

WATERSHED REVIEW BOARD

RULES OF PROCEDURE

APPEALS, VARIANCES

RULES OF PROCEDURE FOR THE WATERSHED REVIEW BOARD REGARDING THE APPEALS AND VARIANCES

Section 101. General Proceedings of the Watershed Review Board ("the Board").

The Board shall annually elect a chairperson and a vice-chairperson from among its members. The chairperson in turn shall appoint a secretary, who may be an employee of Chatham County or a member of the Watershed Review Board. The chairperson, or in his or her absence, the vice-chairperson, shall administer oaths and request the attendance of witnesses. The Board shall keep minutes of its proceedings, including the names of members present and absent, a record of the vote on every question or abstention from voting, if any, and the reason for such abstention, together with records of its examinations and other official actions.

Section 102. Meetings

- (A) Board Meetings. Meetings of the Board shall be held upon the call of the chairperson or at the request of three (3) or more members of the Board. At least forty-eight hours (48) written notice of the time and place of meetings shall be given by the secretary to each member of the Board and as required by law. All board meetings are to be held in accordance with Article 33B of Chapter 143 of the General Statutes of North Carolina, commonly referred to as the Open Meetings Law.
- (B) Cancellation of Meetings. Whenever, so many members notify the secretary of their inability to attend that a quorum will not be available, the chairperson may cancel the meeting by giving notice as required by Section 102(A) of these Rules of Procedure, except that forty-eight (48) hours prior notice shall not be required, and notice of cancellation maybe written or oral.
- (C) Quorum. A quorum shall consist of six (6) members of the Board. .
- (D) Voting. All members present shall vote on any issue before the Board unless they are disqualified for one or more of the reasons listed in Section 506 of the Watershed Protection Ordinance (the "Ordinance"). The vote of a majority of the members present and voting shall decide all issues before the Board. Vacant positions on the Board and members who are disqualified from voting shall not be considered "members of the Board" for determination of a quorum or deciding any issue before the Board.
- (E) Electronic Meetings. The following Rules of Procedure for Electronic Meetings are a guide for how the Watershed Review Board established by the Chatham County Board of Commissioners will conduct meetings featuring electronic participation.

1. Meetings to Which These Rules Apply. These Rules of Procedure for Electronic Meetings (“Electronic Rules”) shall apply to all Chatham County public advisory boards, committees, commissions, and councils, including the Watershed Review Board. The Electronic Rules are supplemental to the Rules of Procedure approved by the Watershed Review Board for its meetings. Electronic Meetings can take place for any regular, special, or emergency meeting of the Watershed Review Board, subject to the conditions governing the use of Electronic Meetings.
2. Conditions Necessary for Electronic Meetings. Electronic meetings will only be permitted when any of the following entities declare that a state of emergency or a disaster exists in an area including the Chatham County: the federal government of the United States of America; the Government of the State of North Carolina through the Governor of the State of North Carolina or other method permitted by Chapter 166A of the North Carolina General Statutes; or Chatham County, North Carolina. The state of emergency declaration or disaster declaration must be related to a distinct event that reasonable persons can agree directly affects Chatham County (for example, a determination that an emergency exists under the National Emergencies Act related to piracy conducted by Somali pirates would not reasonably be related to the Chatham County and cannot support use of electronic meetings). If no state of emergency or disaster exists, then these Electronic Rules may not be used.
3. Definition of an Electronic Meeting. An Electronic Meeting is any meeting where one or more members of the Watershed Review Board participates through telephonic communication, or a telecommunications application which allows simultaneous communication by multiple parties, or other similar means that allows the members of the Watershed Review Board to hold a meeting without all members being physically present in the same room.
4. Notice of Electronic Meeting. If an Electronic Meeting is necessary, a public notice of the electronic meeting shall be sent as part of any notice required by North Carolina General Statutes §143-318.12. The public notice, in addition to the information required by North Carolina General Statutes §143-318.12, shall provide:
 - i. The location of the physical meeting (which is where any Watershed Review Board member and Staff able to attend the meeting in person shall gather); and
 - ii. The location of where a member of the public, member of the media, or others, may listen to the Electronic Meeting in accordance with § 143-318.13 of the North Carolina General Statutes.

The notice shall be provided in the manner required by Article 33C of Chapter 143 of the North Carolina General Statutes. If the Electronic Meeting is being used for any part of a regular meeting that is on the meeting schedule adopted by the Watershed Review Board, then the information required above shall be provided in a separate notice to be provided in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes. Any notice provided may also be posted on the Chatham County bulletin board, website and social media accounts, if possible.

5. Quorum. Watershed Review Board members present in person or electronically, shall be included in the calculation for determining if a quorum exists of the Watershed Review Board. If a committee member who participates electronically withdraws from the meeting, the rest of the meeting may be completed provided there is still a quorum of the committee members present either in person or electronically. Any committee member withdrawing from the meeting shall no longer be included for purposes of the quorum calculation.
6. Process of Opening Meeting. Immediately prior to opening the meeting, the Chair, Vice Chair, or other presiding officer shall communicate with the Watershed Review Board member(s) who is (are) participating electronically and ensure that he/she is prepared to go forward. From that time forward until the adjournment of the meeting, the communication line or application shall be kept open. At the start of the meeting, the Chair, Vice Chair, or presiding official shall state which Watershed Review Board members are participating electronically.
7. Voting and Discussion. Watershed Review Board members present for the meeting through electronic means are eligible to vote for all items considered by the Watershed Review Board during the meeting. Also, a member voting must indicate verbally with a "yes," "no," "yea," "nay," "or "abstain" (when that is permitted) such that the vote may properly and accurately record into the minutes of the Watershed Review Board. Prior to taking a vote on any issue, the Chair, Vice Chair, or other presiding officer shall inquire of the Watershed Review Board members participating electronically if he or she has been able to adequately monitor the discussion, including comments from the public, if any, and shall allow those Watershed Review Board members to make any comments he or she desires, if they chose to not avail himself or herself of the opportunity to discuss the matter before the vote. However, it is the responsibility of the member to gain the attention of the Chair or the presiding officer in order to be recognized for discussion. A committee member attending through electronic means that withdraws from the meeting without being excused from further attendance shall not be considered an affirmative vote on items before the Watershed Review Board. If a committee member attending through electronic means becomes disconnected from the

meeting, the Watershed Review Board member will not be counted as an affirmative or negative vote.

8. Minutes. The minutes of the meeting shall designate the name of each Watershed Review Board member who participated electronically, the nature of the electronic communication, and the duration of the committee member's participation.

Section 103. Appeals and Variances.

(A) Types of Appeals and Variances:

- (1) Appeals. The Board shall hear and decide all appeals from any decision or determination made by the Watershed Administrator. Decisions or determinations made by the Watershed Administrator shall be served upon the property owners or appellants by personal service or by registered or certified mail, return receipt requested.
- (2) Variances. All applications for variances shall first be presented to the Watershed Administrator, who in turn shall refer the applications to the Watershed Review Board for review and decision in accordance with the procedures outlined in Section 507 of the Ordinance.

(B) Procedure for Filing Appeals and Applications for Variances. Appeals and applications for variances shall be filed within thirty (30) days after the interested party or parties receive notice of the decision of the Watershed Administrator. Applications and appeals shall be filed with the Watershed Administrator, who shall act as clerk for the Board in receiving this notice. All applications and appeals shall be made upon the form specified for that purpose and all information required on the form shall be complete before an application or appeal shall be considered as having been filed. Once applications or appeals have been filed, the Watershed Administrator shall immediately notify the chairperson of the Board that such applications have been received.

(C) Hearings:

- (1) Time. After receipt of an appeal or an application for variance, a hearing shall be scheduled within a reasonable period of time, not to exceed ninety (90) days from the filing of notice of appeal or application for a variance.
- (2) Notice of Hearing. For all appeals and applications, notice of hearing shall be mailed to the adjoining property owners and to such other persons as the Watershed Administrator shall direct at least ten (10) days prior to the hearing. Such notice shall

state the location of the building or lot, the general nature of the question involved, and the time and place of the hearing.

- (3) Conduct of Hearing. The hearing shall be a quasi-judicial proceeding. Any party may appear in person or by agent or by attorney at the hearing. The order of business for the hearing shall be as follows: a) the chairperson, or such person as she or he shall direct, shall give a preliminary statement of the case; b) the appellant or applicant shall present the argument in support of the appeal or application; c) persons opposed to the appeal or granting the application shall present their argument. : d) both sides will be permitted to present rebuttals to opposing testimony; e) the chairperson shall summarize the evidence which has been presented, giving the parties opportunity to make objections or correction. Witnesses may be called and factual evidence may be submitted, but the Board shall not be limited to consideration of only such evidence as would be admissible in a court of law. The Board may view the premises before arriving at a decision. All witnesses before the Board shall be placed under oath and the opposing party may cross-examine them.

(D) Decisions:

- (1) Time. A decision by the Board shall be made within sixty (60) days from the date of hearing.
- (2) Form. Written notice by certified or registered mail, return receipt requested, of the decision in a case shall be given to the applicant or appellant by the secretary as soon as practical after the case is decided. Also, written notice shall be given to owners of the subject property and to persons who have made a written request for such notice. The final decision of the Board shall be shown in the record of the case as entered in the approved minutes. Such record shall show the reasons for the determination, with a summary of the evidence introduced and the finding of the fact made.
- (3) The decision on an application for a variance or an appeal may reverse or affirm, wholly or partly, or modify the decision or determination of the Watershed Administrator.
- (4) When an application for a major variance is filed, the Board shall provide a recommendation to the N.C. Environmental Management Commission
- (5) Expiration of Permits. Unless otherwise specified, any order or decision of the Board in granting a Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of the decision.

- (6) Public Record of Decisions. The decisions of the Board, as filed in its minutes, shall be a public record and available for inspection at all reasonable times. Every decision of the Watershed Review Board shall be filed in the office of the Watershed Administrator.
- (7) Appeals. Decisions of the Board shall be subject to review by the superior court. All appeals shall be filed with the Superior Court of Chatham County within thirty (30) days after the decision of the Board is filed in the office of the Watershed Administrator, or after a written copy thereof is delivered to the parties by personal service or registered mail or certified mail, return receipt requested, whichever is later.