

 <span style="font-size: 24pt; font-weight: bold; vertical-align: middle;">Public Health</span>	
Policy Name:	Adopting, Amending or Repealing BOH Rules
Policy Number:	BOH-006
Effective Date:	12/13/2012

### **Policy:**

The Durham County Board of Health (BOH) shall have the responsibility to protect and promote the public health. The board shall have the authority to adopt, amend or repeal rules as necessary for that purpose.

### **Purpose:**

1. The BOH may adopt a more stringent rule in an area regulated by the Commission for Public Health or the Environmental Management Commission where,
2. In the opinion of the BOH, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Public Health or the rules of the Environmental Management Commission shall prevail over BOH rules.
3. However, the BOH may not adopt a rule concerning the grading, operating, and permitting of food and lodging facilities as defined in G.S. 130A-247(1),
4. And the BOH 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).
5. The rules of the BOH shall apply to all municipalities within the BOH's jurisdiction.

### **Procedures:**

#### **Adopting, Amending or Repealing a BOH Rule.**

Anyone wishing to make recommendations for the adoption, amendment or repeal of a BOH rule for Durham County must do so in writing to the Durham County Health Director at 414 E. Main Street, Durham, NC 27701.

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 each county clerk within the board's jurisdiction, and a notice shall be published in a newspaper having general circulation within the area of the board's jurisdiction.
2. The notice shall contain a statement of the substance of the proposed rule or a description of the subjects and issues involved, the proposed effective date of the rule and a statement that copies of the proposed rule are available at the local health department.
3. The BOH rule shall become effective upon adoption unless a later effective date is specified in the rule.
4. Copies of all rules shall be filed with the secretary of the BOH.
5. The BOH 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.
6. Copies of any material adopted by reference shall be filed with the rules.
7. The BOH 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.
8. Notwithstanding any other provisions of law, the BOH may impose cost-related fees for services performed pursuant to Article 11 of Chapter 130A, "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of Chapter 130A, "Public Swimming Pools", for services performed pursuant to Part 11, Article 8 of Chapter 130A, "Tattooing", and for services performed pursuant to G.S. 87-97.
9. Fees shall be based upon a plan recommended by the health director and approved by the BOH and the Durham County Board Commissioners.
10. The fees collected under the authority of this subsection (130A-39) are to be deposited to the account of the health department so that they may be expended for public health purposes in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

## References

G.S. 130A-24(c)

## CHANGE HISTORY:

Version	Date	Comments
A	12/13/2012	Original document.
	12/11/2013	Reviewed and approved by the BOH
	12/11/2014	Reviewed and approved by the BOH
	12/12/2015	Reviewed and approved by the BOH
	8/10/2017	Revision to the BOH Policy on Policies, to set the annual policy review period to the first quarter (July –September) of each new fiscal year.
	10/11/18	Reviewed and approved by the BOH
Annual Review Due Dates	12/11/2013; 12/11/2014; 12/12/2015; 8/10/2017; 10/02/2017	

<p>Approved By:</p> <p>_____</p> <p>Chair, Board of Health</p> <p>_____</p> <p>Public Health Director</p>	<p>Program Area(s) Affected:</p> <p>DC Board of Health</p> <p>DCoDPH</p> <p>Citizens of Durham County</p>
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