

**CITY OF ROCHESTER  
BOARD OF HEALTH BYLAWS**

**(Adopted by the Rochester Board of Health)**

**ARTICLE I - Name and Function of Board**

**Section 1. Name.** The Board shall be known as the City of Rochester Board of Health, herein after sometimes referred to as the "Board".

**Section 2. Function of the Board.** The City of Rochester Board of Health shall perform duties that promote quality of life, health, and general well-being of individuals as well as the community as a whole. The Board of Health shall perform the following functions:

- (1)** Formulate general policies regarding public health in the City of Rochester.
- (2)** Advise the Health Officer on all public health matters.
- (3)** Conduct public hearings and perform any quasi-judicial functions which may be required by law or necessitated by the operation of the Health Department.
- (4)** Make all rules and regulations relating to the public health as in its judgment the health and safety of the people of Rochester may require.

**Section 3. Authority of the Board.** These By-Laws are adopted under the authority of New Hampshire revised Statutes annotated, 1995, Chapter 676:1 and the Zoning Ordinances of the City of Rochester, New Hampshire.

**ARTICLE II - Membership**

**Section 1. Membership and Terms.** The City of Rochester Board of Health shall consist of five members including the City Physician, the City Health Officer, a doctor of Veterinary Medicine, a member with experience in food service inspections and administration/ enforcement of the FDA Food Code, and one additional member who is a legal voter of the City of Rochester, to be appointed by the City Manager for three year terms with said terms arranged that one of the three appointed members, other than the City Physician or the Health Officer, shall be appointed each year in January. Vacancies in these three appointed positions shall be filled by the City Manager for the expired term. See City Charter Section 72 for conflict of interest and the need to rescue one's self from a specific issue.

**Section 2. Term Limits.** Members of the Board of Health shall be limited to 3 consecutive full terms. No one shall take office having served 3 consecutive terms unless 3 years have lapsed since such member completed the third consecutive term.

**Section 3. Filling Vacancies in Membership.** Vacancies in the membership of the City of Rochester Board of health shall be filled by the Rochester City Manager.

**Section 4. Removal of Member.** Appointed members may be removed by the appointing authority of the City Manager upon written findings by the Board of Health related to inefficiency, neglect of duty or malfeasance in office.

**Section 5. Member Attendance.** If any member fails to attend 3 consecutive meetings, the records of attendance shall be reported to and reviewed by the City Manager who upon finding of no reasonable explanation for such absences may declare the office vacant.

**Section 6.** Members of the Board that are in non-compliance with procedures and policies will be notified by the Chair/Vice-Chair (in absence of Chair) that they are in jeopardy of being non-compliant with policies and By-Laws of the Board of Health.

### **ARTICLE III - Officers**

**Section 1. Officers and Term.** The officers of the City of Rochester Board of Health shall consist of a Chair and a Vice-Chair for a term of (1) one year and shall be eligible for re-election. The person to be elected to Chair or Vice-Chair must be a regular Board member. No member shall hold more than one office at any time. Officers shall be elected at the annual, with the exception of the very first, and only the first election. No officer shall be eligible to serve more than three consecutive terms in the same office.

**Section 2. Chair.** The Chair shall be elected annually by a majority vote of the Board. He/She shall preside over all meetings and hearings, appoint such committees as directed by the Board, and carry out other duties appropriate for the chair.

**Section 3. Vice Chair.** In the absence of the Chair, the Vice-Chair shall preside at all meetings and hearings of the Board, and shall assume the duties of the Chair during such proceedings.

**Section 4. Chain of Command.** In the absence of the Chair, the order of succession shall be as follows:

- (a) Vice-Chair.
  - (b) A member elected by a majority of the members present at the meeting of the Board.
- The person acting as Chair pursuant to this section shall assume the duties of the Chair.

**Section 5. Vacancies among Officers.** Should the office of Chair or Vice-Chair become vacant, the Board shall elect a successor from its regular membership to serve the unexpired term of said office.

### **ARTICLE IV - Meetings of the Board**

**Section 1. Regular Meetings.** Regular meetings of the Board shall be held at least quarterly at such time and place as the Board shall designate in the official notice of such meeting posted and otherwise noticed pursuant to and in accordance with the provisions of Chapter 91-A of the New Hampshire Revised Statutes Annotated. In the event that such day is a legal holiday or for other good cause, the regular meeting of the Board shall be held on such other day as the Board shall designate. In the event of emergent or extenuating circumstance, the Health Officer, his/ her designee, or Chair may change or cancel a meeting with as much notice as is reasonably possible.

**Section 2. Special Meetings.** Special meeting of the Board shall be held at the call of the Chair at such time and place as designated by the Chair provided public notices and notice to each member is given at least 24 hours (excluding Sundays and legal holidays) prior to such meeting. Special meetings of the Board may also be called by the Chair or Secretary upon written request of three regular (3) members, made to such officer in writing. Notice of any such special meeting shall be posted and otherwise noticed pursuant to and in accordance with the provision of Chapter 91-A of the New Hampshire Revised Statutes Annotated and such

notice shall be mailed to all members and alternates of the Board at least five (5) days prior to the date of such meeting, unless circumstances require a shorter notice to such members.

**Section 3. Annual Meeting.** There shall be an annual meeting of the Board 'in January each year unless otherwise scheduled by the Board. The meeting shall be held for the purpose of election of officers, review of reports, and the transaction of other appropriate business. Officers shall be elected by majority vote of the members present.

**Section 4. Quorum.** A quorum for all meetings of the board shall be three members. RSA 674:33, III provides that "...the concurring vote of 3 members of the board shall be necessary to reverse any action of an administrative official or to decide in favor of any appeal..." for this reason the board will make every effort to ensure that a full five-member board is present for the consideration of any appeal. If any regular board member is expected to be absent from a meeting involving an appeal, a telephone meeting will be arranged to include that person in the Appeal Process and if not possible, the meeting will be re- scheduled or extended to a telephone meeting for the needed number of members for a quorum.

**Section 5. Lack of Quorum.** If a quorum is not present, the Chair may adjourn the meeting to a day and hour fixed by the Chair.

**Section 6. Order of Business.** The order of business for meeting shall be as follows:

1. Roll call by recording secretary.
2. Discussion of and changes to / approval of Minutes of previous meeting.
3. Public hearing.
4. New business.
5. Unfinished business.
6. Communications and miscellaneous.
7. Adjournment.

(NOTE: Although this is the usual order of business, the Board may wish to hold the hearing immediately after the roll call in order to accommodate the public.)

**Section 7. Minutes.** The recording secretary shall prepare a preliminary draft of the minutes, stamped "Preliminary" or "Draft", for presentation to the board. Once the Board has approved the minutes or approved the minutes with changes the recording secretary shall place a copy of the approved minutes, incorporating any changes, into a permanent file. The recording secretary shall sign his/her name on the minutes as the party drafting them and submitting them to the board. Minutes of the Board of Health must be posted publicly within 5 days of the meeting time.

**Section 8. Manner of Voting.** At the discretion of the Chair, or upon the request of any member, voting by the Board shall be by roll call vote, the results of which shall be recorded in the minutes.

**Section 10. Disqualification of Member.**

- (a) In accordance with the provision of RSA 673:14, no member of the City of Rochester shall participate in deciding, or shall sit upon the hearing, of any question which the Board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if such member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from services of juror or knowledge of the facts involved gained in the performance of the member's official duties.

- (b) When uncertainty arises as to the application of paragraph (a) above to a Board member in particular circumstances, the Board shall, upon the request of that member or another member of the Board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than Board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.
- (c) Any member disqualified pursuant to this section shall absent him/herself from the City of Rochester Board of Health table during the public hearing and during all deliberations on the matter in question. Such disqualification shall be noted in the minutes of the hearing.

## **ARTICLE V- Miscellaneous**

**Section 1. Communications to Board.** All communications to the Board, including applications, petitions, emails, (when specifically directed to the board or appropriate for the board's information, at the reasonable discretion of staff) or other referrals, shall be directed to the Rochester Board of Health and shall thereafter be provided to the Board by such Department.

**Section 2. Suspending Rules.** Bylaws that are not preempted by state law, and provisions of Roberts Rules, may be suspended by a two-thirds vote of the board.

**Section 3. Roberts Rules of Order.** The latest edition of Robert Rules of Order shall govern meetings and any situation that may not be covered by these bylaws.

**Section 4. Applicability.** The provisions of these bylaws shall be subject to the provisions of any applicable federal, state or local law, regulation or ordinance.

### **Section 5. Board Policies.**

- (a) The Board may develop, or direct staff to develop, policies and guidelines for assisting or clarifying meeting procedures, Board member roles, application processes, court/legislative updates, continuing education, and other related activities.
- (b) By-Laws may not be suspended unless a rule provides for it.
- (c) The Board of Health shall have no responsibility for personnel decision or administration of the Department of Health unless otherwise required by State Statute or as set forth in these By-Laws.
- (d) Board members may have access to confidential information such as medical records. This information is to be closely guarded and shall not be shared unless for legal reasons.
- (e) Such policies shall be adopted by a majority vote at a regular meeting. Likewise, policies can be discontinued or abandoned by a majority vote at a regular meeting.
- (f) These bylaw should be reviewed every (3<sup>rd</sup>) year for currency and reverence.
- (g) A copy of By-Laws shall be given to all incoming/ new Board of Health members.

**Section 6. Responsibilities of Applicant/Agent.** Board of Health is a quasijudicial body. The presentation and all testimony given to the board must be truthful and given in good faith.

### **Section 7. Public Notices.**

- (a) Public notices of public hearings shall be given on the Rochester website and shall be posted at City Hall at least (5) five calendar days prior to said hearing and sent via inter-office mail on the same day as the other postings so as to have a third posting at the Rochester Public Library.

(b) Such notice shall include the meeting agenda and the time and place of the hearing.

**Section 8. Hearings.** Hearings, Legal/ Judicial Reviews shall be conducted in accordance with procedural rules of the Board of Health and applicable Statutory and/or municipal regulations and ordinances as stated below.

Refer to Chapter 25, Public Health, Article 3: **Restaurants, Bakeries, and Food Service Establishments**, 25.18-25.21 (Rochester City Ordinances) for Hearing/ Review/ Appeals process.

Refer to FDA Food Code Annex 1 Compliance and Enforcement, 8-904.10-8-909.20 for Hearings Administration

**Section 9. Forms.** All forms and revisions thereof shall be adopted by resolution and shall become a part of the Bylaws.

**Section 10. Personal Notice.** Personal notice shall be made by certified mail to owners of record.

Note: Notice shall also be given to any other parties deemed by the board to have special interest. Said notice shall contain the same information as the public notice.

#### **ARTICLE VI – Amendments**

These Bylaws may be adopted, amended, repealed, or altered, in whole or in part, by a majority vote of the Board at a regular meeting, provided that at least a 30 day notice of the proposed change of such Bylaws is contained in the notice of such regular monthly meeting.

## **Code of Ethics**

### Ethical Obligations of Board of Health Members

There are certain ethical obligations that come with serving on the Board of Health, many of which are common to all who serve in government.

Board of Health members must take an oath of office upon being appointed to the board. After the oath is taken, board members must take an oath of office upon being appointed to the Board. After the oath is taken, board members are considered officers of City government and as such have ethical obligations and responsibilities.

Board of Health members must excuse him/her self from any action or discussion of a particular matter if they have any financial/personal/profession gain, direct or indirect in the matter. If the Board of Health member is uncertain whether the matter at hand is a conflict of interest, he/she shall seek the help of the legal counsel of the City.

Board of Health members may have access to confidential information, such as medical records, related to their position on the Board. The information should be closely regarded and not shared unless it is necessary for legal purposes. Confidential information should not be used for personal/professional/financial gain of any member.

It is of utmost importance to maintain the public's trust by being certain that there is no perception of personal gain from official actions.

Board of Health members must uphold the Constitution, laws of the United States, State of NH and the City of Rochester. Special favors should not be accepted.

Resources must be allocated based on evidence-based practices, when available.

(Above adapted from "Roles and Responsibilities of Board of Health Members - State of Georgia)