

RULES OF PROCEDURE
OF THE
HAMILTON COUNTY BOARD OF STORM DRAINAGE
VARIANCE AND APPEALS

ARTICLE I
ORGANIZATION AND OFFICERS

The Board shall organize annually at a meeting in December called and held for the purpose of electing new officers of the Board of Storm Drainage Variance and Appeals, the officers, shall be elected in the following manner. A member commencing the fourth year in office assumes the office of Vice-Chairman; commencing with the fifth year of a term in office, the member assumes the office of Chairman.

The new Chairman shall assume office annually at the regular meeting in December and shall hold office for a period of one year.

The new Vice-Chairman shall assume office annually at the regular meeting in December and shall hold office for a period of one year.

In the event that a member cannot fulfill the term of office, or in a case where a member may not wish to accept office, the choice shall pass to a member whose term of appointment next will expire.

A member unable to fulfill the term of office or relinquishing the office shall not again be eligible to hold office under the current appointment unless the Board, by majority vote of the Board in session at the time, shall waive this stipulation because of unusual or extenuating circumstances and provided, further, that such waiver shall not otherwise disrupt or alter the established

procedure of office and prohibit a member from serving his rightful term.

The Board, likewise, by majority vote of the members in session at the time may, because of unusual or extenuating circumstances, extend the term in office of a member provided again, however, that such extension shall not prohibit a member from serving his rightful term in office.

A member appointed to fill the remaining unexpired term of another member of less than eighteen (18) months duration shall not be eligible during the partial term to hold the office of Chairman or Vice-Chairman.

The Board, at its annual meeting in December, shall designate a person to act as Secretary for the following year.

The Chairman shall, subject to these rules and instructions from the Board, transact all official business of the Board.

The Chairman shall preside at all meetings and hearings of the Board. In the absence of the Chairman, the Vice-Chairman shall act as Chairman. In the absence of both officers, the next senior member of the Board shall preside.

The Chairman shall administer oaths and the Board may compel the attendance of witnesses.

Subject to these rules, the Chairman shall decide all points of order and procedure, unless overruled by a majority of the Board in session at that time.

The Chairman presiding at the meeting or hearing and the Secretary shall sign the Resolutions, Minutes and other documents adopted or approved by the Board.

The Secretary shall attend all meetings and hearings of the Board, keep the minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and keep records of its examinations and other official actions, and cause such minutes and records to be duly attested and immediately filed in the office of the Department of Public Works as a public record. The Secretary shall report

as to all official correspondence; give due notice of the hearing of each appeal to the appellant and the parties in interest as required by law; send out all notices required by the rules and order of the Board; prepare the necessary summonses, dockets and calendars for hearings and meetings; draft the necessary files and indexes and generally supervise the office and technical work of the Board.

ARTICLE II

MEETINGS

Regular meetings of the Board for the hearings of appeals and the transaction of business shall be held as needed on such date, time and place as the Board shall, from time to time, establish.

Special meetings for the hearing of appeals and the transaction of business may be called by the Chairman or by a quorum, provided, however, that notice of such meeting is mailed to and received by each member at least forty-eight (48) hours before the time set. All notices so specified to members may be waived upon agreement of the Board. When announcement of a special meeting is made at any meeting of the Board held prior thereto, such announcement shall be deemed sufficient notice for those members present.

Three members of the Board shall constitute a quorum.

ARTICLE III

APPEALS

The procedure of Appeal to the Board shall be as follows:

Appeals may be filed with the Secretary of the Board by any person aggrieved of any officer of the County affected by any order, requirement, decision or determination of the Department of Public Works where based upon the regulations of the Sanitary Engineering Department. Every appeal shall be filed in writing by a person aggrieved or by an Attorney representing persons aggrieved. An officer of a corporation may file a written appeal on behalf of a corporation.

An officer of the County may file an appeal or represent the County at the public hearing.

The appellant or counsel must be present at the public hearing.

Every request for appeal shall be filed in typewritten form upon 8½ x 11 paper; and in addition, every appeal shall contain an EXPLICIT STATEMENT SETTING FORTH:

The action of the Administrative Officer of the Sanitary Engineering Department upon which the appeal is based;

An explicit description of the construction or use, including layout. Specific reference to the section or sections of the Rules of the Sanitary Engineering Department which, it is claimed, authorize the determination sought.

Six (6) sets of drawings pertinent to the appeal are necessary before an appeal is filed.

Every appellant, other than an appellant acting for or as an officer of the County, filing an appeal with the County Board of Storm Drainage Variance and Appeals shall pay an appeal fee, either in cash or by check payable to the Board of County Commissioners as follows:

\$50 for matters covering one, two and three family dwellings and accessory structures.

\$100 for matters covering all other structures, subdivisions and developments.

In addition to the appeal fee, the appellant shall make payment of any other fees or costs directly attributable to the appeal which may accrue thereafter. No portion of the appeal fee shall be refunded, whatever the outcome of the appeal.

Every appeal shall be taken within thirty (30) days of the mailing date of the Adjudication Order by filing with said officer and the Board a notice of appeal specifying the grounds thereof as set forth in these rules.

An appeal is not considered as filed until all pertinent documents are filed and the fee is paid. All pertinent appeal documents shall be submitted at the same time; no piecemeal submittals will be accepted. Any communication purporting to be an appeal shall be regarded as mere notice to seek relief and shall not be considered by the Board until it is made in the form required by these rules.

ARTICLE IV

CALENDAR

Each appeal, filed in proper form, shall be numbered serially, and shall be placed upon the Calendar of the Board by the Secretary. The numbers shall begin anew on January 1st of each year, and shall be hyphenated with the number of the year in which the appeal is filed. Appeals shall be heard in the order in which they appear on the Calendar, except that an appeal may be advanced or postponed for hearing by order of the Board, upon good cause being shown.

An appeal must be filed at least fifteen working days prior to the date of a Board meeting in order to be heard at that meeting. Appeals filed less than fifteen working days prior to a meeting shall be held for hearing until the next scheduled meeting.

ARTICLE V

NOTICE OF HEARING

The Secretary shall give notice of hearing of each appeal as follows:

- A. Notice to the appellant shall be by personal service or certified mail not less than five (5) days prior to the date of hearing.
- B. Notice to the parties in interest shall be by certified mail not less than five (5) days prior to the date of hearing.
- C. At the discretion of the Board, notice of public hearing may be given by publication in one or more newspapers of general circulation in the County at least five (5) days before the date of such hearing.

The Secretary may furnish one or more newspapers with a brief notice of the appeals on the Calendar of the Board, for publication as news item prior to the date of hearing.

ARTICLE VI

HEARING OF CASES

All hearings of the Board and all official actions taken by the Board shall be open to the public. In the consideration of any appeal before it, the Board may go into executive session for the purpose of discussion. The appellant shall appear at the hearing, either in person or by attorney or agent. The appellant or his representative shall be heard first, the

Department of Public Works next, and thereafter the persons appearing in opposition to the appeal. Appellant shall always have an opportunity for rebuttal.

ARTICLE VII
DISPOSITION OF APPEALS

In the event of the absence of the appellant, the appeal shall be placed upon the Calendar for hearing at a later date and notice thereof given as set forth in Article V of these rules.

When an appellant fails to perfect his appeal, the Board may, at any time thirty (30) days or more after the date of the filing of the same, by the concurring vote of three (3) or more of its members, dismiss such appeal for want of prosecution.

The final disposition of every appeal shall be in the form of a written resolution which shall:

- A. Reverse or affirm, wholly or partly; or
- B. Modify the order, requirement, decision or determination from; or
- C. Make such order, requirement, decision or determination as ought to be made; or
- D. Authorize the variance from the terms of the Rules and Regulations of the Sanitary Engineering Department where the literal enforcement thereof will result in unnecessary hardship.

The Board may set out in said written resolution the condition or conditions upon which the building permit may be issued in order to carry out the purpose and intent of the Rules and Regulations of the Sanitary Engineering Department. The concurring vote of at least three (3) members shall be necessary to adopt the written resolution finally disposing of an appeal. If a written resolution presented at any meeting fails to receive three (3) concurring votes, it shall be presented for reconsideration at the next meeting.

An appellant may withdraw his appeal at any time prior to the adoption of the written resolution finally disposing the appeal.

ARTICLE VIII
AMENDMENTS

Amendments to these rules may be introduced at any meeting of the Board and voted upon at any subsequent meeting, provided, however, that the Secretary shall notify each member by mail of the consideration of such amendment for passage prior to such subsequent meeting.

ARTICLE IX
OFFICIAL ACTION

Every official action of the Board, not provided for in these rules, shall require at least three (3) affirmative votes for adoption.

ARTICLE X
RECORDS

All records and documents of the Board shall be kept on file in the Office of the Department of Public Works in such manner as to be available for inspection at all times.

ARTICLE XI
ORDER OF BUSINESS AT MEETINGS

The order of business at meetings and hearings of the Board shall be as follows:

1. Roll call
2. Hearing of Appeals
3. Approval of Minutes of previous meeting
4. Resolutions for adoption
5. Communications
6. Unfinished business
7. New business
8. Miscellaneous Matters
9. Adjournment

Adopted at a Scheduled Meeting of the Hamilton County Board of Storm Drainage Variance and Appeals in session June 5, 1985.