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**Rules of Procedure Governing the
Organization and Operation of the
ORANGE COUNTY BOARD OF HEALTH**

Charge to the Board

The Board is “the primary policy-making, rule making and adjudicatory body”¹ for the health department and is charged to protect and promote the public health of Orange County.² This function may include allocating resources, planning programs, and advising the Health Director on health needs.

Organization and Duties of the Board

1. Composition³

The Board of Health shall consist of eleven members appointed by the Board of Commissioners of the County of Orange. One member must be a North Carolina licensed physician, one licensed dentist, one licensed optometrist, one licensed veterinarian, one professional engineer, one registered nurse, one licensed pharmacist, one county commissioner and three representatives of the general public. All members shall be residents of Orange County and the composition of the Board shall reasonably reflect the population makeup of Orange County. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a professional engineer, a registered nurse or a licensed pharmacist available for appointment, the Commissioners shall appoint an additional representative of the general public to serve until such a professional becomes available for appointment.

2. Terms of Office⁴

Members are appointed to serve three-year terms. No member may serve more than two consecutive three-year terms. Vacancies may only be filled for the unexpired portion of the term of the member replaced. Members appointed to fill unexpired terms are eligible to subsequently be appointed to two additional terms. The County Commissioner serves a term concurrent with his term of office as a commissioner. On the date and at the time of the first regular meeting after the member’s appointment by the Board of County Commissioners, the newly appointed members shall take and subscribe to the oath of office as the first order of business. After the oath of office they are full voting members of the board. New members must also sign a confidentiality statement and a conflict of interest statement.

3. Removal from Office

By majority vote of a quorum present at a regular or duly called meeting, the Board of Health may recommend to the Board of Commissioners that a member be removed for cause.⁵ Before recommending removal, the Board shall, by written notice, inform the member of the reasons for recommending removal with copies of this correspondence sent to all members. If the member desires a hearing on the recommendation for removal, then the member must submit a request for such a hearing in writing within ten days after receipt of the notice of recommendation for removal. The hearing shall be set within 30 days following receipt of the request for hearing.

Causes for removal from the Board shall include but not be limited to:

- Commission of a felony or other crime involving moral turpitude.
- Violation of a State law governing conflict of interest.
- Violation of a written policy adopted by the county board of commissioners.
- Conduct that tends to bring the office into disrepute
- Failure to maintain qualifications for appointment required under GS 130A-35(b).
- Unexcused non-attendance at three consecutive board meetings. The Board deems it essential to its ability to effectively and efficiently discharge its responsibilities that meetings are attended regularly. Quorum problems harm the ability to conduct public business and irregular and/or infrequent attendance results in inefficiency and uninformed voting.

4. Compensation⁶

Members shall receive a per diem reimbursement for subsistence and travel as established by the County Commissioners for each properly called and scheduled meeting of the Board and for attendance at official meetings and conferences.

5. Officers

The Health Director shall serve as Secretary to the Board. The Chairperson and Vice Chairperson shall be elected annually by the Board and shall serve for one calendar year.⁷ The Chairperson and Vice Chairperson shall be elected annually at the last regular meeting of the calendar year. A proposed slate of officers for Chair and Vice Chair will be developed and presented at the regular meeting prior to the election. An ad-hoc or regular committee of the Board as designated by the Chair will develop the proposed slate. Nominations from the floor are also allowed. Each member shall vote by roll call voice vote for Chairperson and for Vice Chairperson on separate motions. In the event of a tie vote, the Board shall continue balloting until the tie is broken. The newly elected officers shall be installed in January and serve for one calendar year.

6. Committees

The Board shall review the existing committee structure at least annually and make decisions regarding the number and types of standing committees. Only Board members may serve as committee members of standing Board committees and the number of Board members on any single committee must be at least two members and may not exceed five members. The Board may appoint time-limited ad hoc committees or task forces to examine particular matters of importance to the Board. These ad hoc

committees or task forces must limit their work to the specific charge outlined by Board motion and may include members that are not serving on the Board of Health.

7. Open Records⁸

All written, printed or recorded materials received or made by the Board (with the exception of closed sessions, matters considered in closed session, and confidential patient files) may be examined by the public. Members of the public may receive certified copies upon request. The Board may set reasonable times for and supervise the examination and inspection of records. The Board may establish reasonable fees for both certified and uncertified copies of records so as to recover clerical and copying costs.

The Health Director shall handle requests for information from personnel records and work with the Director of Personnel to determine whether information can be released according to statutes in effect as the time of request.

8. Contract Negotiations⁹

The Health Director is authorized to enter into a contract with any governmental or private agency or with any person, for the provision or receipt of public health services.

The Board of Commissioners or its designee must approve contracts requiring payment for services rendered to the Health Department. The Health Director will discuss with the Board contracts that represent significant deviation from current Board of Health policy prior to authorizing that contract.

9. Establishment of Fees¹⁰

The Board of Health "...may impose a fee for services to be rendered by a local health department, except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State. Notwithstanding any other provision of law, (the) Board may impose a fee for services performed pursuant to ...wastewater systems, public swimming pools, and tattooing. Fees shall be based upon a plan recommended by the local health director and approved by the local Board of Health and the appropriate county Board of Commissioners."

10. Appointment of Health Director¹¹

"The ...Board of Health, after consulting with the ...County Board of Commissioners, shall appoint a local Health Director. A local Health Director shall possess the qualifications established for the position in G.S. 130A – 40(a) and qualifications established for the position by the State Personnel Commission in accordance with Chapter 126 of the General Statutes." If the Board of Health fails to appoint a local Health Director within 60 days of the creations of the vacancy, "the State Health Director may appoint a local Health Director to serve until the local Board of Health appoints a local Health Director in accordance with this section."

The Board will conduct a periodic evaluation of the Health Director at least annually. The Director's services may be terminated by the Board subject to the provisions of Chapter 126 of the General Statutes and rules established by the State Personnel Commission.

11. Rule-making¹²

The Board of Health may adopt a more stringent rule in an area regulated by the Commission for Health Services or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health. The Board of Health may not adopt a rule concerning the grading operating, and permitting of food and lodging facilities as defined in G.S. 130A-247(1). The Board of Health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335 (c).

The rules of a local board of health shall apply to all municipalities within the local board's jurisdiction.

Procedures for adoption of local rules shall be accordance with G.S.130A-39 Sections (d)-(f).

12. Administrative Hearings¹³

The Board of Health is required by Statute to hold hearings when the interpretation and enforcement of rules adopted by the Board of Health and the imposition of administrative penalties is challenged. See Rules of Procedure, Rule 18.

Rules of Procedure*

Rule 1. Meetings

The Board shall hold regular meetings, at least quarterly, at which business may be conducted.¹⁴ Such meetings shall be pre-scheduled at a time and place agreeable to the majority of members. A calendar of regular meetings will be established at the last regular meeting of the calendar year for the next calendar year.

The Board may hold work session meetings to study issues. Motions to conclude matters shall not be permitted at work sessions.

The requirements of the open meetings law shall apply to all regular board, regular or ad hoc committee or task force meetings. Notification of the public will be in compliance with open meeting law notification.¹⁵

Rule 2. Special, emergency and recessed meetings

a. Special meetings

The Chairperson or any three members may call special meetings.¹⁶ At least 48 hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be given to each board member, posted on the door of the board's usual meeting room, and mailed or delivered to each media outlet or person who has filed a written request for notice with the board's secretary. The Secretary to the Board is to be informed of the special meeting and shall give proper notice of the meeting.

A special meeting may also be called or scheduled by vote of the board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. Notification procedures remain the same as those in the first paragraph.

Only those items of business specified in the notice may be discussed or transacted at a special meeting, unless (1) all members are present and (2) the board determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

b. Emergency meetings¹⁷

The chair or vice-chair may at any time call an emergency meeting of the board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each board member and to each local newspaper, local wire service, local radio station, or other media that has filed a written emergency meeting notice request with the board's secretary and whose request includes the party's telephone number.

An emergency meeting may be called only because of generally unexpected circumstances that require immediate consideration by the board. Only business connected with the emergency may be considered at an emergency meeting. Except under emergency situations a minimum of three days prior notice shall be required to hold a special meeting.

c. Recessed (adjourned) meetings.¹⁸

A properly called regular, special or emergency meeting may be recessed or adjourned to a specific time and place by a procedural motion made and adopted as provided in Rule 12, Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of such a recessed session of a properly called meeting.

Rule 3. Agenda

a. Proposed agenda.

The Secretary and at least one other Board officer shall prepare an agenda and meeting notices for proper distribution. A request to have an item of business placed on the agenda must be received by the Secretary at least three working days before the meeting. Members are encouraged to contact the Secretary if they wish to receive formal notice of an agenda planning session. An agenda package shall be prepared that includes for each

item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each board member shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and/or distribution when they are distributed to the board members.

b. Adoption of the agenda.

As its first order of business at each meeting, the board shall discuss and revise the proposed agenda and adopt an agenda for the meeting. The board may by majority vote add items to or subtract items from the proposed agenda. If items are proposed to be added to the agenda, the board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all board members. The board may designate certain agenda items “for discussion and possible action.” This designation means that the board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

Rule 4. Public Address to the Board

Any individual or group who wishes to address the board shall make a request to be on the agenda to the board’s secretary. The board shall determine at the meeting whether it will hear the individual or group.

Rule 5. Order of Business

Items shall be placed on the agenda according to the order of business. Generally the order of business shall be:

- Adoption of an agenda
- Approval of the minutes
- Administrative hearings on matters of appeal
- General public comments
- Committee reports
- Unfinished business
- New business
- Informal discussion

Rule 6. Presiding Officer

The chair of the board shall preside at board meetings if he or she is present. The chair shall have the right to vote in all cases. In order to address the board, a member must be recognized by the chair. If the chair is absent, the vice-chair shall preside. If both the chair and vice-chair are absent, another member designated by vote of the board shall preside. If the chair wishes to engage in debate on an issue, the vice-chair may be asked to temporarily fill the presiding officer’s role.

The presiding officer shall have the following powers:

- To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;

- To entertain and answer questions of parliamentary law or procedure;
- To call a brief recess at any time;
- To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed may be appealed to the board upon motion of any member, immediately after such decision is announced and at no other time. The member making the motion need not be recognized by the chair and may not be ruled out of order.

Rule 7. Action by the Board

The board shall proceed by motion, except in the case of elections of officers that shall proceed according to the rules established in that section of the by-laws. Any member including the chair may make a motion.

Rule 8. Seconds to Motions

A motion from committee does not require a second. A motion from the floor does require a second.

Rule 9. One Motion at a Time

A member may make only one motion at a time.

Rule 10. Substantive Motions

A substantive motion is out of order while another substantive motion is pending. A substantive motion is one that refers to *main or principal* motions as opposed to those procedural in nature. This allows the board to consider one piece of business at a time.

Rule 11. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum being present. A majority is more than half of those present.

Rule 12. Debate

The chair shall state the motion and then open the floor to debate. The chair shall preside over the debate according to the following general principles:

- The maker of the motion is entitled to speak first;
- A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- Generally, the debate shall alternate between supporters and opponents of a motion.

If an agenda item has been placed for discussion and possible motion, then discussion may occur prior to a motion being placed on the floor.

Rule 12. Procedural Motions

In addition to substantive proposals only the following procedural motions are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

In order of priority:

Motion 1 To appeal a procedural ruling of the presiding officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the board. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2 To adjourn. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to adjourn to a time and place certain shall also comply with rules for calling a meeting.

Motion 3 To take a brief recess. This motion allows the board to pause briefly in its proceedings.

Motion 4 Call to follow the agenda. The motion must be made at the first reasonable opportunity or it is waived.

Motion 5 To suspend the rules. The board may not suspend provisions of the rules that state requirements imposed by law on the board.

Motion 6 To go into closed session. The board may go into closed session only for one or more of the purposes listed in G.S. 143-318.11. The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting.¹⁹

Motion 7 To leave a closed session. This motion provides a mechanism for returning from closed session to an open meeting.

Motion 8 To divide a complex motion and consider it by paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9 To defer consideration. The board may defer a substantive motion for later consideration at an unspecified time. A substantive motion that has been deferred expires 90 days thereafter unless a motion to revive consideration is adopted. If consideration has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending. A motion to suspend the rules is possible in raising a new motion.

Motion 10 Motion for the previous question. The motion is not in order until every member has had an opportunity to speak once. An affirmative vote on motion 10 does not approve the substantive issue, which requires a separate vote.

Motion 11 To postpone to a certain time or day. This motion allows the board to postpone action on a substantive matter until the time or day specified in the motion. A person who wishes to revisit the matter must either wait until the specified time or move to suspend the rules.

Motion 12 To refer a motion to committee. The board may vote to refer a substantive motion to a standing or ad hoc committee for its study and recommendations. Sixty days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire board, whether or not the committee has reported the matter to the board.

Motion 13 To amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote. Each amendment will be clearly stated prior to the vote.

Motion 14 To revive consideration. The board may vote to revive consideration of any substantive motion earlier deferred by adoption Motion 9. The motion is in order at any time within 90 days after the vote to defer consideration. After 90 days the substantive motion that has been deferred expires.

Motion 15 To reconsider. The board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side and only at the meeting during which the original vote was taken. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

Rule 13. Withdrawal of Motion

The introducer may withdraw a motion at any time before it is amended or before the chair puts the motion to a vote.

Rule 14. Duty to Vote

Every member must vote unless excused by the remaining members of the board. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. No members shall be excused from voting except in cases involving conflicts of interest as defined by the board or by law. In all other cases a failure to vote by a member who is physically present in the board meeting room or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as a vote with the prevailing side.

Rule 15. Quorum

A majority of the currently appointed members (excluding vacant seats) shall constitute a quorum. A majority is more than half. The chair shall be considered a member of the board in determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

Rule 16. Closed sessions²⁰

The board may hold closed sessions as provided by law. The board shall commence a closed session only after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The board shall terminate the closed session by a majority vote, using Motion 7 in Rule 12. Only those actions authorized by statute may be taken in closed sessions. A motion to adjourn (recess) shall not be in order during a closed session.

Rule 17. Minutes

The Secretary shall record meetings and prepare written minutes; however, the same need not be verbatim. The minutes shall be open to inspection of the public. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the board, the entire board shall be polled by name on any vote.

Minutes and general accounts of closed sessions may be sealed by action of the board. Such sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

Rule 18. Administrative Hearings²¹

The Board of Health is required by Statute to hold hearings when the interpretation and enforcement of rules adopted by the Board of Health and the imposition of administrative penalties is challenged.

”(b) Appeals concerning the interpretation and enforcement of rules adopted by the local Board of Health and concerning the imposition of administrative penalties by a local Health Director shall be conducted in accordance with subsections (b), (c) and (d) of [Section 130A-24]. The aggrieved person shall give written notice of appeal to the local Health Director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of reasons why the challenged action is incorrect. The local Health Director shall, within five working days, transmit to the local Board of Health the notice of appeal and the papers and materials upon which the challenged action was taken.

(c) The local Board of Health shall hold a hearing within 15 days of the receipt of the notice of appeal. The Board shall give the person not less than 10 days notice of the date, time and place of the hearing. On appeal, the Board shall have authority to affirm,

modify or reverse the challenged action. The local Board of Health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.

(d) A person who wishes to contest a decision of the local Board of Health under subsection (b) of this section shall have a right of appeal to the district court having jurisdiction within 30 days after the date of the decision by the Board. The district court may affirm, modify or reverse the decision of the Board with the scope of review as stated in G.S. 150B-51.”

Administrative hearings are designed to resolve factual controversies quickly without becoming bogged down in the procedural and evidentiary technicalities that surround judicial proceedings. To insure basic fairness, the courts require that that aggrieved party be given an opportunity to be heard, that the Board’s findings be supported by competent and substantial evidence, and that a record of the proceedings be made to enable review by a court.

The right to be represented by counsel, to confront witnesses on the other side, and to cross-examine the other parties and their witnesses must also be granted the aggrieved party. These procedures are necessary to insure that the opportunity to be heard is effective.

The Board is expected to seek the most reliable evidence available under the circumstances. For example, hearsay evidence is normally not admissible because it is thought to be less reliable than directed testimony. All decisions by the Board acting as a quasi-judicial body are subject to review by the courts. The order in which evidence is presented during Board of Health hearings is not structured. Any convenient sequence is acceptable.

The Chairperson or Vice Chairperson or their designee and at least one other board member will act as a Hearing Officer to gather all evidence and receive testimony. After evidence and testimony have been presented, the Secretary shall transmit the proceedings of the hearing to the full Board membership. At its next regular scheduled meeting following the hearing, the Board shall deliberate and reach a decision. The decision will be in writing so that it can be included in the record for appeal. The Board must set out its findings of fact and conclusions derived from the findings in a clear and logical sequence. The decision should also include a notice to the losing party of his right to appeal the decision to the courts.

Rule 19. Revision of By-laws

These by-laws may be revised by simple majority vote of members present at any regular meeting of the Board at which a quorum is present. Distribution of a copy of the proposed by-laws change(s) to the members and a discussion of the proposed change at the preceding month regular meeting shall precede such vote. The by-laws shall be reviewed every five years for possible changes. No provision of the by-laws may be in

conflict with state statute. Changes in law will automatically be incorporated into the by-laws by notification of the Secretary of the Board.

Footnotes

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- ¹ NC General Statute 130A-35 (a)
² NC General Statute 130A-39
³ NC General Statute 130A-35 (b)-(d)
⁴ NC General Statute 130A-35 (c) The custom adopted by the Orange County Board of Commissioners in 1999 was to only appoint board members for two consecutive terms of office.
⁵ NC General Statute 130A-35 (g)
⁶ NC General Statute 130A-35 (h)
⁷ NC General Statute 130A-35 (e)
⁸ NC General Statute 132-6
⁹ NC General Statute 130A-41(b)(13)
¹⁰ NC General Statute 130A-39(g)
¹¹ NC General Statute 130A-40
¹² NC General Statute 130A-39
¹³ NC General Statute 143-318.11
¹⁴ NC General Statute 130A-35 (i)
¹⁵ NC General Statute 143-318.12
¹⁶ NC General Statute 130A-35 (i)
¹⁷ NC General Statute 143-318.12(b)(3)
¹⁸ NC General Statute 153A-40(a)
¹⁹ NC General Statute 143-318.11
²⁰ NC General Statute 143-318.11
²¹ NC General Statute 130A-24

*The procedures in these by-laws were drawn from the following publication:
Bell, II, A. Fleming. Suggested Rules of Procedure for Small Local Government Boards, Second Edition,
Institute of Government, The University of North Carolina at Chapel Hill, 1998.