

# **BENZIE-LEELANAU DISTRICT HEALTH DEPARTMENT**

## **APPEALS BOARD**

### **BY-LAWS AND RULES OF ORDER**

#### **AS APPROVED BY THE APPEALS BOARD ON**

**February 19, 2025**

#### **PREAMBLE**

The purpose of these By-laws is to provide for the orderly process of conducting business and meetings of the Appeals Board, in accordance with the Benzie-Leelanau District Health Department District Sanitary Code, effective date January 27, 2023, in full compliance with Act 368 of 1978 which is the legislative basis of the District Sanitary Code. If there should be a conflict in the interpretation of these By-laws, the District Sanitary Code shall prevail.

#### **SECTION I**

##### **MEMBERSHIP**

The Appeals Board shall consist of six members: one member from each of the Boards of Commissioners for Benzie and Leelanau Counties, and four members at large, with two appointed by each Board of Commissioners. Members are appointed through the standard committee appointment process for each County. Each member shall have full voting rights. Each County may appoint alternate members to serve in place of their regular representative members when necessary.

#### **SECTION II**

##### **CONFLICT OF INTEREST**

If an appointed member of the Appeals Board has a conflict of interest under Michigan Law, they must recuse themselves from both the hearing and the decision-making process. If the member disagrees with the assertion that a conflict exists, the matter will be referred to the Health Department's attorney. After reviewing all relevant facts and Michigan Law, the attorney will issue a written legal opinion prior to the appeal hearing, or provide an oral opinion during the hearing. The member in question, as well as the Appeals Board, shall comply with the attorney's legal opinion.

### **SECTION III**

#### **QUORUM**

A quorum shall consist of a majority of the Board members.

### **SECTION IV**

#### **MEETINGS**

Meetings of the Appeals Board shall be held at the request of an owner, their representative, or interested person that is adversely affected by any determination under the District Sanitary Code. These meetings will be held during the regular operating hours of the District Health Department or at alternative times approved by the majority of the Board members.

The location of an Appeals Board meeting will be held in the County where the determination being appealed was made. There will be two components to the meeting:

1. Site Visit

- The Appeals Board members will visit the subject property to assess the conditions or factors relevant to the appeal. The site visit is intended solely for gathering information and will not involve hearing arguments from the health department or the appellant(s). During the visit, Board members may ask questions regarding site conditions, directed to either the health department staff or the appellant(s), but these interactions will be conducted openly and transparently, ensuring all parties can witness and hear the discussion. The site visit may be waived with approval of the appellant(s).

2. Hearing

- The appeal will be heard and adjudicated.

The time and location of both the site visit and the hearing will be posted in advance. All meetings shall be conducted in accordance with the Open Meetings Act PA 167 of 1976, as amended, and will follow the guidelines of Robert's Rules of Order.

Order and Decorum: The Chairperson shall at all times preserve order and decorum pursuant to these Rules. The Chairperson will call to order any individual who disrupts the meeting, exceeds their allotted speaking time, or makes personal attacks on Board members or staff regarding matters unrelated to their official duties. If a person presenting is called out of order, they will not be allowed to continue speaking during that meeting, unless granted special leave by the Board. Should the individual continue to disrupt the meeting, the Chairperson may request their

removal by law enforcement. However, no individual will be removed from a public meeting unless they commit an actual breach of peace during the meeting.

## **SECTION V**

### **OFFICERS**

The Appeals Board will have the following officers: Chairperson and Vice-Chairperson.

All officers will be elected at the first scheduled meeting of each calendar year. The Chair and Vice Chair will alternate in election annually between the Board members from each County, or whenever the Appeals Board meets after a year or more has passed.

## **SECTION VI**

### **STANDARDS OF DECISION**

The Appeals Board shall not reverse or modify any decision of the Health Officer unless the owner or interested person can show any of the following:

- a. that there is no feasible and prudent alternative site, method or corrective action; or
- b. that the sewage disposal system, if applicable, will not contaminate or pollute a water supply, potable ground water, surface water and/or adversely affect or endanger the public health.

The determinations required under (a) and (b) shall be based upon facts presented at the hearing, the application, and any supporting documents.

In considering a decision, the Appeals Board shall:

- a. Consider a questioned provision in light of other provisions of the Code;
- b. Consider the intent of the Code;
- c. Seek advice of legal counsel, if needed;
- d. Limit the scope of its decision to the subject of the appeal;
- e. State the grounds or reasons for its decision.

The Appeals Board shall furnish the petitioner and Health Officer with a written statement of its final decision to affirm, dismiss or modify the decision of the Health Officer, including the reasons and grounds for such decision, within thirty (30) days following the hearing of any appeal.

Any decision of the Appeals Board is final. The Appeals Board may impose conditions on any affirmative decision.

## **SECTION VII**

### **AMMENDMENT**

These By-laws may be altered by a majority vote of the Appeals Board. Any changes to the By-laws must align with the BLDHD District Sanitary Code. Notice of proposed amendments shall be posted with the notice of the Board Meeting.