

**CODE OF REGULATIONS OF THE  
NORTHEAST OHIO REGIONAL SEWER DISTRICT**

**RULES OF PROCEDURE  
FOR ADMINISTRATIVE DETERMINATIONS MADE BY THE  
NORTHEAST OHIO REGIONAL SEWER DISTRICT**

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<u>CODE OF REGULATIONS OF THE NORTHEAST</u>		
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## CHAPTER 1 - PURPOSE AND AUTHORIZATION

- Section 1.1      Purpose - These Rules of Procedure are intended to delineate the requirements necessary for proper appeal of an administrative determination of the Northeast Ohio Regional Sewer District, hereinafter referred to as "District," and, to the Board of Trustees, hereinafter referred to as "The Board."
- Section 1.2      Authorization - These rules are promulgated pursuant to Section 1.0302 of the Code of Regulations of the Northeast Ohio Regional Sewer District's Sewer Use Code - Title I, and Chapter 6119 of the Ohio Revised Code.
- Section 1.3      Title and Distribution - These rules shall be known as the Rules of Procedure for Administrative Determinations made by the Northeast Ohio Regional Sewer District, hereinafter referred to as "Rules of Procedure," and shall be separately printed, distributed, and/or made available at District Administrative Headquarters for inspection by interested parties.
- Section 1.4      Rescission, Revision, Amendment or Adoption of Rules - Whenever it appears that changes in these Rules of Procedure are advisable or necessary, the Board of Trustees shall make the necessary revisions as part of its regular functions in public sessions.

## CHAPTER 2 - BOARD OF TRUSTEES

- Section 2.1 All Appeals to be Heard by Board of Trustees - All appeals of administrative determinations are to be heard by the Board of Trustees, or by a Hearing Examiner appointed pursuant to [Section 2.2](#) of these Rules of Procedure.
- Section 2.2 Hearing Examiner - The Board of Trustees may appoint a Hearing Examiner to conduct a hearing and to hear evidence on its behalf. The Hearing Examiner shall be an employee of the District. Notwithstanding the fact that the Hearing Examiner can conduct the hearing and can hear evidence, only the Board of Trustees by Resolution duly adopted can issue a Final Order on the appeal.
- Section 2.3 Findings of Hearing Examiner - The Hearing Examiner shall prepare findings based upon the evidence submitted to him. The findings shall be in writing, and shall be based upon prior decisions where applicable. The findings shall be submitted to the Board of Trustees for action by that body.
- Section 2.4 Disqualification - No member of the Board of Trustees or its designated Hearing Examiner shall participate in proceedings or in any case in which he has an interest which might prevent him from conducting a fair hearing or reaching an impartial decision.
- Section 2.5 Objection to Board Members or Hearing Examiner - Any individual who might be subject to disqualification under [Section 2.4](#) may be challenged by any interested party at any time prior to the hearing of the appeal. The challenge must be made in writing. The challenge shall be heard by the Board of Trustees. The Hearing Examiner's employment by the District shall not be grounds for disqualification.

## CHAPTER 3 - SCHEDULING OF HEARINGS

Section 3.1 Scheduling of Hearings - Generally - Every hearing or other proceeding to be held under these Rules of Procedure shall be scheduled promptly. All proceedings shall be held at the Administrative Offices of the District, unless at its discretion, the Board or Hearing Examiner determines that a more equitable determination can be made by holding the proceedings at another location. All hearings shall be held during normal business hours.

Section 3.2 Single Hearing - Except as provided in this section, all appeals shall be heard independently. Consolidation may be requested where any of the following criteria are met:

- (a) all parties have a mutually shared issue upon appeal;
- (b) the appealing party has multiple appeals best determined and expedited with a single presentation;
- (c) the availability of witnesses is limited;
- (d) the appealing party believes consolidation with any other pending appeal would be in the best interests of all parties.

The Board of Trustees or the Hearing Examiner shall rule on all requests for consolidation.

Section 3.3 Notice of Hearing - A "Notice of Hearing" shall be sent to the appealing party at least fourteen (14) days prior to the scheduled hearing date or any other proceeding under these rules. The notice shall specify the time and place of the proceeding, and shall set forth, in brief, the issues to be heard and the proceedings to be held.

The notice shall be mailed to the address indicated on the request for hearing, or shall be delivered in person to the appealing party. Any provision of this section may be waived upon the consent of all parties to the hearing.

Section 3.4 Postponement of Hearing - Except in the event of extraordinary circumstances, requests for postponement of a hearing must be made at least 72 hours prior to the scheduled proceeding. Postponements shall not be unreasonably denied where just cause has been shown. All requests for postponements must be in writing. In any event, not more than three (3) postponements requested by the appealing party will be granted. Failure of the appealing party to comply with the provisions of this section shall be deemed a failure to appear in accordance with [Section 4.7](#).

## CHAPTER 4 - CONDUCT OF HEARINGS & OTHER PROCEEDINGS

- Section 4.1      Testimony; Record - All testimony in any case under these Rules of Procedure shall be under oath or by affirmation. The proceedings shall be recorded by mechanical means or otherwise as may be prescribed by the Board, and no other formal record of any proceedings by manual, mechanical, or electronic device shall be permitted. The record of a case shall include all written submittals and actions under these Rules of Procedure pertaining to the case or to the interested parties.
- Section 4.2      Procedure and Evidence - The Board and/or Hearing Examiner shall conduct hearings and other proceedings in a case in such order and manner, and shall take any steps consistent with the impartial discharge of their duties which appear reasonable and necessary to ascertain all relevant facts and to render a fair and complete decision on all issues which have been presented. To the end that all facts relevant to a fair and complete decision shall be received as directly and simply as possible, the proceedings shall be informal, and the Board and/or Hearing Examiner shall not be bound by common law or statutory rules of evidence. The hearing shall be in accordance with these Rules of Procedure. The Board or Hearing Examiner conducting a proceeding, may examine the interested parties and other witnesses, and each interested party and his representative shall have the right to be heard on all issues presented on appeal.
- Section 4.3      Stipulations by the Parties - Interested parties may submit stipulations or any other agreed statement, respecting all or any part of the facts involved in the case, and may also waive a formal hearing. The Board or Hearing Examiner conducting such proceeding shall require or obtain such additional evidence as may be necessary to reach a fair and complete determination.
- Section 4.4      Securing Witnesses and Documents; Special Investigations - The production of books, papers and other documents, files and records, may be required by the Board or Hearing Examiner, if deemed necessary, to present fully and adequately any issue to be determined. Whenever an investigation or other examination is necessary to fully and adequately present any issue to be determined in a case, the Board or Hearing Examiner shall require or authorize that same be made and the findings submitted into evidence.
- Section 4.5      Public Hearings - All hearings under these Rules of Procedure shall be open to the public.
- Section 4.6      Adjournment or Continuance - On its own motion or upon the showing of good cause by an interested party, or whenever it appears that such action is necessary to afford the parties a reasonable opportunity for a fair hearing, the Board or Hearing Examiner may adjourn or continue a hearing to another time or place. Notice of the time and place of the adjourned or continued hearing shall be given to the interested parties, as provided in [Section 3.3](#), except that

the fourteen (14) day notice provision shall not apply.

- Section 4.7      Failure of Appealing Party to Appear - If the appealing party in any case fails to appear personally or by counsel or other authorized representative at the hearing scheduled on his appeal, and if good cause for such failure to appear is not shown in writing to the Board or Hearing Examiner within ten (10) days after the scheduled date of such hearing, the Board or Hearing Examiner to whom the case is assigned for decision shall prepare findings based upon the evidence in his possession. In the event there is a showing of good cause for failure to appear within such ten (10) day period, the hearing shall be rescheduled with due notice to all interested parties.
- Section 4.8      Oral Argument and Briefs - At the conclusion of any hearing, the interested parties shall be granted a reasonable opportunity to present argument on all issues of fact and law to be decided. The Board or Hearing Examiner to whom a case is assigned shall afford the interested parties an opportunity to present oral argument or to file briefs, or may permit both, and may limit the time of oral argument. The deadline for acceptance of briefs shall be set by the Board or Hearing Examiner at the conclusion of the hearing.
- Section 4.9      Reopening of Proceedings - At any time after a hearing, and prior to the issuance of a decision, the Board or the Hearing Examiner to whom the case is assigned for decision may, on its own motion or in its discretion upon a showing of good cause by the appealing party, reopen the appeal for further proceedings.

## CHAPTER 5 - TIME LIMITATIONS ON APPEAL - VOLUNTARY WITHDRAWAL

- Section 5.1      Time of Appeal; Beginning of Appeal Period - Notice of appeal by an interested party must be filed no later than thirty (30) calendar days after a copy of the decision appealed from is mailed to the party's last known post office address. Notice of Appeal may be by certified mail or personal service. If notice of appeal is mailed, it must be postmarked before midnight of the last day of the appeal period, if delivered, it must be received at District Administrative Offices before the closing time of the office on the last day of the appeal period. In computing the period of time within which an interested party may file an appeal, such period shall begin at 12:01 A.M. on the next day following the date on which the decision or other notice is mailed to his/her last known post office address, and shall extend for the number of days specified above. When the last day of the period of appeal referred to above falls on a Saturday, Sunday, or on a legal holiday, the period shall extend to and include the next day which is not a Saturday, Sunday or a legal holiday. An appeal or other request or application shall be deemed to be filed with the Board on the date of receipt where delivered to the Board at District Administrative Offices by the person himself, or his representative, agent or messenger. Filing shall be deemed to be completed on the postmarked date appearing on the enclosing envelope where filing is by mail.
- Section 5.2      Date of Decision or Other Notice - The date on which the decision or other notice is deposited in the United States mail, addressed to the last known post office address of the party, shall be the date of the decision or other notice.
- Section 5.3      Voluntary Withdrawal of Appeal, Request, or Application - An appeal or any other request or application under these Rules of Procedure may be withdrawn upon application to the Board, in writing, by the appealing party or his authorized agent or attorney prior to the issuance of a Final Order by the Board of Trustees.



**CHAPTER 6 - HEARING EXAMINERS FINDINGS  
FINAL ORDER OF DISTRICT**

Section 6.1      Hearing Examiner to Prepare Written Findings - Upon completion of the hearing of evidence and submittal of briefs when applicable, the Hearing Examiner shall prepare written findings for submittal to the Board of Trustees. The findings shall include the following:

- a)      A brief summary of the facts.
- b)      Pertinent dates of the decision appealed from, including filings, hearing, etc.
- c)      A summary of the issues involved.
- d)      A discussion of applicable authority.
- e)      Conclusions and Findings.

The Board or Hearing Examiner shall prepare said findings within thirty (30) days of the close of the hearing. The hearing shall be closed upon receipt of briefs or upon conclusion of oral arguments as appropriate.

Section 6.2      Board Action Upon Examiner's Findings - When a Hearing Examiner has been designated, the Board of Trustees shall, by resolution, accept the findings and/or request the hearing of additional evidence or cause another hearing be held before another Hearing Examiner consistent with Section 1.0303 of the Code of Regulations of the Northeast Ohio Regional Sewer District Sewer Use Code - Title I. The Board of Trustees shall act in a timely manner.

Section 6.3      Final Order of the District - The decision of the Board of Trustees as passed by resolution shall be the final order of the District. A properly certified copy of said resolution shall be timely mailed or otherwise delivered to the parties of record, and shall be evidence of said Final Order for appeal to the Court of Common Pleas.

**CHAPTER 7 - SHOW CAUSE HEARINGS PURSUANT TO SECTION  
2.0603 OF TITLE II - PRETREATMENT REGULATIONS - AND SECTION 3.0604 OF  
TITLE III - SEPARATE SANITARY SEWER CODE – CODE OF REGULATIONS OF  
THE NORTHEAST OHIO REGIONAL SEWER DISTRICT**

- Section 7.1        Purpose - This Chapter is intended to provide Rules of Procedure to delineate the requirements necessary for proper hearing under a Show Cause Order as provided pursuant to Section 2.0603 of Title II - Pretreatment Regulations, and Section 3.0604 of Title III - Separate Sanitary Sewer Code - Code of Regulations of the Northeast Ohio Regional Sewer District.
- Section 7.2        Authorization - These rules are promulgated pursuant to Chapter 6119 of the Ohio Revised Code, and pursuant to the Code of Regulations of the Northeast Ohio Regional Sewer District, Title I - Sewer Use Code, Section 1.0302, and Title II - Pretreatment Regulations, Section 2.0603 and Section 3.0604 of Title III - Separate Sanitary Sewer Code.
- Section 7.3        Show Cause Hearing - Pursuant to Section 2.0603 of the Pretreatment Regulations, and Section 3.0604 of Title III - Separate Sanitary Sewer Code of the Code of Regulations of the Northeast Ohio Regional Sewer District, when a violation of Section 2.0601 or Section 3.0601, respectively, is not corrected by timely compliance by means of an administrative order, the District may order the discharger who causes or allows conduct prohibited by Section 2.0601 or the community pursuant to Section 3.0601, to show cause before the Board of Trustees or its designated Hearing Examiner why revocation of service, termination action and/or application of charges should not be occur.
- Section 7.4        Hearing Examiner - Show Cause Examinations - The Board of Trustees may appoint a Hearing Examiner to conduct a hearing, and to hear evidence on its behalf for show cause examinations. The Hearing Examiner appointed for show cause examinations shall be an employee of the District. All hearings shall be conducted in accordance with Chapters 4 through 6 of these Rules of Procedure.
- Section 7.5        Notice of Hearing - Show Cause Examination - Pursuant to Section 2.0603 or Section 3.0604 of the Code of Regulations, a "Notice of Hearing" for show cause shall be served on the discharger or community by personal service or certified mail, return receipt requested, specifying the time and place of a hearing to be held by the Board of Trustees or its designated Hearing Examiner regarding the violation, the reasons why the enforcement action is to be taken, and the proposed enforcement action. The "Notice of Hearing" shall direct the discharger or community to show cause before the Board of Trustees or its designated Hearing Examiner, why the proposed enforcement action should not be taken. The "Notice of Hearing" shall be served no less than seven (7) days before the hearing under Title II - Pretreatment Regulations and thirty (30) days before the hearing under Title III – Separate

Sanitary Sewer Code.

- Section 7.6      Show Cause Examination Constitutes Appeal - A hearing requiring a discharger or community to show cause shall be considered an automatic appeal of the show cause charge. The charged party shall be considered the appellant automatically requesting a hearing of the Show Cause Order. Consistent with Chapter 6 of these Rules of Procedure, the final order of the District shall be the decision of the Board of Trustees as passed by resolution.
- Section 7.7      Failure of Party to Appear for Show Cause Hearing - If the party in any case for show cause fails to appear personally or by counsel or other authorized representative at the scheduled hearing, the Board or Hearing Examiner to whom the case is assigned for decision shall prepare findings based upon the evidence in his possession.
- Section 7.8      Postponements of Show Cause Hearing - Request for postponement of a show cause hearing must be made at least twenty-four (24) hours prior to the scheduled proceeding. A single postponement shall not be unreasonably denied where just cause has been shown, and said hearing shall not be delayed longer than five (5) business days.