

***RULES OF PROCEDURE
OF THE
CHARLOTTE-MECKLENBURG
STORM WATER ADVISORY COMMITTEE***

REGARDING EROSION CONTROL VIOLATION APPEALS

Pursuant to the provisions of Section 16 of the Mecklenburg County Soil Erosion and Sedimentation Control Ordinance and Section 18-36 of the City of Charlotte Soil Erosion and Sedimentation Control Ordinance, the owner of property, financially responsible party, or the person submitting the plan shall have thirty (30) days to appeal the decision of the Mecklenburg County or City of Charlotte Engineer, if he contests the issuance of a notice of violation, assessment of civil penalties, or order of restoration is contested.

The following Rules of Procedure are adopted for the disposition of appeals from decisions of the City or County Engineer.

1. The owner of the property, financially responsible party, or the person submitting the plans upon which the charge is levied shall have thirty (30) days from the date of receipt of the notice of violation, assessment of civil penalties, or order of restoration, to submit a written demand for an appeal to the Charlotte-Mecklenburg Storm Water Advisory Committee (the "Committee").
2. An appeal to the Committee must be in writing on the form prescribed by the Committee and available from the offices of the Clerk to the Committee. The form must give the appellant's name and address, state the grounds for the appeal, and identify the project in question. The total of all written materials submitted as part of the appeal, shall not exceed ten (10) pages of one-sided, 8 1/2" x 11" paper. Except for procedural matters, neither the property owner nor the Engineer may discuss the appeal with the Committee members except during the hearing which the Committee will hold to hear the appeal.
3. The appeal shall be signed by the properly owner or by the property owner's agent or attorney. An agent may sign an appeal if he attaches to such appeal a copy of his "power-of-attorney" or other authorization to represent the property owner. The appeal, or the power-of-attorney or other authorization to represent the property owner, must be signed by a general partner on behalf of a partnership on behalf of a partnership, by an officer on behalf of a corporation, or by a manager on behalf of a limited liability company.
4. Appeals shall be filed with the Clerk to the Committee. An appeal submitted to the Clerk by a means other than United States mail is considered to be filed on the date it is received in the office of the Clerk. An appeal submitted by United States mail is considered to be filed on the date shown on the postmark stamped by the United States Postal Service. If there is no United States Postal Service postmark or if such postmark does not show the date of mailing, the appeal will be considered to be filed on the date it is received in the office of the Clerk.

5. Appeals may be heard by the Committee at any place within Mecklenburg County. The Committee shall give the property owner notice of the hearing by mailing a notice, to the party signing the appeal, by first class mail at least ten (10) days prior to the hearing. All appeals shall be heard either at the next regularly scheduled meeting of the Committee following the submission of the appeal, or as soon thereafter as practical, or at a special meeting.
6. At least ten (10) days before the hearing, the City/County shall provide to the Petitioner and the Clerk a brief summary of the violation(s) and penalty(ies) assessed, a list of the City/County's proposed witnesses, and copies of the City/County's proposed exhibits.
7. At least ten (10) days before the hearing, the Petitioner shall provide to the City/County and the Clerk a list of its proposed witnesses.
8. Prior to the hearing, The Clerk shall provide all SWAC members prior to the hearing with copies of the Petitioner's Request for an Appeal, the City/County's notice assessing the penalty and the parties' witness lists.
9. At least seven (7) days before the hearing, the Petitioner shall provide to the City/County and the Clerk copies of the Petitioner's proposed exhibits.
10. Witnesses not on the witness lists and documentary exhibits not exchanged in accordance with the above provisions will not be presented at the hearing except upon consent of the parties or upon a majority vote of the Committee.
11. The parties shall bring to the hearing twelve (12) sets of their respective exhibits, which shall be provided to all SWAC members at the beginning of the hearing, subject to any objections.
12. Hearings on appeals are quasi-judicial. All persons shall be sworn before presenting evidence, and all witnesses are subject to being cross examined. Committee members may ask questions of any witness. The property owner may be represented by an attorney or other agent duly authorized to represent the property owner. The Committee reserves the right to take such action as is required to conduct hearings which are fair to all parties involved and which are not unnecessarily long and burdensome.
13. A majority of the number of Committee members currently in office and eligible to vote shall constitute a quorum for the purpose of hearing appeals; and every action of the Committee requires concurring votes of the majority of the Committee members present and eligible to vote to reverse or modify the decision of the Engineer.
14. The decision reached by the Committee can be based only upon competent, substantial, and material evidence.

15. The Committee shall notify the property owner of its decision not later than 31 days after the hearing, and all penalties assessed must be paid within thirty (30) days of entry of the Committee's written decision.
16. Upon request, all information will be made available in an alternative format for persons with disabilities. In addition, all reasonable accommodations will be made for those persons with disabilities who wish to attend any scheduled Committee meetings, file an appeal, or participate in a hearing.

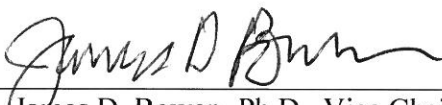
Adopted this 20th day of April, 1995.

Amended this 19th day of February, 2004.

Amended this 24th day of March, 2006.

Amended this 17th day of August, 2017.

CHARLOTTE-MECKLENBURG
STORM WATER ADVISORY COMMITTEE

By:  , Acting Chair
James D. Bowen, Ph.D., Vice Chair