,000 units currently paying a fee to a town do not participate in a formal registry and would need to be included. At this point there is no additional fee proposed for those units.

It is assumed that data from towns with formal registries and fees would be integrated into the state registry at no additional cost.

RHAB Recommended Budget - RHHC Enforcement and Rental Registry 12-15-19

	(Year 1) FY 2021	(Year 2) FY 2022	(year 3) FY 2023
<u>Expenses</u>			
RHHC Enforcement*			
Dept of Fire Safety	\$671,721	\$567,273	\$588,845
Agency of Digital Sevices **			
Start Up/support	\$200,000	\$50,000	\$50,000
Rental Registry - Dept of Health***			
Registry Administrator	\$100,000	\$100,000	\$100,000
Compliance/Outreach	\$100,000	\$100,000	\$100,000
Admin support	\$50,000	\$50,000	\$50,000
Materials /supplies	\$25,000	\$10,000	\$10,000
Legal	\$25,000	\$10,000	\$10,000
Marketing	\$50,000	\$25,000	\$25,000
Website	\$20,000	\$5,000	\$5,000
Landlord/Tenant Support****	\$45,000	\$45,000	\$45,000
<u>Total Expenses</u>	\$1,286,721	\$962,273	\$983,845

* Includes start up - see attached budgets from Dept. of Fire Safety in Dept. of Health Rental Housing Safety Report

** The start up cost for the Agency of Digital Sevices is a guestimate.
RHAB has been unable to get a definite estimate of IT costs from the state agencies.
In the short term the current EMP Compliance Statement registry could probably be modified for less expense.

*** This would be additive to the current lead prevention EMP Compliance Statement registry.
<https://secure.vermont.gov/VDH/emp/> Health has not signed off on these numbers.

**** This would be a subgrant from DHCD to Vermont Tenants & the Vermont Apartment Owners' Association to resume their successful landlord/tenant outreach and education program.

Rental Housing Numbers used in 2020 RHAB Report

Total Rental Housing in Vermont

Number of occupied rental housing units by building type:

	# housing units	Assumed units/building	Estimated buildings
Boat, RV, van, etc.	40	1	40
Mobile home	4,603	1	4,603
Multifamily building (50+ units)	4,132	50	83
Multifamily building (20-49 units)	5,858	35	167
Multifamily building (10-19 units)	3,665	15	244
Multifamily building (5-9 units)	10,888	7.5	1,452
Multifamily building (3-4 units)	14,472	3.5	4,135
Multifamily building (2-units)	12,141	2	6,071
Single-family, attached (e.g. townhouse, row house)	3,004	1	3,004
Single-family, detached	17,411	1	17,411
Total	76,214		37,209

Vermont Housing Finance Agency (VHFA) estimates based on Census estimates

Number of Pre-1978 Properties in Vermont

50,000 based on VHFA estimates. Approximately **66% of the rental housing stock**.

An estimated 52,000 were built before 1980. So, if you assume that the 10,573 units that were built between 1970 and 1979 were built at the same rate each year (1,057/year), then we should reduce the 52,000 by 2,000. Here's the VHFA source <https://www.housingdata.org/profile/housing-stock/year-structure-built>. Dept. of Health has estimates there are 30,000 pre-1978 buildings. They have received approximately 6,200 EMP certifications.

Number of Units Participating in a Municipal Program and Paying a Fee

21,231 – Approximately **27% of rental housing**. See Attachment 4 - Municipalities with Periodic Inspections of Residential Rental Units.

Number of Units of Filing a Landlord Certificate

42,000 – Estimated Number of Units filing a Landlord Certificate [Form LC-142](#) in 2019. About **55% of rental housing units**. Landlords with two or more units are required to complete and issue a Landlord Certificate to each household and to the Tax Dept. by January 31 each year. A landlord with only one rental unit must supply the certificate if requested by the tenant.