

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

***REGARDING POST CONSTRUCTION CONTROLS ORDINANCE
APPEALS AND VARIANCES***

Pursuant to the provisions of Section II, Subsection 205, of the Mecklenburg County Post Construction Controls Ordinance and Section 18-124 (formerly Section 2, Subsection 205 before codification) of the City of Charlotte Post Construction Controls Ordinance, *an appeal* may be initiated by any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of these Ordinances. *A petition for variance* from the requirements of these Ordinances may be initiated by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having written contractual interest in the affected property.

1. A notice of appeal shall be filed with the Storm Water Administrator contesting any order, decision, determination or interpretation within thirty (30) working days of the day of the order, decision, determination or interpretation made or rendered by the Storm Water Administrator in the enforcement of this ordinance, including assessments of remedies and penalties. The thirty (30) working day time limit does not apply to variance requests.
2. An appeal or variance request 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 or variance request, and identify the project in question. The total of all written materials submitted as part of the appeal or variance request shall not exceed ten (10) pages of one-sided, 8 ½"x 11" paper. At the time of submittal of the appeal or variance request, the Petitioner shall provide the Clerk with the names and addresses of the owners of the properties adjoining the property where the appeal or variance is being requested. Except for procedural matters, the Petitioner, any adjoining property owner, and the Storm Water Administrator may not discuss the appeal or variance request with the Committee members except during the hearing which the Committee will hold to hear the appeal or variance request.
3. The appeal or variance request shall be signed by the property owner or by the property owner's agent or attorney. An agent may sign an appeal or variance request if he attaches to such appeal or variance request a copy of his "power-of-attorney" or other authorization to represent the property owner. The appeal or variance request, 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, by an officer on behalf of a corporation, or by a manager on behalf of a limited liability company.


4. Appeals or variance requests shall be filed with the Clerk to the Committee. An appeal or variance request 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 or variance request 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 or variance request will be considered to be filed on the date it is received in the office of the Clerk.
5. Appeals or variance requests may be heard by the Committee at any place within Mecklenburg County. The Committee shall give the party signing the appeal or variance request and any adjacent property owner notice of the hearing by mailing a notice, by first class mail at least ten (10) days prior to the hearing. All appeals or variance requests shall be heard either at the next regularly scheduled meeting of the Committee following the submission of the appeal, as soon thereafter as practical, or at a special meeting.
6. (For Appeals Only): At least ten (10) days before the hearing, the City/County shall provide 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. The Clerk will mail a letter to each of these adjoining property owners at least ten (10) days prior to the hearing, making them aware of the scheduled date of the SWAC hearing and how they can provide comments in favor or in opposition of the appeal or variance request. Written comments may be submitted to the Storm Water Administrator prior to the hearing. If the Petitioner or any adjacent property owner has any questions, they shall be directed to the Storm Water Administrator, as the members of SWAC shall not be contacted. All written comments received during the public comment period will be provided to all SWAC members along with copies of the Petitioner's request as described in number 9 below. In addition, during the hearing SWAC will consider verbal comments offered by the public.
8. At least ten (10) days before the hearing, the Petitioner shall provide the City/County and the Clerk a list of its proposed witnesses.
9. Prior to the hearing, the Clerk shall provide all SWAC members copies of the Petitioner's Request for an Appeal, the City/County's notice assessing the penalty and the parties' witness lists.
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. At least seven (7) days before the hearing, the Petitioner shall provide the City/County and the Clerk copies of the Petitioner's proposed exhibits.

13. Hearings on appeals and variances 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.
14. The decision reached by the Committee can be based only upon competent, substantial, and material evidence.
15. A majority of the number of Committee members at the meeting and eligible to vote constitutes a quorum for appeal and variance hearings. For appeals, 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 or the Storm Water Administrator. For variances, every action of the Committee requires concurring votes of the majority of the Committee members present and eligible to vote, plus at least one additional Committee member with a concurring vote.
16. 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.
17. 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 the 18th day of June, 2009.

Amended this the 17th day of August, 2017.

CHARLOTTE-MECKLENBURG
STORM WATER ADVISORY COMMITTEE (SWAC)

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