

BY-LAWS OF THE BRUNSWICK COUNTY BOARD OF HEALTH

ARTICLE I

Name

The name of this organization shall be the Brunswick County Board of Health, hereinafter referred to as "Board of Health."

ARTICLE II

Object

The object of the Board of Health shall be set forth under Chapter 130A of the *North Carolina General Statutes* and the *Brunswick County Code*.

Section 1. The Board of Health shall be the policy-making, rule-making and adjudicatory body for the Brunswick County Health Department.

Section 2. The Board of Health shall have the responsibility to protect and promote the public health of Brunswick County. The Board of Health shall have the authority to adopt rules necessary for that purpose.

Section 3. 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 Board of Health, a more stringent rule is required to protect the public health; otherwise the rules of the Commission for Health Services or the rules of the Environmental Management Commission shall prevail over the Board of Health rules.

Section 4. The rules of the Board of Health apply to all incorporated and unincorporated areas of Brunswick County. The Animal Services Ordinance applies only to unincorporated areas except for Rabies and Dangerous Dog situations.

Section 5. Except for codes and standards adopted by reference, all rules and regulations adopted, amended or altered by the Board of Health must meet certain procedural requirements in order to have the force and effect of law.

Section 6. The Board of Health may, in its rules, adopt by reference any code, standard, rule or regulation which has been adopted by any agency of North Carolina, another state, any agency of the United States or by a generally recognized association.

Section 7. The Board of Health may impose a fee for services to be rendered by the Brunswick County Health Department, except where the imposition of a fee is prohibited by statute, or where an employee of the Health Department is performing the services as an agent of the State.

ARTICLE III

Members

The members of the Board of Health shall be set forth under Chapter 130A of the *North Carolina General Statutes*.

Section 1. The Brunswick County Board of Commissioners shall appoint the members of the Board of Health. The Board of Health shall be composed of 11 members. The composition of the Board of Health shall reasonably reflect the population makeup of Brunswick County and shall include: one physician licensed to practice medicine in North Carolina, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner, one professional engineer, and three representatives of the general public. All members shall be residents of Brunswick County.

Section 2. Members of the Board of Health shall serve a three-year term. No member, except for the county commissioner member, shall be eligible to serve more than three consecutive terms. When a member resignation occurs, the Brunswick County Board of Commissioners will appoint a new member for the remainder of the unexpired term.

Section 3. Members of the Board of Health may receive a per diem in an amount established by the Brunswick County Board of Commissioners. Reimbursement for subsistence and travel beyond normal meeting times and dates shall be in accordance with a policy set by the Brunswick County Board of Commissioners.

Section 4. No member should vote on a question in which he/she has a direct personal or pecuniary interest not common to other members of the Board of Health.

ARTICLE IV

Officers

Section 1. The officers of the Board of Health shall be the Chairman, Vice-Chairman and Secretary. These officers shall perform the duties prescribed by these bylaws and the parliamentary authority adopted by the Board of Health. The Health Director shall serve as Secretary to the Board of Health and act as recorder for all meetings. Additionally, the Health Director will serve as a non-voting member of all meetings.

Section 2. The Board Chair will solicit nominations for new officers during the regular January meeting each year. Election of new officers will take place at this meeting.

Section 3. The officers shall be elected by ballot to serve for one year or until their successors are elected, and their term of office shall begin immediately upon completion of the election.

Section 4. No member shall hold more than one office at a time.

ARTICLE V

Meetings

Section 1. The regular meetings of the Board of Health shall be held on the second Monday of each month unless otherwise ordered by the Board of Health. The Board of Health must hold a regular meeting at least once a quarter with a quorum present. All meetings of the Board of Health are subject to the provisions of North Carolina's open meeting law.

Section 2. Special meetings may be called by the Chairman or by the Executive Committee and shall be called by written notice. The purpose of the meeting shall be stated in the notice. Except in cases of emergency, at least three days' advanced notice shall be given.

Section 3. All rules and regulations previously adopted by the Board of Health may be amended by a majority vote of the entire membership.

Section 4. Six members of the Board of Health shall constitute a quorum.

ARTICLE VI

Executive Committee

Section 1. The officers of the Board of Health shall constitute the Executive Committee.

Section 2. The Executive Committee shall have general supervision of the affairs of the Board of Health between its regular meetings. The Executive Committee shall be subject to the orders of the Board of Health and none of its acts shall conflict with action taken by the Board of Health. Action taken by the Executive Committee shall be reported to the Board of Health for ratification.

Section 3. The Chairman may call special meetings of the Executive Committee.

ARTICLE VII

Committees

Section 1. Budget Committee shall be composed of five members of the Board of Health. The Board Chairman shall appoint its members and designate a chairperson for the committee in January. It shall be the duty of this committee to oversee the preparation of the budget for the fiscal year beginning the first day of July.

Section 2. Environmental Health (EH) Committee shall be composed of five members of the Board of Health. The Board Chairman shall appoint its members and designate a chairperson for the committee in January. It shall be the duty of this committee to act as an advisor to the Board of Health with respect to environmental health (including Animal Services) matters.

Section 3. Personnel Committee shall be composed of five members of the Board of Health. The Board Chairman shall appoint its members and designate a chairperson for the committee in January. It shall be the duty of this committee to complete annual evaluations of the Health Director and serve as an appellate board for personnel actions taken by the Health Director.

Section 4. Such other committees, standing or special, shall be appointed by the Chairman of the Board of Health or Executive Committee as shall from time to time be deemed necessary to carry on the work of the Board of Health. The Chairman shall be an ex officio a member of all committees. The Chairman has no obligation to participate at committee meetings and should not be counted in determining if a quorum is present.

ARTICLE VIII

Parliamentary Authority

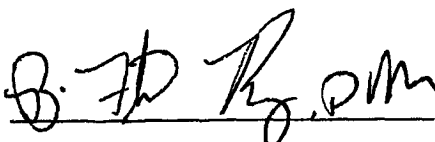
The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the Board of Health in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Board of Health may adopt.

ARTICLE IX

Amendment of Bylaws

These bylaws may be amended at any regular meeting of the Board of Health by a majority vote of the entire membership, provided that the amendment has been submitted in writing at the previous regular meeting.

Revised and adopted by the Brunswick County Board of Health, June 12, 2006.

 Chairman  Secretary

Dr. B. Flint King **Donald J. Yousey**

**BY-LAWS
of the
BRUNSWICK COUNTY BOARD OF HEALTH**

Revised November 12, 1996

The following resources were used in formulating the revised By-Laws:

Assess, Address, Assure

Boards of Health in N.C., A Guidebook for Board Members

Open Meetings and Local Governments in N.C.

Suggested Rules of Procedure for Small Governing Bodies

Oaths of Office for the Use of City, County, and State Officials in N.C.

BRUNSWICK COUNTY BOARD OF HEALTH BY-LAWS

PREAMBLE

These by-laws do not replace but are a locally utilized addendum to those General Statutes of North Carolina applicable to local boards of health and health department. Revision of these By-Laws may be made only by approval of the Brunswick County Board of Health.

ARTICLE I

NAME

The name of this agency is and shall be referred to as the **Brunswick County Health Department** (herein referred to as "the Health Department").

ARTICLE II

MISSION STATEMENT

The mission of the Brunswick County Health Department is to preserve, protect and improve the health of the community. This mission is accomplished through the collection and dissemination of health information, education and service programs aimed at the prevention of disease, protection of the environment and improvement of the quality of life for our citizens.

ARTICLE III

LOCAL ADMINISTRATION

General Statute 130-A-34. , Provision of local public health services, addresses the requirement that in North Carolina every county shall provide public health services. Also, it outlines the existing three options for doing so. They are:

- a county shall operate a health department
- or participate in a district health department
- or contract with State for the provision of public health services.

General Statute 130-A-35. , County Board of Health; appointment; terms puts forth the requirements that:

- **The Brunswick County Board of Health** (referred to herein as “the Board”) shall be the policy-making, rule-making and adjudicatory body for Health Department;
- The Board members shall be appointed by the county board of commissioners (**Brunswick County Commissioners**);
- The Board shall be composed of 11 members;
- Its composition shall reflect the population make up of the county;
- Members shall include: one physician, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner, one professional engineer, and three representatives of the general public;
- Members shall be residents of the county;
- Members shall serve three-year terms;
- Vacancies shall be filled for any unexpired portion of a term;
- The Chairperson shall be elected annually by the Board;
- The Health Director shall serve as the secretary to the Board;
- A majority of the members shall constitute a quorum;
- A member may be removed from office by the county board of commissioners for cause;
- The board shall meet at least quarterly.
- The Chairperson and/or three of the members may call a special meeting.

ARTICLE IV

POWERS AND DUTIES

The Board of Health has the power to make policy for the Health Department, which may include advising the Health Director, allocation of resources and planning of Health Department programs. Its main power lies in regulation and rule-making, and

also includes contract negotiations, appointment of the Health Director, and the holding of quasi-judicial hearings.

Regulation and Rule-Making: Local boards of health, as designated in N.C.G.S. 130-17(b), has as its most important power the ability to “adopt such rules and regulations, not inconsistent with law, as are necessary to protect and promote the public health.” Depending on local needs and the ability to enforce, this power may vary. Some common areas of regulatory authority include the installation of septic tanks, the control of air and water pollution, the collection and disposal of garbage, swimming pools and other miscellaneous nuisances.

In regard to sewage systems, any regulation made by the Commission for Health Services (or the Environmental Management Commission) generally prevail over local regulations. The Board may enact rules and regulations that are more stringent than the state’s only if it deems that a local condition requires it to ensure the public’s health and safety. Also, food service sanitation regulation is only permitted locally when a food-borne illness is a threat. A rule or regulation made by the Board will prevail over a municipal ordinance when a similar subject is covered; but in an emergency or under peculiar circumstances a municipal ordinance more stringent is valid.

The Board may adopt any code, standard or regulation of any federal or N.C. state agency as part of its regulation by citation only, without setting out the text in full. Only the codes or standards need to be filed with the clerk of superior court.

All other rules and regulations adopted, amended, or altered by the Board must meet certain procedural requirements in order to have the force and effect of law. This procedure involves:

1. Not less than 10 days before adoption, amendment or appeal of any Board of Health rule, the proposal should be available at the county clerk’s office and published in a newspaper with general circulation in the area of the Board’s jurisdiction.
2. A copy of the changes are put on file at the health department and are posted continuously at the courthouse door during the time the statement is being published.
3. At the end of the publication period the rule is deemed enacted unless another date has been specified for enactment.
4. The enacted rules and regulations have the force and effect of law, and violations are punishable as a misdemeanor subject to a \$50.00 fine or 30 days imprisonment.

Contract Negotiations: The Board can make contracts with any person or government agency. The Board must approve any contracts that require payment for services rendered to the health department before such contracts are submitted to the County Commissioners. The annual contract with the Department of Environment, Health and Natural Resources must be approved by the Board and the County Commissioners.

The Health Director shall maintain, as an addendum to these By-Laws, all policies approved by the Board. Policies approved prior to adoption of these By-Laws shall be re-approved prior to incorporation into the addendum.

Appointment of a Health Director: Appointment may be made after consulting the County Commissioners for any salary adjustments. The Board shall adhere to all State Personnel Commission established qualifications for local health director. The director's services may be terminated only by the Board and only according to the provisions in the State Personnel Act. Temporary appointments of a Health Director may be made with the approval of the Secretary of Human Resources. If a vacancy exists for more than 60 days the Secretary of Human Resources may appoint a director to serve until someone is elected by the Board. A more detailed description of the process involved in recruiting and hiring a health director may be found in "Recruitment Process for Hiring a Local Health Director."

Quasi-Judicial Hearings: State law requires the Board to hold a hearing on an appeal that concerns the interpretation and enforcement of local on-site sewage disposal regulations, on an appeal of the health director's determination that a nuisance exists or an appeal of any decisions by the Health Director in implementing or enforcing Board rules.

Administrative hearings are used to resolve factual controversies quickly by avoiding judicial proceedings. Consultation of the County Attorney, the Institute of Government and the Office of Local Public Health regarding the conduct of the Board during administrative hearings is needed.

Public hearings can be used in the process of enacting controversial rules. Taking formal public testimony can assure that the public's voice has been heard.

Sources of Finances for the Board of Health:

1. County Commissioners may appropriate funds from property taxes and allocate other unrestricted funds.
2. County Commissioners may establish capital reserve funds for public health facilities.

3. State and federal governments provide funds tied to specific programs.
4. State funds for general public health
5. Fees for services rendered.

The Board has no power to tax. All money received and spent by the health department must be budgeted, disbursed and accounted for in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

ARTICLE V

FUNDING

The Board receives funds for operations from local, state, federal governments and fees collected from patient fees, Medicare and Medicaid reimbursement. Annual budget requests are submitted to state and local governments; however, the Brunswick County Commissioners shall approve the Board's total budget request.

ARTICLE VI

OFFICERS

The Board has three officers: chairperson, vice chairperson and the Health Director serves as secretary. The chair and vice chair are elected annually at the first Board meeting in January. Nominees who receive a simple majority of votes are elected. Each member has one vote and there shall be no proxy voting. The secretary shall conduct the election, and immediately tally and announce the results. In the event of a tie vote, the board shall continue balloting until the tie is broken. The newly elected officers shall be installed and preside at the next official meeting.

ARTICLE VII

DUTIES OF OFFICERS

Chairperson: Shall preside at all meetings, regularly scheduled and special, of the Board; shall appoint standing and special committees and their chairpersons; shall be the official spokesperson of the Board; and perform all other duties of the Chairperson.

Vice-Chairperson: Acts as Chairperson in the absence of that office holder and performs other duties as delegated by the Chairperson.

Secretary: As prescribed by General Statute, the Health Director serves as holder of this office. The Secretary is responsible for keeping all meeting minutes; maintaining a list of all committee members; filing all official correspondence of the Board of Health; ensuring official minutes of meetings are periodically archived; and ensuring that all official policies enacted by the Board are maintained and are an addendum to these by-laws.

ARTICLE VIII

TERM OF OFFICE

No Board member may serve more than three consecutive three-year terms. To achieve an ordered staggering of memberships to achieve continuity of service, new members may serve a one, two or three year term. Members who are appointed to replace a resigned member or to fill a vacancy will serve only for the unexpired portion of the departed member's term. Members who are reappointed to a second and/or third term, serve three year terms.

ARTICLE IX

REMOVAL

By majority vote of a quorum present at a regular or duly called meeting the Board may recommend to the Board of Commissioners that a member be removed for cause. Before such recommendation the Board shall inform the member in writing of the reasons for the removal recommendation and offer a hearing before the commissioners at least 10 days after the member receives written notice for the basis for the removal.

Causes for Removal:

1. Commission of a felony or other crime involving moral turpitude.

2. Conflict of interest in violation of state law or of a written policy adopted by commissioners before the conduct believed to present a conflict.
3. Habitual failure to attend meetings.
4. Misconduct in office. Removal under the provision may take place only upon recommendation of the Board of Health.
5. Failure to maintain qualifications for appointment required in NCGS130A-35(b).

ARTICLE X

REMUNERATION

Board members shall receive a per diem plus expenses as established by the Brunswick County Commissioners for each official meeting. Members shall receive travel expenses for attendance at official meetings and conferences. They shall be compensated in the same manner as county employees.

ARTICLE XI

CONFLICT OF INTEREST

Under the General Statutes of N.C., an appointed or elected director of public trust is prohibited from making a contract for his own benefit, either privately or openly.

ARTICLE XII

STANDING COMMITTEES

Various committees serve to intervene between the Health Department and the board. They serve an advisory role to the Board.

The committees are:

1. Budget
2. By-Laws
3. Environmental Health
4. Personal Health

5. Personnel

Each committee is filled by various members of the Board and totals 3 or 4 members. It is recommended that members are chosen on a volunteer basis, but the chairperson may appoint members to serve on each committee. Each board member may serve on at least two different committees.

ARTICLE XIII

MEETINGS

The Board is required by law to meet at least quarterly. It currently meets on the second Monday evening of each month at 7:30 P.M. in the Board Room of the Brunswick County Health Department.

Meetings are conducted under the Open Meetings Law, and proceed under rules of procedure; using *Robert's Rules of Order*.

Training sessions or retreats are not considered open meetings if no deliberation or discussion of public business or policy matters are held.

Public notice for meetings is required. Regular meetings at a fixed time and place need only be filed once with the county clerk. If a change in meeting is made the Board shall give public notice seven days in advance.

QUORUM: An official meeting requires a quorum, which is a simple majority of duly sworn members being present.

SPECIAL MEETINGS: Special or emergency meetings may be called by the Chairperson or any three members. The health director is informed of the need for a special meeting; the director then calls the meeting to occur.

Special meetings require 48 hour advance written notice given to the public. This notice should be posted in an accessible area to the general public; also, anyone who requests written notification must have the notice delivered. Citizens requesting notification may be charged \$10.00 per year. News media may not be charged but can be required to renew their requests quarterly.

Emergency meetings are for urgent matters that cannot wait 48 hours. Only local news media need be notified.

It is recommended that each board member be notified at least six hours before a special meeting is convened. If reasonable efforts to give each member actual notice are not successful, written notice shall be left at the member's home. Only those items

of business contained in the notice may be transacted at the meeting unless all members are present.

MINUTES: Minutes of meetings are recorded by both written and tape recorded methods, and are available to the public. Exceptions include minutes made during executive sessions, and certain personnel records of health department employees.

PUBLIC COMMENT: Opportunity will be given at each called meeting for public comment. It is recommended the speaker make a request to the health director to speak. The speaker shall state their name, address and reason for speaking. A five minute time limit is recommended. The Chairperson may direct anyone who disturbs or disrupts the meeting to leave.

MEDIA: Anyone may photograph, audio or video record, or transmit live any official meeting. The Board can specify the location of equipment used.

ARTICLE XIV

MEETINGS PROCEDURE

AGENDA: The health director shall prepare the agenda for the meeting. A request to have an item of business placed on the agenda must be received at least two working days before the meeting. Any board member may, by a timely request, have an item placed on the agenda.

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

The board may, by majority vote, add an item that is not on the agenda.

STANDARD ORDER OF BUSINESS

1. Approval of the minutes
2. Discussion/adjustment of agenda
3. Public comment
4. Administrative reports
5. Committee reports
6. Health Director's report

7. Old business
8. New business
9. Informal discussion/adjournment

The order may be changed by general consent of the board.

DUTY TO VOTE: Every member must vote unless excused by the remaining members. A member who wishes to be excused from voting shall so inform the chairperson, who shall take a vote of the remaining members present. No member shall be excused from voting except on matters involving his own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present or has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote. There is no vote by proxy. The Chairperson shall vote only in case of a tie.

MOTIONS: All actions taken by the Board shall be preceded by a motion. The procedure is as follows:

1. Motion
2. Second to motion
3. Chairperson restates the motion and calls for discussion from the board
4. After the discussion is complete, if there have been no changes to the motion, the chairperson restates the motion and calls for a vote
5. If a change is made to the motion and seconded, this is an amendment to the motion and must be considered first as a separate motion
6. The original motion is then either considered again as it was originally stated or as it was amended. This may happen several times.
7. The chairperson announces the result of the vote and may restate the motion as passed. If the vote is close, the chairperson should state the count for and against.

CLOSED MEETINGS: Closed meetings may occur only if a motion stating the general purpose is made, and the matter to be considered is one of certain subjects set out in statute. A majority of the members present and voting must vote to go into closed session. Only the Board and those it invites may attend a closed meeting. Minutes shall be kept of all closed meetings. If no action is taken by the board in closed meeting, the minutes should simply state that the meeting was held and a particular topic was discussed. If action is taken, it must be reported when the meeting is reopened to the general public. It may be necessary to consult with the county attorney, the Office of

Local Public Health or the Institute of Government to determine if the issue the board wants to consider in closed session is one of those permitted by law.

Adopted by Brunswick County Board of Health
November 12, 1996

§ 130A-35. County board of health; appointment; terms.

(a) A county board of health shall be the policy-making, rule-making and adjudicatory body for a county health department.

(b) The members of a county board of health shall be appointed by the county board of commissioners. The board shall be composed of 11 members. The composition of the board shall reasonably reflect the population makeup of the county and shall include: one physician licensed to practice medicine in this State, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner, one professional engineer, and three representatives of the general public. All members shall be residents of the county. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer available for appointment, an additional representative of the general public shall be appointed. If however, one of the designated professions has only one person residing in the county, the county commissioners shall have the option of appointing that person or a member of the general public.

(c) Except as provided in this subsection, members of a county board of health shall serve three-year terms. No member may serve more than three consecutive three-year terms unless the member is the only person residing in the county who represents one of the professions designated in subsection (b) of this section. The county commissioner member shall serve only as long as the member is a county commissioner. When a representative of the general public is appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer, that member shall serve only until a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer becomes available for appointment. In order to establish a uniform staggered term structure for the board, a member may be appointed for less than a three-year term.

(d) Vacancies shall be filled for any unexpired portion of a term.

(e) A chairperson shall be elected annually by a county board of health. The local health director shall serve as secretary to the board.

(f) A majority of the members shall constitute a quorum.

(g) A member may be removed from office by the county board of commissioners for cause.

(h) A member may receive a per diem in an amount established by the county board of commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county board of commissioners.

(i) The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting. (1901, c. 245, s. 3; Rev., s. 4444; 1911, c. 62, s. 9; C.S., s. 7604; 1931, c. 149; 1941, c. 185; 1945, c. 99; c. 1030, s. 2; 1947, c. 474, s. 3; 1951, c. 92; 1957, c. 1357, s. 1; 1963, c. 359; 1967, c. 1224, s. 1; 1969, c. 719, s. 1; 1971, c. 175, s. 1; c. 940, s. 1; 1973, c. 137, s. 1; c. 1151; 1975, c. 272; 1979, c.

Suit. — Local health departments are agents of the state. Therefore, county Health Department was immune from suit under the doctrine of governmental immunity. *EEE-ZZZ Lay Drain Co. v. North Carolina Dep't of Human Resources*, 108 N.C. App. 24, 422 S.E.2d 338 (1992).

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Local Modification to Former § 130-13 and Former Similar Provisions. — Caldwell: 1939, c. 366; Cumberland: 1935, c. 159; 1943, c. 91; Edgecombe: 1969, c. 422; Moore: 1943, c. 326, s. 2; Nash: 1949, c. 6, s. 1.

§ 130A-36. Creation of district health department.

(a) A district health department including more than one county may be formed in lieu of county health departments upon agreement of the county boards of commissioners and local boards of health having jurisdiction over each of the counties involved. A county may join a district health department upon agreement of the boards of commissioners and local boards of health having jurisdiction over each of the counties involved. A district health department shall be a public authority as defined in G.S. 159-7(b)(10).