



## **Board of Health Rules Development and Adjudication Procedures**

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The Mecklenburg County Board of Commissioners (BOCC), when conducting its business as a consolidated human services agency under N.C. Gen. Stat. 153A-77 and acting as the Board of Health (BOH), will follow all applicable North Carolina laws, including but not limited to the laws setting forth the powers and duties of local boards of health.

### Rules Development Procedures

The BOCC shall evaluate the need for adoption of rules to protect and promote the public health. In addition, existing rules should be evaluated periodically for the need for revisions to respond to new risks, advances in technology, or changes in statutes or state regulations.

The BOCC will follow the procedures outlined in N.C. Gen. Stat. 130A-39:

1. Not less than 10 days before the adoption, amendment, or repeal of any local board of health rule, the proposed rule shall be made available at the office of the county clerk, and a notice shall be published in a newspaper having general circulation within the Mecklenburg County. The notice shall contain:
  - a. a statement of the substance of the proposed rule or a description of the subjects and issues involved,
  - b. the proposed effective date of the rule, and
  - c. a statement that copies of the proposed rule are available at the local health department.

A local board of health rule shall become effective upon adoption unless a later effective date is specified in the rule.

2. Copies of all rules shall be filed with the clerk of the BOCC and will be made available to all BOCC members.
3. A local board of health may, in its rules, adopt by reference any code, standard, rule or regulation which has been adopted by any agency of this State, another state, any agency of the United States or by a generally

recognized association. Copies of any material adopted by reference shall be filed with the rules.

### Adjudication Procedures

The BOCC will follow all procedures as specified in N.C. Gen. Stat. 130A-24. In the case where a member of the public is appealing a decision on the application of a Mecklenburg County Board of Health adopted rule or concerning the imposition of administrative penalties by the local health director, the process will include the following steps:

1. 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 the reasons why the challenged action is incorrect.
2. Upon filing of the notice, the local health director shall, within five working days, transmit to the BOCC the notice of appeal and the papers and materials upon which the challenged action was taken.
3. The BOCC shall hold a hearing within 15 days of the receipt of the notice of appeal. The BOCC shall give the person not less than 10 days' notice of the date, time, and place of the hearing.
4. The hearing must meet the requirements of procedural due process:
  - a. No contact outside the hearing with parties involved or between BOCC members.
  - b. BOCC members with any bias must not participate.
  - c. BOCC must allow the appellant's attorney to attend and advise his/her client.
  - d. BOCC must receive relevant testimony.
  - e. BOCC must allow for cross-examination of witnesses.
  - f. BOCC must keep detailed or verbatim minutes.
5. The proceedings shall be recorded, and a transcript of the hearing shall be prepared and be available to the appellant and/or the BOCC upon request.
6. The BOCC shall have authority to affirm, modify or reverse the challenged action. At the next regularly scheduled BOCC meeting following the hearing, the BOCC 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, and the clerk will transmit the final written decision of the BOCC to the person appealing via certified US mail.

7. A person who wishes to contest a decision of the BOCC shall have a right of appeal to the district court having jurisdiction within 30 days after the date of the decision by the BOCC.

**ADOPTED:**

**REVISED:**

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