VIRTUAL MEETING

1:00 PM  Thursday, April 21, 2022

PUBLIC NOTICE: To help prevent the spread of the COVID 19 virus, all Boardmembers and staff will be participating in the Board of Health Meeting remotely. The live feed of the meeting will be streaming on the Council’s website and on KCTV channel 22.
HOW TO PROVIDE PUBLIC COMMENT:

Join online
Paste the following link into the address bar of your web browser:
https://kingcounty.zoom.us/j/83626142088 to join online.

Join by Telephone
Dial: US: +1 253 215 8782
Meeting ID: 836 2614 2088

If you do not wish to provide public comment, please help us manage the callers by using one of the options below to watch or listen to the meeting.

HOW TO WATCH/LISTEN TO THE MEETING: There are two ways to watch or listen in to the meeting:

1) Stream online via this link https://livestream.com/accounts/15175343/events/4485487 or input the link web address into your web browser.

2) Watch King County TV Channel 22 (Comcast Channel 22 and 322(HD), Wave Broadband Channel 2.
1. **Call to Order**

2. **Roll Call**

3. **Announcement of Any Alternates Serving in Place of Regular Members**

4. **Approval of Minutes of March 17, 2022**  
   
5. **Public Comments**

6. **Chair's Report**

7. **Director's Report**

**Discussion and Possible Action**

8. **R&R No. BOH22-01**  
   
A RULE AND REGULATION relating to retail food establishments, making technical amendments and repealing meat cutter provisions; amending R&R 05-06, Section 4, as amended, and BOH 5.04.020, R&R 15-04, Section 3, as amended, and BOH 5.04.025, R&R 17-01, Section 2, and BOH 5.04.045, R&R 17-01, Section 3, and BOH 5.04.055, R&R 05-06, Section 8, as amended, and BOH 5.04.290, R&R 91, Section 1 (part), as amended, and BOH 5.04.370, R&R 91, Section 1 (part), as amended, and BOH 5.04.390, R&R 05-06, Section 12, as amended, and BOH 5.04.410, R&R 05-06, Section 15, as amended, and BOH 5.04.460, R&R 91, Section 1 (part), as amended, and BOH 5.04.620, R&R 09-05, Section 10, as amended, and BOH 5.04.625, R&R 91, Section 1 (part), as amended, and BOH 5.04.640 and R&R 05-06, Section 23, as amended, and BOH 5.34.030 and repealing R&R 05-06, Section 3, as amended, and BOH 5.04.010, R&R 05-06, Section 13, as amended, and BOH 5.04.420, R&R 05-06, Section 14, as amended, and BOH 5.04.450, R&R 13-01, Section 18, and BOH 5.34.005, R&R 05-06, Section 25, and BOH 5.50.010, R&R 05-06, Section 26, and BOH 5.50.020, R&R 05-06, Section 27, and BOH 5.50.030, R&R 05-06, Section 28, and BOH 5.50.040, HDR 20, Section 1 (part), and BOH R6.04.010, HDR 20, Section 1 (part), and BOH R6.04.020, HDR 20, Section 1 (part), and BOH R6.04.030, HDR 20, Section 1 (part), and BOH R6.04.040, HDR 20, Section 1 (part), and BOH R6.04.050, HDR 20, Section 1 (part), and BOH R6.04.060, HDR 20, Section 1 (part), and BOH R6.04.070, HDR 29, Section 1, and BOH R6.26.010, HDR 29, Section 1(A, B, C), and BOH R6.26.020, HDR 29, Section 1(D), and BOH R6.26.030, HDR 29, Section 2(E), and BOH R6.26.040, HDR 29, Section 2(F), and BOH R6.26.050 and HDR 29, Section 2(G, H), and BOH R6.26.060; enacted pursuant to RCW 70.05.060, including the latest amendments or revisions thereto.

**Public Hearing Required**
9. R&R No. BOH22-02

A RULE AND REGULATION relating to the membership of the King County board of health; and amending R&R 09-04, Section 2, as amended and BOH 2.04.020, R&R 11-01, Section 1, as amended and BOH 2.04.035, R&R 09-04, Section 3, as amended and BOH 2.04.045, R&R 11-01, Section 4, as amended and BOH 2.04.140 and R&R 11-01, Section 5, as amended and BOH 2.04.165.

Public Hearing Required

Discussion

10. Board of Health restructure recruitment planning update

   Susie Levy, Board Administrator, Public Health - Seattle & King County

11. Board Member Updates

12. Administrator's Report

13. Other Business

Adjournment

If you have questions or need additional information about this agenda, please call (206) 263-8328, or write to Susie Levy, Board of Health Administrator via email at slevy@kingcounty.gov
King County

Meeting Minutes

Board of Health

Metropolitan King County Councilmembers:
Joe McDermott, Chair; Jeanne Kohl-Welles, Vice Chair; Girmay Zahilay; Alternate: Rod Dembowski

Seattle City Councilmembers:
Lisa Herbold, Tammy Morales, Vice Chair; Teresa Mosqueda,
Alternate: Sara Nelson

Sound Cities Association Members:
David Baker, Vice Chair; Susan Honda; Alternates: Janice Zahn, Heather Koellen

Health Professionals:  Bill Daniell, MD, MPH, Vice Chair; Butch de Castro, PhD, MSN/MPH, RN, FAAN
Non-Voting:
Dennis Worsham, Interim Director, Seattle-King County
Department of Public Health
Staff: Susie Levy, Board Administrator (206) 263-8328

1:00 PM Thursday, March 17, 2022 Virtual Meeting

DRAFT MINUTES

PUBLIC NOTICE:  To help prevent the spread of the COVID 19 virus, all Boardmembers and staff will be participating in the Board of Health Meeting remotely. The live feed of the meeting will be streaming on the Council’s website and on KCTV channel 22.
HOW TO PROVIDE PUBLIC COMMENT:

Join online
Paste the following link into the address bar of your web browser: https://kingcounty.zoom.us/j/83626142088 to join online.

Join by Telephone
Dial:  US : +1 253 215 8782
Meeting ID: 836 2614 2088

If you do not wish to provide public comment, please help us manage the callers by using one of the options below to watch or listen to the meeting.

HOW TO WATCH/LISTEN TO THE MEETING: There are two ways to watch or listen in to the meeting:

1) Stream online via this link
https://livestream.com/accounts/15175343/events/4485487 or input the link web address into your web browser.

2) Watch King County TV Channel 22 (Comcast Channel 22 and 322(HD), Wave Broadband Channel 2

1. Call to Order
The meeting was called to order at 1:07 p.m.

2. Roll Call
Present:  9 - Daniell, de Castro, Herbold, Honda, Kohl-Welles, McDermott, Morales, Mosqueda and Koellen
Excused:  2 - Baker and Zahilay

3. Announcement of Any Alternates Serving in Place of Regular Members

Boardmember Koellen served in place of Boardmember Baker.

4. Approval of Minutes of February 17, 2022
Boardmember Morales moved to approve the minutes of the February 17, 2022, meeting as presented. Seeing no objection, the Chair so ordered.
5. **Public Comments**
   
   The following person spoke:
   
   Molly Gilbert

6. **Chair’s Report**

   Boardmember McDermott thanked the Board for their work on the helmet law and briefed Boardmembers on upcoming agenda items.

7. **Director’s Report**

   Dennis Worsham, Acting Director, Public Health - Seattle & King County, made remarks and briefed the Board on the COVID-19 response.

**Briefings**

8. **BOH Briefing No. 22-B03**

   Public Health Director’s Health of King County Briefing

   *Dennis Worsham made remarks and briefed the Board on the health of King County.*

   This matter was Presented

9. **BOH Briefing No. 22-B04**

   State legislative Session Recap

   *Anne Burkland, State and Local Affairs, Public Health - Seattle & King County, made remarks and provided a recap of the State legislative session.*

   This matter was Presented
10. **BOH Briefing No. 22-B05**

    King County Board of Health Restructure

    Samantha Porter, Council Staff, and Susie Levy, Board of Health Administrator, made
    remarks and briefed the Board on the restructure of the King County Board of Health.

    This matter was Presented

11. **Board Member Updates**

    No updates were presented.

12. **Administrator's Report**

    No report was given.

13. **Other Business**

    There was no other business.

**Adjournment**

The meeting adjourned at 2:46 p.m.

If you have questions or need additional information about this agenda,
please call (206) 263-8328, or write to Susie Levy, Board of Health
Administrator via email at slevy@kingcounty.gov

Approved this _____________ day of _________________

Clerk's Signature
A RULE AND REGULATION relating to retail food establishments, making technical amendments and repealing meat cutter provisions; amending R&R 05-06, Section 4, as amended, and BOH 5.04.020, R&R 15-04, Section 3, as amended, and BOH 5.04.025, R&R 17-01, Section 2, and BOH 5.04.045, R&R 17-01 Section 3, and BOH 5.04.055, R&R 05-06, Section 8, as amended, and BOH 5.04.290, R&R 91, Section 1 (part), as amended, and BOH 5.04.370, R&R 91, Section 1 (part), as amended, and BOH 5.04.390, R&R 05-06, Section 12, as amended, and BOH 5.04.410, R&R 05-06, Section 15, as amended, and BOH 5.04.460, R&R 91, Section 1 (part), as amended, and BOH 5.04.620, R&R 09-05, Section 10, as amended, and BOH 5.04.625, R&R 91, Section 1 (part), as amended, and BOH 5.04.640 and R&R 05-06, Section 23, as amended, and BOH 5.34.030 and repealing R&R 05-06, Section 3, as amended, and BOH 5.04.010, R&R 05-06, Section 13, as amended, and BOH 5.04.420, R&R 05-06, Section 14, as amended, and BOH 5.04.450, R&R 13-01, Section 18, and BOH 5.34.005, R&R 05-06,
BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 1. R&R 05-06, Section 4, as amended, and BOH 5.04.020 are each hereby amended to read as follows:

Bakery. WAC 246-215-01115 is supplemented with the following:

Bakery (WAC 246-215-01115(((6.1)))(8.1)). "Bakery" means any food establishment in which food or food products are mixed and baked to final form and offered to the ultimate consumer.
SECTION 2. R&R 15-04, Section 3, as amended, and BOH 5.04.025 are each hereby amended to read as follows:

Certified booth operator. WAC 246-215-01115 is supplemented with the following:

Certified booth operator (WAC 246-215-01115((12.1)))(14.1)). "Certified booth operator" means an individual who has successfully completed an approved certified booth operator course and holds a current, valid certificate of course completion.

SECTION 3. R&R 17-01, Section 2, and BOH 5.04.045 are each hereby amended to read as follows:

Food safety rating. WAC 246-215-01115 is supplemented with the following:

Food safety rating (WAC 246-215-01115((49.1)))(51.1)). "Food safety rating" means a food safety inspection performance score issued by the health officer following a routine inspection of a general food service establishment, derived from up to the four most recent routine inspection results at the establishment and compared with establishments of similar food establishment risk category and geographic location as determined by the health officer.

SECTION 4. R&R 17-01 Section 3, and BOH 5.04.055 are each hereby amended to read as follows:

Food safety rating placard. WAC 246-215-01115 is supplemented with the following:

Food safety rating placard (WAC 246-215-01115((49.2)))(51.2)). "Food safety rating placard" means a placard displaying the food safety rating score of a general food service establishment as determined by the health officer in accordance with this title.
SECTION 5. R&R 05-06, Section 8, as amended, and BOH 5.04.290 are each hereby amended to read as follows:

**General food service.** WAC 246-215-01115 is supplemented with the following:

General food service (WAC 246-215-01115((51.1)))(53.1)). "General food service" means any stationary food establishment that provides food to the public, guests, patrons or its personnel for on-premises or off-premises consumption.

SECTION 6. R&R 91, Section 1 (part), as amended, and BOH 5.04.370 are each hereby amended to read as follows:

**Grocery store.** WAC 246-215-01115 is supplemented with the following:

Grocery store (WAC 246-215-01115((53.1)))(54.1)). "Grocery store" means a food establishment selling commercially prepared and prepackaged potentially hazardous foods requiring refrigeration or freezer control, whole produce and/or bulk foods for consumption off-site.

SECTION 7. R&R 91, Section 1 (part), as amended, and BOH 5.04.390 are each hereby amended to read as follows:

**Health officer.** WAC 246-215-01115 is supplemented with the following:

Health officer (WAC 246-215-01115((56.1)))(57.1)). "Health officer" means the director of the Seattle-King County Department of Public Health or any of his or her authorized representatives.

SECTION 8. R&R 05-06, Section 12, as amended, and BOH 5.04.410 are each hereby amended to read as follows:

**Local health officer.** WAC 246-215-01115((68)))(70) is not adopted and the following is substituted:
Local health officer (WAC 246-215-01115(((68)))(70)). "Local health officer" means the director of the Seattle-King County Department of Public Health or any of the director’s authorized representatives.

SECTION 9. R&R 05-06, Section 15, as amended, and BOH 5.04.460 are each hereby amended to read as follows:

Nonprofit institution. WAC 246-215-01115 is supplemented with the following:

Nonprofit institution (WAC 246-215-01115(((75.1)))(79.1)). "Nonprofit institution" means a food establishment with valid, current United States Internal Revenue Code section 501(c)(3) nonprofit status, Washington State Commission for the Blind status, or a municipal jail.

SECTION 10. R&R 91, Section 1 (part), as amended, and BOH 5.04.620 are each hereby amended to read as follows:

School kitchen. WAC 246-215-01115 is supplemented with the following:

School kitchen (WAC 246-215-01115(((109.1)))(111.1)). "School kitchen" means a food establishment in an institution for learning limited to the K-12 grades.

SECTION 11. R&R 09-05, Section 10, as amended, and BOH 5.04.625 are each hereby amended to read as follows:

School lunch program. WAC 246-215-01115 is supplemented with the following:

School lunch program (WAC 246-215-01115(((109.2)))(111.2)). "School lunch program" means a school kitchen participating in the United States Department of Agriculture National School Lunch Program under the Healthy Hunger-Free Kids Act of 2010 (Public Law 111-296).
SECTION 12. R&R 91, Section 1 (part), as amended, and BOH 5.04.640 are each hereby amended to read as follows:

Seasonal food establishment. WAC 246-215-01115 is supplemented with the following:

Seasonal food establishment (WAC 246-215-01115((110.1))(112.1)). "Seasonal food establishment" means a food establishment that routinely operates for less than twelve consecutive months each year.

SECTION 13. R&R 05-06, Section 23, as amended, and BOH 5.34.030 are each hereby amended to read as follows:

Mobile food units – Requirements and restrictions - requirements. WAC 246-215-09100 is ((not adopted and the following is substituted)) supplemented with the following:

Mobile food units – Requirements restrictions - requirements (WAC 246-215-09100).

((1) The owner, permit holder and person in charge of a mobile food unit shall comply with the requirements of this chapter, except as otherwise provided in this section.

(2) The owner, permit holder or person in charge of a mobile food unit shall obtain approval from other applicable regulating agencies prior to operating a mobile food unit, including the Washington state department of labor and industries.

(3) The owner, permit holder or person in charge of a mobile food unit operating in King County shall operate the mobile food unit from a commissary kitchen or servicing area located in King County and approved by the health officer, and shall return
to such location for supplies, thorough cleaning, and other servicing activities, as approved in a plan of operation. The owner, permit holder or person in charge shall store the mobile food unit at a servicing area or other location approved by the health officer while the mobile food unit is not in operation.

(4)) (6) The owner of a mobile food unit shall obtain a single, separate mobile food unit permit for each mobile food unit.

(5) Except for limited food services, the owner of a mobile food unit shall obtain a single, separate commissary permit for each commissary kitchen used, regardless of whether any other mobile food unit owner uses the same commissary kitchen.

(6) The owner, permit holder or person in charge of a mobile food cart shall ensure the cart body size is limited to three feet by six feet with each extension no longer than eighteen inches.)

SECTION 14. The following are hereby repealed:

A. R&R 05-06, Section 3, as amended, and BOH 5.04.010;
B. R&R 05-06, Section 13, as amended, and BOH 5.04.420;
C. R&R 05-06, Section 14, as amended, and BOH 5.04.450;
D. R&R 13-01, Section 18, and BOH 5.34.005;
E. R&R 05-06, Section 25, and BOH 5.50.010;
F. R&R 05-06, Section 26, and BOH 5.50.020;
G. R&R 05-06, Section 27, and BOH 5.50.030;
H. R&R 05-06, Section 28, and BOH 5.50.040;
I. HDR 20, Section 1 (part), and BOH R6.04.010;
J. HDR 20, Section 1 (part), and BOH R6.04.020;
SECTION 15. Severability. If any provision of this rule or its application to any
person or circumstance is held invalid, the remainder of the rule or the application of the
 provision to other persons or circumstances is not affected.

KING COUNTY BOARD OF HEALTH
KING COUNTY, WASHINGTON

ATTEST:

Joe McDermott, Chair

Melani Pedroza, Clerk of the Board

Attachments: None
Subject

A proposed rule and regulation to adopt the Washington State Retail Food Service Rule revisions effective March 1, 2022 (Chapter 246-215 WAC) by reference into the King County Food Code (King County Board of Health Code or “BOH” Title 5) and to repeal outdated sections from Title 5.

Summary

The Public Health- Seattle and King County (“Public Health”) Food and Facilities Program administers and enforces Chapter 246-215 WAC and BOH Title 5. Under its regulatory authority, Public Health issues permits for and regularly inspects food businesses in King County. The State of Washington Board of Health has adopted a variety of changes to Chapter 246-215 WAC ranging from simple edits, repeal of outdated sections, and definition updates to significant changes in food safety practices. Proposed R&R 22-01 seeks to align BOH Title 5 with newly adopted State regulations. The former version of Chapter 246-215 WAC was based on the 2009 U.S. Food and Drug Administration (FDA) Model Food Code. As of March 1, 2022, Chapter 246-215 WAC is based on the 2017 version of the FDA Model Food Code with modifications.

The primary changes that will affect King County licensed food establishments include:
1) Requiring a Certified Food Protection Manager (effective March 1, 2023)
2) Date marking certain foods capable of presenting a risk for foodborne illness
3) Allowing reusable food containers in limited applications
4) Requiring a vomiting and diarrhea clean-up kit at each licensed food establishment
5) Relaxing current rules for pet dogs in outdoor dining areas and some indoor facilities (e.g. wine tasting rooms, brew pubs)
6) Implementing requirement to allow mobile food unit operators to use commissary kitchens approved in neighboring counties
Background

The Chapter 246-215 WAC revisions are the outcome of a multi-year process coordinated by the Washington State Food Safety Advisory Committee (FSAC). The FSAC is comprised of voting stakeholders representing a variety of regulatory agencies, consumer advisory groups, hospitality businesses, and concerned citizens. The process also includes public input and education which Public Health’s Food and Facilities program has participated in and coordinated. With Covid-19 response efforts the past two years, there has been a delay in rule implementation. This has given the Public Health Food and Facilities program additional time for King County stakeholder education and outreach. In collaboration with the Washington State Department of Health and with the Washington State Hospitality Association, we have been able to hold multiple stakeholder sessions with owners and operators of food businesses both in person before the pandemic and online since the pandemic. Our health investigators have been providing information to food businesses of the upcoming Food Code changes during their routine inspections and will continue to do so for the remainder of 2022. We are currently developing educational materials in multiple languages to ensure all food establishments are aware of the changes to the Food Code. Furthermore, the top ten changes are posted on our website along with the mini-quick-bite videos prepared by the Washington State Department of Health in collaboration with the Washington State Hospitality Association.

Analysis

Aligning King County’s food code with the latest FDA Model Food Code will offer the residents of the county a higher level of protection from the risk of foodborne illnesses. In determining the positive and negative impacts of the most significant changes to the state Food Service rule, it is important to understand that additions such as the Certified Food Protection Manager requirement, date marking, and vomiting and diarrhea clean-up kits were part of earlier versions of the FDA Model Food Code (e.g., 2013) and are already implemented by many other states in the United States. Public Health’s Food and Facilities program will be able to successfully prepare our licensed food establishments to be in compliance with the required changes.

The primary changes that will affect King County licensed food establishments include:

1) **Certified Food Protection Manager (CFPM) (effective March 1, 2023):** This rule requires food establishments with complex food handling practices to have an employee, or representative working on behalf of the food establishments, that have successfully completed the manager training course and have the required food safety knowledge. While this rule is new King County, the Certified Food Protection Manager requirements has been in FDA’s Retail Model Code since 2013. The benefit to this requirement is that it will reduce the risk of foodborne illnesses resulting from improper food handling practices. Grocery stores and low risk food establishments are exempt from this requirement. The certified food protection manager doesn’t have to be on premise at all times.
2) **Date Marking for 7-Day Shelf-Life:** This rule requires food establishments to label some perishable cold held foods for more than 24hrs (e.g., cheese and deli meats) with a discard date. It helps reduce the risk of Listeria from products cold held longer than seven days. This requirement will take time to operationalize, particularly for small operations or ethnic facilities.

3) **Refilling Reusable Consumer-Owned Containers:** This rule allows food establishments to fill, refill, or reuse clean reusable containers brought by customers. It helps reduce reliance on single-use, excessive packaging with every food sold. It benefits businesses, consumers, municipalities, and the environment.

4) **Cleanup of Vomiting and Diarrheal Events:** The rule requires food establishments to develop a written protocol and have cleanup kits to properly clean incidents of vomit and diarrhea in the establishment. The purpose is to reduce the risk of foodborne or person to person transmission of virus particles that are shed during vomit or diarrhea episodes. Department of Health will share sample plans/items to include for use in a variety of food establishment environments.

5) **Dogs in Outdoor and Some Indoor Areas:** The rule allows dogs to be with their owners in outdoor areas and in certain indoor areas of food establishments with limited food service (e.g., wine tasting rooms, brew pubs) under an approved plan.

6) **Use of Commissary Kitchens outside King County:** This rule allows mobile food units to use commissary kitchens located outside King County. The requirement used to limit food trucks to use only commissary kitchens located within the permitted county. This change increases the flexibility food truck have in accessing commissary kitchens outside the county, potentially reducing their operating cost.

All of Chapter 246-215 WAC is adopted by reference in the King County Food Code, with local amendments to selected sections. Therefore, when the State Board of Health amends the state Food Service Regulations, those amendments are automatically adopted as part of the King County Food Code. However, amendments to some of the local King County Food Code sections are necessary to maintain consistency with the order and content of the state regulations. Accordingly, Sections 1 through 12 of the proposed rule amends the internal section numbering of local definitions that supplement the definitions in the adopted state food service regulations, to maintain correct sequential numbering between the state and local definitions. Section 13 of the proposed rule conforms King County's mobile food unit requirements with the recently enacted state requirements for mobile food units. Section 14 of the proposed rule repeals the outdated meat cutter license requirements and product naming requirements for meat, poultry, rabbit and aquatic foods. Finally, section 15 contains the standard severability language customarily included in Board of Health rulemaking.
**Equity Impact:**
Given the R&R seeks to align with State policy, equity review focused on possible mitigations to unintended consequences and gaining feedback from operators about what supports are needed to implement the State Board of Health updated regulations. Overall, none of the changes are anticipated to have a significant negative economic impact on food businesses of any size.

Our multilingual inspection staff will help answer questions food businesses may have about the requirements during the course of conducting inspections. With all the changes, there is a 6-month educational grace period (and avoiding penalties for compliance deficiencies) to provide additional time for retail food business owners to fully understand the requirements and incorporate the changes into their practices.

**Attachments**
1. WA-Retail Food Rule: Top 10 Changes: [FoodCodeRuleRevision-Top10Changes.pdf](wa.gov)
A RULE AND REGULATION relating to the membership
of the King County board of health; and amending R&R
09-04, Section 2, as amended and BOH 2.04.020, R&R 11-
01, Section 1, as amended and BOH 2.04.035, R&R 09-04,
Section 3, as amended and BOH 2.04.045, R&R 11-01,
Section 4, as amended and BOH 2.04.140 and R&R 11-01,
Section 5, as amended and BOH 2.04.165.

STATEMENT OF FACTS:
1. Created in 2004 in accordance with state law, the King County Board
of Health sets countywide public health policy, enacts and enforces local
public health regulations and carries out the duties of local boards of
health as specified in RCW 70.05.060 including preventing and
controlling the spread of infectious disease, abating nuisances and
establishing fee schedules for licenses and permits.
2. In May 2021, Engrossed Second Substitute House Bill 1152 was signed
into law as Chapter 205, Laws of Washington 2021, modifying the
structure of local boards of health. Chapter 205, Laws of Washington
2021 requires that the membership of the King County Board of Health be
modified so that the number of boardmembers who are elected officials
representing the county and its cities and towns equals the number of
members who are not elected officials, with one of those nonelected
members selected by the American Indian Health Commission of
Washington State and the remaining nonelected members selected by the
King County Board of Health from three specific categories of interests.
The selected candidates would be appointed by the King County council.
Those changes to state law take effect on July 1, 2022.

3. The King County Board of Health passed Resolution 20-08 in February
2020, declaring racism a public health crisis. The board is committed to
addressing racial equity and as such welcomes the encouragement in
Chapter 205, Laws of Washington 2021 to recruit nonelected members
representing consumers of public health to be from historically
marginalized and underrepresented communities. The board supports
using racial equity and social justice principles when recruiting nonelected
members from all categories outlined in state law.

4. Additionally, Chapter 205, Laws of Washington 2021 requires the
Washington state Board of Health to promulgate rules for how nonelected
members of local boards of health are to be recruited, selected and
appointed. The new rules are expected to be effective by July 25, 2022.

5. On April 5, 2022, the King County council adopted Ordinance
XXXXXX (Proposed Ordinance 2022-0103) to amend King County Code
and conform the membership of the board to the new state law as
described subsections 2 through 4 of this statement of facts. In addition to
align the board with state law, the ordinance codifies the current practice
for election of the board chair, establishes an equal number of nonelected
alternates as there are elected alternates, and provides compensation for
nonelected members who are not otherwise compensated for their
participation on the board.

BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 1. R&R 09-04, Section 2, as amended, and BOH 2.04.020 are hereby
amended to read as follows:

A. Consistent with K.C.C. 2.35.021, the Board of Health shall have a
total of sixteen members. All sixteen members shall be equal voting members except on
matters related to the setting or modification of permit, licensing and application fees.

Any decision related to the setting or modification of permit, licensing and application
fees may only be determined by the city and county elected officials on the board in
accordance with RCW 70.05.035.

B. Consistent with K.C.C. 2.35.021, the Board of Health shall consist of the
following members:

1. Three regular and one alternate member shall be members of the metropolitan
King County council who are appointed by the chair of the council. Each county
councilmember vote shall be weighted as two votes);

2. Three regular and one alternate member shall be elected officials of the city
of Seattle who shall be appointed by the city;
3. Two regular and two alternate members shall be elected officials from cities and towns of King County other than the city of Seattle to be appointed in a manner agreed to by and among the cities and towns representing a majority of the populations of those cities and towns; and

4. Eight regular and four alternate members shall be nonelected members, one of these regular members and one alternate member shall be tribal representative as described in RCW 70.05.035(1)(e). The remaining regular and alternate members shall be selected in accordance with the categories enumerated in RCW 70.050.035(1)(a).

C.1. ((Consistent with K.C.C. 2.35.021A.4., there shall be two members of the board who are health professionals who shall be appointed by an affirmative vote of members representing seven votes. One of the health professionals should have knowledge of environmental health, including knowledge of septic systems and groundwater quality. A third nonvoting member, who shall be a health professional, shall be appointed by a majority vote of the other members of the board.

2. Consistent with K.C.C. 2.35.021, the terms of health professional members shall be established by the rules of the board. Beginning on January 1, 2011, the term of a health professional member is established as three years and the health professional member may serve a maximum of three terms.

3. The term of a health professional shall commence on January 1, though the board may appoint a health professional as a member of the board commencing at any time during the year. For appointments to a new term on the expiration of an existing term, if a health professional is appointed to the board after January 1, the term shall be considered to have commenced on January 1. For appointments made to an existing term...
to fill a midterm vacancy, the health professional shall be appointed to serve the
remainder of the existing term. If a health professional serves two years or more to fill a
midterm vacancy, the health professional shall be considered as having served a full term
for the purposes of the term limits established in subsection C.2. of this section.)) All
regular and alternate nonelected board members identified in BOH 2.04.020.B.4. shall be
recruited in accordance with RCW 70.05.035, chapter 246-90 WAC and K. C. C.
2.35.021 and all shall be appointed by a majority of the King County council. The
regular and alternate tribal representative identified in BOH 2.04.020.B.4. shall be
selected by the American Indian Health Commission of Washington State, and the
remaining nonelected members shall be selected by the Board of Health.

2. Each of the three categories of nonelected members enumerated in RCW
70.05.035(1)(a) shall have one alternate each. An alternate shall only serve in place of a
regular member from that category in the event of that regular member's absence.

D.1. ((Consistent with K.C.C. 2.35.021.B.1., alternate members for each regular
member may be appointed according to the relevant procedures under subsection B.1, 2.
or 3. of this section.)) During ((the)) a meeting, an alternate member shall indicate to the
clerk when the alternate member is serving in a regular member's absence and the clerk
shall note the alternate member's attendance in the proceedings and include the alternate
member in any roll call. When serving in a regular member's absence, an alternate
member shall act as a regular member.

2. ((Consistent with K.C.C. 2.35.021.B.2., the third nonvoting health
professional member shall serve as an alternate voting member in the absence of either of
the two voting health professional members.
E. Consistent with RCW 70.05.040, vacancies on the board shall be filled by appointment within thirty days and made in the same manner as was the original appointment. The board shall pass a resolution identifying the board's regular and alternate nonelected member candidate selections and the American Indian Health Commission's regular and alternate tribal representative selections to be transmitted with the materials identified in K.C.C. chapter 2.35 for appointment.

F. Consistent with K.C.C. 2.35.061, boardmembers may be reimbursed for mileage and parking expenses between the member’s workplace or residence and the location of the board of health meeting. Members may also be reimbursed for expenses, in accordance with the policies established for county employees in K.C.C. chapter 3.24, when traveling on official board of health business.

G.1 Nonelected members who are not being compensated for their participation on the board through their employer shall be compensated in accordance with K.C.C. 2.35.XXX (Ordinance XXXX, Section 6 (Proposed Ordinance 2022-0103, Section 6).

2. Administrative processes to distribute the compensation described in this section shall be determined by executive staff.

H. Nonelected regular and alternate member terms shall be structured in accordance with K.C.C. 2.35.XXX (Ordinance XXXX, Section 5 (Proposed Ordinance 2022-0103, Section 5).

SECTION 2. R&R 11-01, Section 1, as amended, and BOH 2.04.035 are hereby amended to read as follows:
A. Consistent with RCW 70.05.040, the board shall annually elect a chair to serve for a period of one year. In accordance with K. C. C. 2.35.021, the chair shall be selected from among the boardmembers representing the King County council. The chair shall perform the usual functions of a presiding officer.

B. The chair shall:

1. Establish the agenda for regular and special meetings;
2. Call the board to order at the hour appointed for meeting and, if a quorum is present, shall cause the minutes of the previous meeting to be approved;
3. Proceed with the order of business; and
4. Adjourn the board when business is deemed finished. If a quorum is not present, the chair shall proceed with any business that does not require a quorum.

C. The chair shall preserve order and decorum and in the interest of efficiency may impose time and subject matter limits for the testimony and comment given by the public and members of the board.

D. The chair shall promote efficient operation of the board, including alteration of the order of the agenda if necessary, and expedite orderly debate and the passage of routine motions. The chair may speak to points of order, inquiry or information in preference to other members and shall decide all questions of order, subject to appeal to the board by two members of the board.

E. The chair may create standing and ad hoc committees of boardmembers and may appoint boardmembers and other persons to any committee to facilitate the performance of the board's functions.
F. The chair shall sign rules and regulations, guidelines and recommendations and resolutions adopted by the board.

((G. The chair shall determine the process for selecting the candidates for the health professional members of the board.))

SECTION 3. R&R 09-04, Section 1, as amended, and BOH 2.04.045 are hereby amended to read as follows:

A. Annually, the board shall designate ((four)) two vice-chairs ((, each representing one of the major categories of membership):

1. Metropolitan King County council;
2. City of Seattle;
3. Suburban cities; and
4. Health professionals). One shall represent the city and county officials and one shall represent the nonelected members.

B. In the absence of the chair, a vice-chair will exercise the duties, powers and prerogatives of the chair. Each year the board shall designate by resolution the order in which the vice-chairs may act in the absence of the chair. The order of the vice-chair shall rotate annually.

SECTION 4. R&R 11-01, Section 6, as amended, and BOH 2.04.165 are hereby amended to read as follows:

A.1. ((Board members representing seven votes)) Nine boardmembers shall constitute a quorum for board meetings except as provided in subsection F of this rule. A quorum is presumed to exist unless a member calls the quorum into question.
2. Nothing in this subsection shall be construed to waive or negate the requirements prescribed under subsections B., C., D., E. and F. of this section.

B.1. An affirmative vote of nine members ((representing seven votes)) is required to adopt, amend or repeal a rule and regulation except as provided in subsection F. of this section. However, any repeal or amendment of an existing rule and regulation that was effective before January 1, 1996, that applies outside of the limits of the city of Seattle shall be adopted only by an affirmative vote of nine members ((representing seven votes)) as well as an affirmative vote collectively of a majority of the represented votes of King County councilmembers and the suburban city members except as provided in subsection F. of this section.

2. Any amendment or repeal of an existing rule or regulation adopted by the board of health of the city of Seattle and effective before January 1, 1996, shall be adopted only by an affirmative vote of nine members ((representing seven votes)) as well as an affirmative vote of a majority of the members appointed by the city of Seattle except as provided in subsection F. of this section.

C. An affirmative vote of nine members ((representing seven votes)) is required to adopt, amend or repeal (a guideline and recommendation), guidelines and recommendations, resolutions or motions except as provided in subsection F. of this section.

D. ((A majority of affirmative votes by board members representing seven votes is required for all actions on resolutions and motions.)) A roll call vote shall be taken on final passage of any rule and regulation, guideline and recommendation and resolutions.
((F.))E. There will be no voting by proxy on any question before the board.

F. In accordance with RCW 70.05.035, any decision by the board related to the setting or modification of permit, licensing and application fees may only be determined by the city and county elected officials on the board described in BOH 2.04.020.B. As such, a quorum for meetings solely to decide any matter related to the fees described in this subsection shall be five of the members described in BOH 2.04.020.B. An affirmative vote of five members described in BOH 2.04.020.B. is required to adopt, amend or repeal legislation related to the fees described in BOH 2.04.020.A.

SECTION 5. This rule takes effect January 1, 2023.

SECTION 6. If any provision of this rule or its application to any person or
circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected.

KING COUNTY BOARD OF HEALTH
KING COUNTY, WASHINGTON

________________________________________
Joe McDermott, Chair

ATTEST:

________________________________________
Melani Pedroza, Clerk of the Board

Attachments: None
Subject

A proposed rule and regulation relating to the membership of the King County Board of Health.

Summary

Rule and Regulation BOH 22-02 would amend Board of Health Code Title 2 sections pertaining to membership, chair, vice-chairs, and quorum and voting to be in alignment with state law amended by Engrossed Second Substitute House Bill 1152¹ (HB 1152), King County Ordinance 19418², and the Washington State Board of Health Proposed Rule for chapter 246-90 Washington Administrative Code.

Background

HB 1152. In 2021, the Washington State Legislature passed HB 1152. The passage of HB 1152 requires four primary changes to the King County Board of Health (KC Board):

1. There must be an equal number of elected to nonelected members;
2. One nonelected member must be selected by the American Indian Health Commission (AIHC);
3. The remaining nonelected members must be recruited and selected by the KC Board from the following three categories: public health, health care facilities, and providers; consumers of public health; and other community stakeholders; and
4. The nonelected members would have voting power on all matters except those pertaining to setting or modifying permit, licensing, and application fees.

HB 1152 directs the Washington State Board of Health (State Board) to promulgate rules regarding the selection and appointment process for nonelected members. The State Board filed a CR-102 Proposed Rule on February 25, 2022 with the state code reviser for chapter 246-90 Washington Administrative Code.

¹ HB 1152, https://app.leg.wa.gov/billsummary?BillNumber=1152&Year=2021&Initiative=false
Based on their estimated rulemaking timeline, the State Board indicates that this rule will be effective July 1, 2022. All other changes resulting from HB 1152 go into effect July 1, 2022. This Proposed Rule-Making Order is discussed below.

**Ordinance 19418.** King County Council Ordinance 19418 adopted on April 5, 2022, effectuates changes to the composition of the KC Board beginning on January 1, 2023, as listed in the four bullets above. All existing elected member positions were retained on the board; therefore, eight additional nonelected member positions were created in alignment with state law. These new positions would replace the existing Health Professional positions on the board. These new nonelected positions would include the AIHC selection and seven members selected by the KC Board from the three categories described in bullet 3 above. Ordinance 19418 requires there to be one alternate each for King County and City of Seattle members, and two alternates for members represented by the Sound Cities Association. Ordinance 19418 requires an equal number of nonelected alternates as there are electeds with one of those four representing the AIHC.

Ordinance 19418 set appointment procedures, term structure and compensation for nonelected Board members. The Ordinance states that no later than October 28, 2022, the KC Board shall transmit to King County Council a resolution naming their nonelected candidate selections and the AIHC candidate selections along with the name, biography, application materials and confirmation that each board member candidate selection meets the qualifications and requirements of state law and were recruited in accordance with the State Board rules. The Council would then take action to appoint the candidate selections.

In accordance with Ordinance 19418 full terms for nonelected Board members would be three years with initial terms as follows: two members serve a one-year term, three members serve a two-year term, and three members serve a three-year term. Members would be eligible to serve a total of three full terms. Regardless of length, initial terms would be considered a full term when determining eligibility for future terms.

Ordinance 19418 allows for compensation to be paid to nonelected regular and alternate members of the Board who are not being compensated for their participation through their employer. The rate of compensation is $225 per full board meeting attended, not to exceed that amount each month. Beginning January 1, 2024, and each year thereafter, the compensation amount would be automatically adjusted annually at the rate equivalent to the twelve-month change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the Seattle-Tacoma-Bellevue Statistical Metropolitan Area.

---


Area (CPI-U). If the twelve-month change in the CPI-U is negative, there would not be an adjustment.

**Washington State Board of Health Rules.** The Washington State Board of Health is directed by HB 1152 to promulgate rules establishing requirements for the recruitment, selection, and appointment process of nonelected members of local boards of health. On February 25, 2022, the State Board filed a CR-102 Proposed Rule with the state code reviser for Chapter 246-90 WAC. According to the estimated rulemaking timeline provided by the State Board these rules are anticipated to be effective July 1, 2022, which is the same day HB 1152 becomes effective.

The proposed rule provides general guidance for how local boards of health should conduct their recruitment of new nonelected members. Currently the rule states that local boards must actively recruit applicants in a way that solicits a broad pool of candidates representing a diversity of expertise and lived experience, local boards must provide reasonable advanced notice for applicants, post vacancy announcements in public places in all geographic regions represented by the Board, in the newspaper of record for the county, and make announcements available in languages upon request. Additionally, local boards must work with local community organizations to distribute vacancy notices. The rule encourages local boards to work with those organizations to identify potential applicants for nonelected positions.

The proposed rule allows the KC Board to use their discretion regarding whether to require nonelected members serving in the other community stakeholder or public health, health care facilities, and provider positions to reside within King County. Nonelected members representing the consumer category are required to reside in King County. The proposed rule requires that all applicants for nonelected positions be interviewed in a panel format by the Board using a standard set of questions. The nonelected members selection process must be consistent with the Open Public Meetings Act.

When assessing candidates for nonelected positions, the proposed rule requires that local boards take into consideration the following:

a. Service, current or past, on other local boards or commissions;

b. Whether the applicant's background meets the qualifications of the applicant's selected category or categories as defined in WAC 246-095-010;

c. Potential conflicts of interest;

d. The applicant's demonstrated commitment to public health;

e. Whether the applicant represents a diversity of expertise and lived experience;

f. Whether the applicant represents the geographic diversity of the community; and

---


7 Chapter 42.30 RCW
g. Whether the applicant identifies with a historically underrepresented community.

Analysis

Proposed Rule & Regulation BOH22-02 would align BOH Code with state law, King County Code, and the pending State Board of Health rule previously described in this staff report. If adopted, the KC Board would have a total of sixteen members with half of those being nonelecteds who represent public health, health care facilities and providers; consumers of public health; other community stakeholders, and a tribal representative selected by the AIHC. Nonelected members other than the AIHC member would be recruited and selected by the KC Board. All nonelected members would be confirmed by the King County Council. The changes to membership in Proposed R&R BOH22-02 would be effective January 1, 2023.

The following provides a summary of key sections of the proposed rule and regulation BOH22-02 included as Attachment 1 of this staff report:

- **Section 1** – This section amends BOH Code 2.04.020 pertaining to membership. This section retains the existing eight elected members and replaces the health professional members with eight nonelected members for a total board of sixteen members. All regular members would have equal voting power on all issues except those pertaining to fees in accordance with RCW 70.05.035. The membership included in Section 1 is described in Table 1 below and is in alignment with KC Council Ordinance 19418 and HB 1152. Table 2 provides more detail on the categories in RCW 70.05.035(1)(a).

<table>
<thead>
<tr>
<th>Elected Members</th>
<th>Nonelected Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>King County</td>
<td>AIHC Selection</td>
</tr>
<tr>
<td>King County</td>
<td>Category in RCW 70.05.035(1)(a)</td>
</tr>
<tr>
<td>King County</td>
<td>Category in RCW 70.05.035(1)(a)</td>
</tr>
<tr>
<td>City of Seattle</td>
<td>Category in RCW 70.05.035(1)(a)</td>
</tr>
<tr>
<td>City of Seattle</td>
<td>Category in RCW 70.05.035(1)(a)</td>
</tr>
<tr>
<td>Sound City Association</td>
<td>Category in RCW 70.05.035(1)(a)</td>
</tr>
<tr>
<td>Sound City Association</td>
<td>Category in RCW 70.05.035(1)(a)</td>
</tr>
<tr>
<td>King County Alternate</td>
<td>Alternate: AIHC</td>
</tr>
<tr>
<td>Seattle Alternate</td>
<td>Alternate: Public health, health care facilities, and providers</td>
</tr>
<tr>
<td>SCA Alternate</td>
<td>Alternate: Consumers of public health</td>
</tr>
<tr>
<td>SCA Alternate</td>
<td>Alternate: Other community stakeholders</td>
</tr>
</tbody>
</table>
Table 2.
Three Categories for Nonelected Members in RCW 70.05.035

<table>
<thead>
<tr>
<th>Public Health Providers and Facilities</th>
<th>Consumers of Public Health</th>
<th>Other Community Stakeholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>People practicing or employed in the county who are:</td>
<td>County residents who self-identify as:</td>
<td>People representing the following types of organizations operating in the county:</td>
</tr>
<tr>
<td>▪ Medical ethicists,</td>
<td>▪ Having faced significant health inequities,</td>
<td>▪ Community-based organizations or nonprofits working with populations experiencing health inequities in the county,</td>
</tr>
<tr>
<td>▪ Epidemiologists,</td>
<td>▪ Having lived experiences with public health-related programs such as:</td>
<td>▪ Active, reserve, or retired armed services members,</td>
</tr>
<tr>
<td>▪ Experienced in environmental health,</td>
<td>▪ Special supplemental nutrition program for women, infants, and children (WIC),</td>
<td>▪ The business community, or</td>
</tr>
<tr>
<td>▪ Community health workers,</td>
<td>▪ Supplemental nutrition program (SNAP),</td>
<td>▪ The environmental public health regulated community.</td>
</tr>
<tr>
<td>▪ Individuals with master's degrees or higher in public health or the equivalent,</td>
<td>▪ Home visiting, or</td>
<td></td>
</tr>
<tr>
<td>▪ Employees of a hospital located in the county,</td>
<td>▪ Treatment services.</td>
<td></td>
</tr>
<tr>
<td>▪ Physicians or osteopathic physicians,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ Advanced registered nurse,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ Registered nurses,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ Physician assistants or osteopathic physician assistants,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ Dentists,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ Naturopaths, or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ Pharmacists.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section 1 of Rule and Regulation BOH22-02 also acknowledges the compensation for nonelected members who are not being otherwise compensated for their participation on the Board provided for in Ordinance 19418.

- **Section 2** – This section amends BOH Code 2.04.035 pertaining to the Chair of the Board. This section would state that the Chair of the Board would be required to be selected from among the King County Council representatives on the KC Board in accordance with Ordinance 19418. This section also removes reference to the previous selection process of health professionals on the board.

- **Section 3** – This section amends BOH Code 2.04.045 pertaining to the Vice Chairs on the Board. This section would state that there shall be one Vice Chair representing the elected officials on the Board and one representing non-elected members.

- **Section 4** – This section amends BOH Code 2.04.165 pertaining to quorum and voting. This section would state that a quorum would consist of nine members and nine
affirmative votes would be needed to adopt legislation on any matter not relating to the setting or modification of permit, licensing, and application fees. In accordance with RCW 70.05.035, matters pertaining to fees shall only be determined by the elected officials on the Board. For meetings solely to decide any matter related to fees a quorum shall be five of the elected members on the Board; an affirmative vote of five of those members is required to adopt fee-related legislation.

- **Section 5** – This section establishes the effective date as January 1, 2023.

- **Section 6** – This section includes a severability clause that states if any portion of the rule is held invalid the remainder of the rule is not affected.

The King County Prosecuting Attorney’s Office Civil Division has reviewed the proposed rule and regulation.

**Amendments**

A technical title amendment may be needed to correct the title.

**Attachments**