



APPENDIX F STORMWATER MANAGEMENT COMMITTEE

- **Internal Operating Rules and Procedures**
- **Application for Variance or Appeal**



**Metropolitan Nashville - Davidson County
Stormwater Management Manual
Volume 1 - Regulations**

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Appendix F

STORMWATER MANAGEMENT COMMITTEE INTERNAL OPERATING RULES AND REGULATIONS

F1.1 Stormwater Management Committee Internal Operating Rules and Regulations

The Metropolitan Stormwater Management Committee, pursuant to the authority vested in it by the Metropolitan Code of Laws (hereinafter M.C.L.) §15.64.080, does hereby establish these rules and regulations to govern the procedures by which it conducts business.

F1.1.1 Filing of Appeals and Variance Requests

An applicant may appeal an adverse decision of the Director of the Metropolitan Department of Water and Sewerage Services (MWS) or the Director of Codes Administration to the Stormwater Management Committee. An applicant may also request a variance from the stormwater regulations.

All appeals and variance requests must be filed on a form provided by MWS, which shall provide:

1. The name of the property owner or his authorized agent;
2. The name of the appellant's/applicant's representative, if any;
3. The case number, the map number, and the parcel number, if any;
4. The location of the property;
5. The specific action requested of the Committee; and
6. The reasons justifying such action.

All appeals must be filed within 30 days after an adverse decision by either the Director of MWS or the Director of Codes Administration. A filing fee shall be charged to each applicant payable to MWS.

All appeals and variance requests will be filed with the secretary to the Committee. It shall be the duty of the secretary to the Committee to:

1. Accept all appeals and variance requests on behalf of the Committee.
2. Assign each appeal or variance request a case number.



3. Number each appeal or variance request consecutively in order of receipt (beginning on January 1 of each year).
4. Ensure that appeals or variance requests are heard in the order that they appear on the calendar, unless they are advanced for hearing for good cause shown.
5. Prepare an agenda and distribute it to each member of the Committee at least one week before each meeting.
6. Send a copy of the agenda to the Executive Director of the Metropolitan Planning Commission and the Director of the Department of Codes Administration.
7. Include on the agenda an identification of each appeal or variance request to be heard and the information required above.
8. In the event that there are no appeals or variance requests pending and no other business for the Committee to consider, notify the chairman of that fact ten days prior to the time scheduled for the meeting, so the chairman may cancel said meeting pursuant to M.C.L. §15.64.080.
9. Ensure that adequate notice of all meetings and agenda is given to the public.

F1.1.2 Variance Considerations

1. In approving variances for applications, the Stormwater Management Committee shall consider all technical evaluations, all relevant factors, all standards specified in other sections of these regulations, and:
 - a. The danger that materials may be swept by floodwaters or streams onto other lands to the injury of others.
 - b. The danger to life and property due to flooding or erosion damage.
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - d. The importance of the services provided by the proposed facility to the community.
 - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility.
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 - g. The compatibility of the proposed use with existing and anticipated development.



- h. The relationship of the proposed use to the comprehensive plan and master drainage plans for that area.
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- l. The following evaluation criteria will apply to appeals involving modification of the buffer.
 - i. Modifications to the buffer area shall be the minimum necessary to achieve a reasonable buildable area, as decided by the Committee. Other requirements for building in the floodway shall still apply.
 - ii. Where possible, an area equal to the encroached area or equivalent stormwater management practices shall be established elsewhere on the lot or parcel in a way to maximize, or provide equivalent, storm water quality enhancement and protection.
 - iii. Variances for reducing the no-disturbance buffer require a written recommendation, positive or negative, from the Greenways Commission.
 - iv. Redevelopment, as defined in Appendix B of this volume, within intensely developed areas may be exempt from all or a portion of the requirements of this subsection, provided feasible alternatives or BMPs to benefit storm water quality are applied.
2. Upon consideration of the factors listed above, and the objectives of these regulations, the Stormwater Management Committee may attach such conditions to the granting of variances as it deems necessary to further the objectives of these regulations.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Conditions for variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.



- b. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisance; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.
 - c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built, and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - d. The Stormwater Management Committee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in this section, except for Items 4a and 4d above, and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation.

F1.1.3 Open Meetings

All meetings of the Committee shall be open to the public as required by T.C.A. §8-44-101, *et seq* and M.C.L. §2.68.020. The Committee shall meet at regular monthly intervals with the day and time to be determined by the chairman.

Notice of such regular meetings shall be provided to the public as provided by law.

F1.1.4 Hearing Procedure

Prior to the testimony in each case, the secretary shall read a brief introductory statement setting forth the elements specified in Sec. F1.1.1. The Metropolitan Planning Commission or the Director of Codes Administration shall be permitted to submit an advisory opinion on any matter before the Committee and such opinion should be read into the record before the introduction of any other evidence in each case.

The order of the proof shall be as follows at the conclusion of the secretary's introductory remarks:



1. The Director of MWS or his designee shall furnish reasons for the rejection of the permit and/or development plans by way of written statement setting forth the reasons for the rejection and/or an oral presentation if so desired by MWS.
2. The appellant shall go forward with his case at the conclusion of the presentation by the Director of MWS or his designee, offering by way of written documentation or oral testimony any evidence which he may have in support of his appeal.

The Committee members may at any time ask questions of the Director of MWS or his designee or the appellant. Any document submitted before the Committee shall be received into the record and identified as an exhibit thereto, and be numbered by the secretary. The secretary shall record the proceedings and the minutes of the meetings of the Committee and shall be the custodian of the minutes and the records of the proceedings before the Committee.

Every person before the rostrum shall abide by the order and direction of the chairman. Discourtesy or disorderly or contemptuous conduct shall be regarded as a breach of the Committee and shall be dealt with as the chairman deems proper.

F1.1.5 Decision of the Committee

At the conclusion of all of the evidence in all cases heard at that hearing session, the Committee shall discuss the cases and render decisions in executive session on that date or defer decisions for no longer than 30 days thereafter.

Any action taken by the Committee shall be by motion which shall state the reasons therefor with particularity. All the decisions of the Committee shall be by resolution, must be in writing, and must indicate the vote of each member of the Committee upon the decision, and shall specify in what manner such variation or modifications shall be made, the conditions upon which they are to be made, and the reasons therefore. Unless otherwise stated, every decision of the Committee shall be final and valid for one (1) year from the date of the decision unless a grading permit or building permit is issued within that period, in which case, the variance expiration date will run concurrent with that permit expiration date.

An order containing the resolution of the Committee on each case shall be promptly entered on the minutes of the meeting of the Committee by the secretary and filed in MWS.

F1.1.6 Rehearings

No rehearing of the decision by the Committee shall be had except:

1. On motion to reconsider that vote by a member of the majority of the Committee on the preceding vote, or
2. On a written request by the appellant for a rehearing.



If the motion or written request to reconsider receives three affirmative votes, the Committee shall hold a rehearing, subject to such conditions as the Committee may by resolution in each case stipulate.

No request other than by a Committee member to grant a rehearing will be entertained unless new evidence is submitted which could not reasonably be presented at the previous hearing. If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request, and shall be duly verified and accompanied by the necessary data and diagrams. The person requesting the rehearing shall be notified to appear before the Committee on a date to be set by the Committee. Such notification shall be by the secretary.

F1.2 Conflict of Interest

No member of the Committee shall act in any case in which he/she has a personal interest, whether it be a direct or indirect financial interest in the property itself, or by virtue of family relationship with the appellant.

F1.3 Terminology

All parties before the Committee must phrase their presentations employing the terminology and definitions set out in the Metropolitan Code of Laws §15.64.010 where applicable.

F1.4 Special Meetings

The chairman may in emergency situations call special meetings at a time and place of his choosing. Whenever such a special meeting is called, the public shall be notified in the same manner as provided for by Section F1.1.3.

F1.5 Amendment of Internal Operating Rules and Regulations

These rules may be amended at any time by a majority of the members of the Committee and shall be in writing and filed in the office of the Metropolitan Clerk.

F1.6 Time of Effect of Internal Operating Rules and Regulations

These rules shall take effect immediately upon their approval and adoption by the Committee and the filing of same in the office of the Metropolitan Clerk.

F1.7 Appeals From Decisions of the Committee

A decision of the Committee is reviewable by writ of certiorari in a court of competent jurisdiction as provided by state statute.



F1.8 Election of Officers

The Committee shall elect one of its members as chairman and another as vice-chairman, who shall serve for a period of two (2) years or until their respective successors shall have been chosen.



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METROPOLITAN STORM WATER MANAGEMENT COMMITTEE
STORMWATER DIVISION
800 2ND AVE SOUTH
NASHVILLE, TENNESSEE 37210

APPLICATION TO APPEAR BEFORE STORM WATER MANAGEMENT COMMITTEE

APPLICANT INFORMATION

APPLICANT/OWNER OR AGENT OF OWNER:

REPRESENTED BY: _____

VARIANCE OR

APPEAL NO. _____

MAP NO. _____

PARCEL NO. _____

DEVELOPMENT INFORMATION

ENGINEER _____

DEVELOPER _____

PROPERTY OWNER _____

PROPERTY ADDRESS:

PLEASE SELECT ONE OF THE FOLLOWING:

1. VARIANCE REQUEST - The applicant requests a variance from the requirements of the Stormwater Regulations. Please state the regulation and the requested variance from:

Applicant would show that the variance request is justified for the following reasons (check all that apply):

- The variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, the variance is the minimum necessary so as not to destroy the historic character and design of the building.

Provide Explanation: _____

- The variance request meets the following conditions: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and (iii) a determination



that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisance; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

Provide Explanation: _____

For Variance Request – Please return this completed application along with the additional materials in the Variance Checklist on MWS’ Stormwater website

- 2. APPEAL - The applicant hereby appeals an adverse decision of the Director of the Metropolitan Department of Water and Sewerage Services (MWS) and/or Director of Codes Administration. Please describe the adverse decision and justification for the appeal:

For Appeal Only – Please return this completed application along with the filing fee made payable to Metro Water Services..

All specifications, plans and other supporting documents heretofore filed with the Director of MWS and/or the Director of Codes Administration are incorporated herein by reference and made a part of this application.

Signature of Property Owner

Street Address

City State Zip Code

Phone No. Email Address

THIS WILL ALSO SERVE AS RECEIPT OF THE FILING FEE TO PARTLY COMPENSATE FOR EXPENSES UNDER THIS APPEAL.