

**CITY OF DURHAM, DEPARTMENT OF SOLID WASTE MANAGEMENT
RULES ON REMEDIATION AND CIVIL ENFORCEMENT
(Established pursuant to Section 10-2 of the Durham City Code)**

Effective July 1, 2006

REMEDIAL ACTIVITY RULES

Remediation under Section 10-7(a)(i) and (ii), and Section 10-7 (iii) where a person in default or property owner, if different, cannot be identified:

1. **Default is confirmed.** Default noted by SWM personnel or designee is deemed confirmed. Default reported by non-designee citizen must be independently confirmed by SWM personnel or designee.
2. **Immediate remediation performed by SWM.** No notice necessary.
3. **Bill for remediation issued.** SWM may bill a person in default, or the property owner if different, via miscellaneous/general billing, for actual or standardized costs and expenses upon completion of remediation or anytime within the following six (6) months. Payment is due within 30 days of issuance. SWM shall maintain complete records of all costs and expenses until the bill is paid in full.
4. **The costs and expenses may be transferred from miscellaneous/general billing to the combined utility bill if not paid within 30 days.** SWM may proceed with a court action to recover costs and expenses if charging to the combined utility bill does not apply.

Remediation under Section 10-7(iii) where a person in default or property owner, if different, can be identified:

1. **Default is confirmed.** Default noted by SWM personnel or designee is deemed confirmed. Default reported by non-designee citizen must be independently confirmed by SWM personnel or designee.
2. **One notice required to person in default or property owner, if different.** Notice may be provided via tag (posted on receptacle or property), personal contact, telephone contact, e-mail contact, or a letter (mailed via U.S. mail or posted on receptacle or property). In all cases, a written record must be maintained by SWM. Notice must specify date, name of person in default and/or address of default, section or rule violated, remediation action required, deadline for required action, requirement for reimbursement of costs and expenses if SWM performs remediation, and name and telephone number of SWM contact person who can provide additional information. If the person in default remediates by the specified deadline, no further action or reimbursement is required.

3. **Remediation performed by SWM.** If the default still exists after the specified deadline, SWM may remediate.
4. **Bill for remediation issued.** SWM may bill a person in default, or the property owner if different, via miscellaneous/general billing, for actual or standardized costs and expenses upon completion of remediation or anytime within the following six (6) months. Payment is due within 30 days of issuance. SWM shall maintain complete records of all costs and expenses until the bill is paid in full. If the person in default requests administrative review, go to step 5. If not, go to step 6.
5. **Administrative review process.** The person receiving the bill may request review, which must be in writing (e-mail is considered writing) and received by the director within 10 days of bill issuance. The director must render a decision within 30 days of receipt of request. If the bill is withdrawn, no further action. If the bill is upheld, go to step 6.

Receipt of a timely request for review tolls the 30-day payment deadline. If the director upholds the bill, the clock starts running again on the decision date.
6. **The costs and expenses may be transferred from miscellaneous/general billing to the combined utility bill if not paid within 30 days.** SWM may proceed with a court action for relief if charging to the combined utility bill does not apply.

CIVIL ENFORCEMENT RULES

Civil Enforcement under Section 10-8(a):

1. **Violation is confirmed.** Violation noted by SWM personnel or designee is deemed confirmed. Violation reported by non-designee citizen must be independently confirmed by SWM personnel or designee.
2. **Notice to violator or property owner, if different (first or second violation of same section or rule - continuing violation counts as second violation).** Notice may be provided via tag (posted on receptacle or property), personal contact, telephone contact, e-mail contact, or a letter (mailed via U.S. mail or posted on receptacle or property). In all cases, a written record must be maintained by SWM. Notice must specify date, name of violator and/or address of violation, section or rule violated, potential for remedial fee, and name and telephone number of SWM contact person who can provide additional information.
3. **Bill for remedial fee issued (third or subsequent violation of same section or rule - continuing violation counts as third or subsequent violation).** SWM may bill a violator, or property owner if different, via miscellaneous/general billing, for a remedial fee upon a third or subsequent violation or anytime within the following six (6) months. Payment is due within 30 days of issuance. If the violator requests administrative review, go to step 4. If not, go to step 5.

4. **Administrative review process.** The person receiving the bill may request review, which must be in writing (e-mail is considered writing) and received by the director within 10 days of bill issuance. The director must render a decision within 30 days of receipt of request. If the bill is withdrawn, no further action. If the bill is upheld, go to step 6.

Receipt of a timely request for review tolls the 30-day payment deadline. If the director upholds the bill, the clock starts running again on the decision date.

5. **The fee may be transferred from miscellaneous/general billing to the combined utility bill if not paid within 30 days.** SWM may proceed with a court action for relief if charging to the combined utility bill does not apply.

Subsequent Fees:

Per Resolution #9361, SWM may initiate a court action for relief at the third or subsequent fee within the same fiscal year.