

**First Reading: March 30, 2021**  
**Second Reading: April 6, 2021**

ORDINANCE NO. 13661

AN ORDINANCE AMENDING CHATTANOOGA CITY CODE, PART II, CHAPTER 31, ARTICLE VIII, DIVISION 8, SECTION 31-365, HEARING PROCEDURE; JUDICIAL REVIEW, TO PROVIDE THE AUTHORITY FOR THE STORMWATER REGULATIONS BOARD TO PROHIBIT THE ISSUANCE OF ADDITIONAL LAND DISTURBANCE PERMITS AFTER NOTICE AND HEARING BY THE STORMWATER REGULATIONS BOARD WHEN CIVIL PENALTIES ARE NOT PAID TO THE CITY OF CHATTANOOGA.

---

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA,  
TENNESSEE:

SECTION 1. That Chattanooga City Code, Part II, Chapter 31, Article VIII, Division 8, Section 31-365, be amended by deleting same in its entirety and substituting in lieu thereof the following:

**Sec. 31-365. - Hearing procedure; judicial review.**

1. When to be held. The stormwater regulations board shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this article.

2. Record of hearing. At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the board shall have the right to have such hearing recorded steno graphically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the transcription and provide the board with the original of the transcript so that it may be certified to the court.

3. Subpoenas. The chairman may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be made by lodging with the chairman at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed and identifying any evidence to be produced. Upon endorsement of a subpoena by the chairman, the same shall be delivered to the chief of police for service by any police officer of the city, if the witness resides within the city. If the witness does not reside in the city, the chairman shall issue a written request that the witness attend the hearing.

4. Depositions. Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would require a ruling by the court under such rules.

5. Hearing procedure. The party at such hearing bearing the affirmative burden of proof shall first call his witnesses, to be followed by witnesses called by other parties, to be followed by any witnesses which the board may desire to call. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the Manager, or his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings. Any civil penalties which are unpaid following any administrative ruling by the board shall be required to be paid by the permit holder before any additional stormwater permits may be issued by the City for other land disturbance projects by the permit holder.

6. Appeal to board of manager's order. Any person aggrieved by any order or determination of the Manager may appeal said order or determination to the board and have such order or determination reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the Manager and with the chairman, and such notice shall set forth with particularity the action or inaction the Manager complained of and the relief sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may in its discretion suspend the operation of the order or determination of the Manager appeals from until such time as the board has acted upon the appeal. If the board conducts a hearing to review the determination of the Manager it may approve, approve with limitations, or reject any civil penalties assessed in the Manager's order as to the party appealing the order. Any civil penalties which are unpaid following any ruling by the board shall be required to be paid by the permit holder before any additional stormwater permits may be issued by the City for other projects by the permit holder.

7. Absence of chairman. The vice-chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his stead.

8. Review of board's decision. Any person aggrieved by any final order of determination by the board hereunder shall have judicial review by common law writ of certiorari.


(Ord. No. 9942, § 1, 8-31-93; Ord. No. 13251, § 1, 11-28-17)

SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: April 6, 2021

  
\_\_\_\_\_  
CHAIRPERSON

APPROVED: ✓ DISAPPROVED:    

\_\_\_\_\_  
  
\_\_\_\_\_  
MAYOR

PAN/mem/v3