

§ 2-20.2. Division of Health Administration; Powers and Duties. [Ord. #13-61 § 5]

- a. Within the Department there shall be a Division of Health Administration, the head of which shall be the Health Officer.
- b. The Division of Health Administration, under the supervision of the Director of the Department shall:
 - 1. Have all the functions, powers, and duties of a local Board of Health under Title 26 of the New Jersey Statutes and Chapter 52 of the New Jersey Administrative Code, except that the Municipal Council shall have and exercise all local legislative powers under the statutes.
 - 2. Plan and administer a comprehensive health program, including, without limitation thereto, environmental sanitation, animal control, communicable disease control, child and adult health, and health education, and any other services that may be necessary to the protection of the public health or as required by the Charter or ordinance.
 - 3. Administer the licensing of all health related licenses as authorized by Township ordinance.
 - 4. Administer and direct the Health Education programs of the Township.
 - 5. Administer and enforce local health ordinances pertaining to the licensing of dogs and cats.
 - 6. Conduct regular health assessments of the community.

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- Recommends the budget annually and approves bills.
- May reallocate adopted budget as needed to meet changing public health priorities.
- Establishes compensation and conditions of employment

5. Represents the interests of the citizens. The board represents the public interest.

- Represents the health department to the community.
- Represents community interests to the health department.

WHO MUST HAVE A BOARD OF HEALTH?

N.J.S. 26:3-1 Establishment of local board

There shall be a board of health in every municipality in this state, which board shall consist of members appointed or designated, or both, as provided by this chapter, except that in any municipality operating under laws establishing a form of government for such municipality under which the full of a local board of health cannot be exercised by a local board of health so appointed or designated, the respective functions of a local board of health shall be exercised by such boards, bodies, or officers as may exercise the same according to law.

The functions of the local board of health can be performed in several different ways. What is important is that each of the functions of the board of health listed above is performed.

In determining which formal structure applies to your community, you need to know under which form of government your community is organized. The chart below can assist you in determining which form or local board organization would apply to your community.

FIVE TYPES OF BOARDS OF HEALTH

1. Autonomous Board

- Appointed by the mayor/governing body.
- Makes policy decisions regarding purposes, functions, goals and activities.
- When operating its own health department, the board selects, employs and evaluates the health officer, who reports to the board and is responsible to it.
- Passes, alters and/or amend ordinances (*N.J.S 26:3-31*) and, through the health officer, has enforcement powers.
- Establishes a budget based on recommendations of the health officer and available funds as allocated by the governing body.
- May serve multiple municipalities under a mutual shared services contract.
- May become a member of, or contract with, a regional health commission (*N.J.S 26:3*). Under this arrangement, local public health ordinances are superseded by any similar commission ordinances. The commission assumes enforcement powers.

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- If a municipal, autonomous board decides to join a county health department which has a county board of health, the local board of health becomes an advisory board and relinquishes its autonomous power to the county board. If the local board of health contracts with the county department which does not have a county board, the local board of health retains its authority unless it was already an advisory board with the municipal government.
- Contracts for services, as needed, including animal control.
- Hears appeals for food service violations, septic systems and other issues.

2. Advisory Board

- Appointed by the mayor/governing body.
- Primarily gives advice and makes recommendations on public health matters to the municipal governing body. The governing body is the functioning local board of health.
- The advisory board does not appoint the health department staff. However, the health officer works with the members of the advisory board to assist in the development of policy and program recommendations.
- Cannot pass ordinances.
- Normally created when municipality is operating under one of the optional forms of government

3. County Board

- Created by County Board of Freeholders
- Individual municipalities can decide if they want to be members
- Enacts health ordinances
- Appoints health officer and employees
- Adopts budget

4. Regional Health Commission

- Two or more municipalities may form pursuant to *N.J.S. 26:3-84*
- Regional health commissions are constituted as autonomous boards of health and have all powers and responsibilities.
- Individual local boards may remain.
- Commission may pass ordinances effective in all member municipalities.
- Each member municipality has one or two members on the commission, depending on the number of municipalities served by the commission.
- Members appointed by the local board of health, if they exist, otherwise by governing body of municipality.

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- Commission appoints health officer and other employees.
- Adopts budget.

5. Optional Forms of local government.

Local governments organized under the Faulkner Act, Walsh Act, 1923 Municipal Manager or Special Charter do NOT have an autonomous board of health, but they can and should have an advisory board of health. The functions of a board of health are divided among various entities:

- Budget is enacted by the council as proposed by mayor, manager or administrator.
- Ordinances are enacted by council.
- Health Officer is nominated by mayor, manager or administrator and confirmed by council.
- Programs are developed or reviewed by mayor, manager or administrator
- These are the forms of government where advisory boards of health are very useful.

6. The Local Boards of Health table below identifies the various composition and authority of boards of health.

Local Boards of Health						
Types	Population Size	Type of Board	Number of Members	Alternate Member	Special Member	Statute
Municipality and Governing Body						
Village						
Board of Trustees		Autonomous	5-7	Yes	Any Wanted	26:3-3, 3-5
<i>Faulkner/Walsh</i>		<i>Advisory</i>	Any Number	Yes	Any Wanted	
Township						
Township Committee	19,999	Autonomous	5-7	Yes Yes	FN 1	26:3-9 or 26:3-3
	20,001	Autonomous	5-7	No Yes	MD or RN	26:3-10 or 26:3-3
<i>Faulkner/Walsh</i>		<i>Advisory</i>	Any Number	Yes		

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Local Boards of Health Continued						
Borough						
Mayor and Council		Autonomous	5-7	Yes		26:3-3
<i>Faulkner/Walsh</i>		<i>Advisory</i>	Any Number	Yes		
Town						
Town Council		Autonomous	5-7	Yes		26:3-3
<i>Faulkner/Walsh</i>		<i>Advisory</i>	Any Number			
City						
Mayor and Council						
First Class		Autonomous	*		5 MD*	26:3-4, 3-5
Not First Class	80,000	Autonomous	5-10			26:3-3
Not First Class	79,000	Autonomous	5-7			26:3-3
<i>Faulkner/Walsh</i>		<i>Advisory</i>				
Special Charter		Autonomous				
County		Autonomous	5-9		FN2	26:3A2-4
Regional Health Commission		Autonomous	FN 3			26:3-84
Faulkner Governing Body						
Mayor-Council		<i>Advisory</i>				40:69A-31
Council - Manager		<i>Advisory</i>				40:69A-81
Mayor-council-administrator		<i>Advisory</i>				40:69A-149
Small Municipality		<i>Advisory</i>				40:69A-115
Walsh Act Forms of Government						
Commission		<i>Advisory</i>				40:70-1
Council Manager (1923)		<i>Advisory</i>				40:39-1

* All physicians must be resident of city.

Footnote 1 The members of the Township Committee either 3 or 5, Tax Assessor, or Township Clerk, if no Tax Assessor and school nurse or township physicians, constitute the Board of Health. Townships have a choice whether to organize under NJS 26:3-3 or the special provisions of either NJS 26:3-9 for small townships or NJS 26:3-10 for larger townships.

Footnote 2 No more than 2 Freeholders. Members should be from communities served.

Footnote 3 Each member municipality appoints two members to the Commission unless there are more than seven-member municipalities in which event each municipality has one representative and one alternate. Members are appointed by the autonomous Local Board of Health, if there is one or by the governing body, if there is no local board of health.

BOARD OF HEALTH MEETINGS

Depending upon the type of board of health in your community, meetings can occur as frequently as once a month, or infrequently varying annually between quarterly or semiannually. Regardless of the frequency, all meetings must comply with the N.J.S.A. 10:4-6 “Open Public Meetings Act”, also known as “OPMA” or “The Sunshine Law”. This law is a guide on how public meeting should proceed in an open and transparent manner without invading individual privacy as well as meeting all other required meeting components. Meetings are usually held in the traditional face-to-face manner, but can also occur remotely.

Remote Public Board Meetings

During times of emergencies or when critical and other important issues need to be discussed and resolved, virtual or telephonic meetings may be held. As outlined by the NJ Department of Community Affairs, the meetings must comply with the requirements of the “Open Public Meetings Act”. The public meeting is then conducted, using streaming services and other online meeting platforms, or telephone conference call-in connections, in the same manner as would occur in the usual face-to-face meeting environment with provisions for the public to provide live comments at designated time during the meeting. Keep in mind the platform used must be able to accommodate the number of people it is reasonable to expect will attend.

CREATE AN ORDINANCE

Any autonomous Local Board of Health has the power to adopt ordinances. These ordinances should be addressed to the functions and duties of a Local Board of Health. The Local Board of Health is the entity that makes the decision as to what the proper issues are.

There are a number of State Administrative codes dealing with numerous public health issues such as public housing or the public health nuisance code, which can be adopted simply by referring to the name of the code and citation of the code. If there is a public health problem or issue not covered by a specific code, and the Local Board of Health wants to act, then the issue/concern or prohibition should be studied and a method addressing the situation or prohibition should be developed.

The resolution or prohibition should be articulated into a written ordinance to be passed by the local board of health. Whenever the local board of health is adopting anything other than a pre-written code, the ordinance should be written in the following manner.

1. There should be a statement of what the ordinance is intended to accomplish or the problem that is to be addressed.
2. The ordinance should contain any definitions that are necessary to understand the ordinance.
3. The method or prohibitions must be written in a clear and concise manner.
4. The ordinance should have a short title which will assist in its passage.