

CHITTENDEN SOLID WASTE DISTRICT

Enforcement Hearing Process Policy

I. STATEMENT OF PURPOSE

The purpose of this policy is to outline the official process to be followed at enforcement hearings conducted by both the Executive Board and Board of Commissioners (the Board) with respect to allegations of Unlawful Conduct under, and as provided in, the Solid Waste Management Ordinance (Ordinance) adopted by the Chittenden Solid Waste District (CSWD).

II. BACKGROUND

Hearings on a Notice of Violation are publicly warned meetings and are held in public session with minutes of the meeting recorded. The Ordinance outlines the enforcement procedure resulting from a Notice of Violation and the requirements for determining if penalties for Unlawful Conduct are warranted.

All Notice of Violation hearings will be held in a manner compliant with Vermont's Open Meeting Law, including Act 133 (S.55).

III. PROCEDURE

- A. The Chair of the Board calls the meeting to order at the appointed time, determines whether a quorum of the Board is in attendance, and if so, proceeds with and follows the warned Agenda. When the agenda item that designates the Public Hearing is reached, the Chair calls for a motion to open the Public Hearing, stating the time. If moved and seconded, the Chair calls for a vote on the motion to open the Public Hearing. If the motion carries, the Public Hearing is open.
- B. The Chair states the nature of the Public Hearing, states that the Board will function in a quasi-judicial manner for the duration of the Public Hearing and turns to the Executive Director to describe the reason for the Public Hearing.
- C. The Executive Director and associated staff describe the Notice of Violation and present evidence to substantiate the accusations.
- D. At the conclusion of staff's presentation, the Chair will provide an opportunity for the Notice of Violation recipient to address the accusations and provide additional details for consideration by the Board.

- E. If either the Respondent or the Executive Director request to provide testimony or submission of evidence by a third party, any such evidence or testimony shall be subject to the approval of the Chair, after a finding that such proposed testimony or evidence may be relevant or assist the Board in its deliberations.
- F. Upon hearing the presented evidence, Board members may direct questions to the Chair, who will then direct the question to the appropriate party. Board members should not address the parties directly, nor should the parties address each other.
- G. When all questions have been asked and answered, the Chair will ask for a motion to enter deliberative Executive Session, stating the time and asking for a second. If moved and seconded, the Chair calls for a vote on the motion to enter deliberative Executive Session. If the motion carries, those formally invited to such deliberative Executive Session (members of the Board and CSWD's General Counsel) will leave the room where the hearing is taking place and begin the deliberative Executive Session in a private room. The room where the deliberative Executive Session is held must have access to an online meeting option for those members who are permitted in the session but not on site. Minutes are not recorded during the deliberative Executive Session.
- H. In deliberative Executive Session, the Chair will lead the discussion of the presentation of the evidence and the Board will determine whether the Unlawful Conduct, as defined in Article 2 (UU) of the Ordinance, described in the Notice of Violation has occurred.
- I. The deliberations and determination shall be by majority vote in the deliberative Executive Session. As the hearing involves the due process rights of a Person (as defined in the Ordinance), and not the general governance of the Executive Board or Board of Commissioners, the vote shall be one person-one vote, and not the weighted voting provided under the Charter for actions by the Board of Commissioners.
 - a. The Board may decide to:
 - i. Determine that the respondent committed Unlawful Conduct and impose a civil penalty as recommended by staff;
 - ii. Determine that the respondent committed Unlawful Conduct and impose a civil penalty different than that proposed by staff;
 - iii. Determine that the Unlawful Conduct did not occur or that there was insufficient evidence to make a determination of Unlawful Conduct by the respondent;
 - iv. Make such other findings as needed under the Solid Waste Management Ordinance.

- J. When deliberations are finished, the Chair will call the public back into the Public Hearing and asks for a motion to exit deliberative Executive Session. If moved and seconded, the Chair calls for a vote on the motion to exit deliberative Executive Session and notes the time. If the motion carries, public session resumes. The Chair describes any action that needs to be taken as a result of the deliberations during Executive Session.
- K. Such action, as determined by the Board, shall be issued from a Proposed Order, or Final Order within 30 days of the hearing to the accused, as outlined and defined in CSWD's Ordinance and 24 V.S.A. § 2297a.