

UTILITY REVIEW BOARD

Policies and Procedures

NUMBER: 2
EFFECTIVE DATE: 11-01-2021
SUPERCEDES: 05-4-2015
SUBJECT: **Utility Review Board**

I. Purpose

1. Section 78-52(a) of the Chesapeake City Code in part, requires the owner, agent, tenant or occupant of an improved piece of property, located within the city's public utility franchise area and bordering upon a street or alley along which a public water or sanitary sewer line or both have been laid by the city or others, shall cause the property to be connected with such public water and sanitary sewer line.
2. All questions of interpretation and enforcement of Section 78-52 shall be first presented to the Director of Public Utilities. Appeals may be made to the utility review board by any interested party from any interpretation or application of Section 78-52 by the director of public utilities.
3. The purpose of the Board is to review, interpret and respond to appeals from property owners requesting a variance from the mandatory required connection to the city water and/or sewer facilities, pursuant to Section 78-52 of the Chesapeake City Code.

II. Procedure

(A) Appeals Process:

1. All such appeals must be made in writing and filed with the Department of Public Utilities within 30 days of the decision of the Director of Public Utilities. Applications not filed within 30 days after the decision of the Director of Public Utilities are untimely and shall not be considered by the Board.
2. All Applicants requesting an appeal shall utilize the "Application for appeal Pursuant to City Code §78-51" as amended. This application form shall be made readily available online on the City of Chesapeake's website and physical copies shall be available at the Department of Public Utilities.
3. Applicants must fully compete and supply all necessary supporting documentation and information required by the application.
4. Once a completed application and all necessary supporting documentation and information required by the application is received by the Department of Public Utilities, the Application will be stamp dated and reviewed for completeness by Department of Public Utilities staff.

5. Once the application is determined to be complete, acknowledgement of such will be sent to the applicant, and the application and all supplemental documentation shall be made available to all members of the Utility Review Board, upon request, in the offices of the Department of Public Utilities.
6. Utility Review Board Chairman will then set a date for review by the Utility Review Board but only if the application is not otherwise scheduled for one of the Board's regular quarterly meetings. Applicants will be notified of the date of Utility Review Board's review at least 14 days in advance of the public meeting.
7. Utility Review Board may approve, deny or continue the appeal at the public meeting. If a continuance is granted, the continuance shall only be until the next regularly scheduled quarterly meeting, unless a longer period of time is requested by the applicant.
8. All variance approvals shall be granted for no more than 24 months. All approvals shall expire and terminate automatically upon the expiration of the specific time-period granted by the Board, or within 24 months of the Board's decision, whichever occurs first. Applicants whose variance has expired shall reapply, and comply with all requirements at that time of reapplication if an additional variance is requested after the Board's initial decision.

(B) Guidelines and Legal Authority:

The Utility Review Board shall use the following as their guidelines and legal authority: The utility review board shall have the power and duty to authorize upon appeal, in the cases enumerated in this subsection, only such variance from the terms of section 78-52 as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this article would result in unnecessary or undue hardship, provided that the spirit of this article shall be observed and substantial justice done. The variance may be granted where it is shown by substantial evidence that:

1. The owner or tenant is unable to pay the required connection fees under section 78-87 or to make connections required under section 78-52 owing to peculiar financial difficulties; or
2. The owner or tenant is unable to cause his or her premises to be connected with a public water and sanitary sewer line as required by section 78-52, due to an absence of available plumbers to perform the required connection; or
3. Through negligence, error or other causes, the owner or tenant has not received notice of mandatory connections to the city water and/or sanitary sewer lines, as required by section 78-52; or
4. The property is in possession of a lessee; the lease will expire within six months from

the date mandatory connection is required; and at the termination of the lease, the property will revert to an unimproved status; or

5. The title to property subject to the provisions of section 78-52 has been or will be taken by purchase or condemnation for public purposes by any authority which possesses the power of eminent domain as provided by law; or
6. The owner or tenant of a single-family residence will be caused to expend unreasonable or prohibitive costs in order to cause such premises to be connected to the city water and/or sanitary sewer facilities.

Insofar as the Board is considering the owner, agent, tenant or occupant's ability to pay the required connection fees under section 78-87 or to make the connections required under 78-52 owing to particular financial difficulties, the Board shall consult the Virginia Housing Authority's Property Owner & Manager's Schedule for Program Income and Rent Limits & Fair Market Rent, which adopts the U.S. Housing and Urban Development's Median Income for Chesapeake in the current fiscal year when such application is considered. Applicants who demonstrate by substantial evidence that they fall at or below two times the extremely low-income bracket are presumptively unable to pay due to peculiar financial difficulties. This presumption shall not foreclose a Board determination that an applicant who does not fall at or below two times the extremely-low income bracket is unable to pay. An existing schedule can be located here: <https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/Income-Rent-Limits/Pages/HUDMedianIncome.aspx>

III. Amendments

1. Any proposal for amending these policy and procedures must be made in writing to the Chairman who in turn will refer it to the Board for review and recommendation.
2. An amendment to the Policy and Procedures can be read at any meeting but action shall not be taken before the next subsequent regular meeting.
3. Approval shall require a three-fifths (3/5) vote of a quorum.

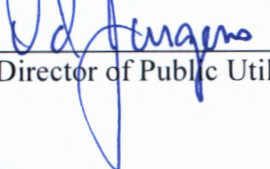
IV. Approval Authority

Upon the Utility Review Board's and the Director of Public Utilities concurrence and approval of the procedural changes, the Committee Chairperson shall be responsible for incorporating the newly adopted change into the existing Policy and Procedures and to distribute same to all Committee members, including the Director of Public Utilities.



Utility Review Board Chairman

18 Oct 2021
Date



Director of Public Utilities

18 Oct 2021
Date