

CHAPTER 6. RENT STABILIZATION BOARD

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601.

Adoption, Amendment and Repeal of Regulations

It is the purpose of this article to establish basic minimum procedural requirements for adoption, amendment or repeal of Rent Stabilization Board Regulations. The provisions of this article shall not be superseded or modified by any subsequently adopted regulation except to the extent that such regulation shall do so expressly.

602. First and Second Readings and Effective Date of Regulation or Repeal

(A) There shall be a first and second reading of all proposed regulations and orders of repeal. At any meeting at which a proposed regulation has been placed on the agenda for second reading, the Board may adopt, amend, or repeal the regulation. Except as provided in Regulation 608, a regulation of an order or repeal shall become effective upon publication under Regulation 607 unless a later date is prescribed in the regulation or order. This subsection shall not apply to the adoption of any Annual General Adjustment.

(B) Prior to the first or second reading, the Board may make changes to a proposed regulation and may adopt the proposed regulation with the changes following the second reading without having to notice additional readings of the proposed regulation.

603. Notice of Proposed Action

For any proposed revision of a regulation which the Board, in its discretion, determines that public comment should be solicited, the Board may direct that notice of the proposed revisions be given in the following manner:

(A) Mailed to every person who has filed a written request for notice of regulatory actions with the Board.

(B) When appropriate in the judgment of the Board, mailed to any person or group of persons whom the Board believes to be interested in the proposed action.

(C) Published in one or more newspapers serving the City of Berkeley in such form and manner as the Board shall prescribe.

The failure to mail notice to any person as provided in this section shall not invalidate any action taken by the Board pursuant to this article.

[Revised Regulation 603 effective April 19, 1991.]

604. (RESERVED)

[Regulation 604 rescinded effective April 19, 1991.]

605. Hearing

The Board may, in its discretion, choose to hold a formal or informal public hearing concerning proposed adoption, amendment or repeal of a regulation. If a public hearing is held, statements, arguments, or contentions, either oral or in writing, or both shall be permitted. If the Board elects not to hold a public hearing, Board may, afford any interested person or his or her duly authorized representative, the opportunity to present statements, arguments or contentions in writing.

[Revised Regulation 605 effective April 19, 1991.]

606. (RESERVED)

[Regulation 606 rescinded effective April 19, 1991.]

607. Publication of Regulations

Within five (5) business days of the adoption, amendment or repeal of any regulation, the Board shall cause to be published in one or more newspapers serving the City of Berkeley, a concise summary of the regulation or repeal order. The Board may, in its discretion, cause the entire text of the regulation or repeal order to be published.

608. Emergency Regulations and Orders of Repeal

(A) The provisions of Regulations 602 through 606 shall not apply to an emergency regulation or order of repeal adopted pursuant to this subdivision.

(B) If the Board makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of public peace, health and safety or general welfare, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal. Any finding of an emergency shall include a written statement which contains a description of the specific facts showing the need for immediate action. The enactment of an urgency statute or ordinance shall not, in and of itself, constitute a need for immediate action.

(C) The emergency regulation or order of repeal shall become effective upon adoption by the Board notwithstanding the provisions of Regulation 602 or upon any later date specified by the Board as part of the regulation or order of repeal.

(D) No regulation or order of repeal adopted as an emergency action shall remain in effect for more than 180 days unless the Board has complied with Regulations 602 through 605, inclusive, prior to the adoption of the emergency regulation or order of repeal, or has, within the 180 day period, completed the regulation adoption or repeal process by formally adopting the emergency regulation or order of repeal or any amendments thereto, pursuant to the provisions of Regulations 602 through 605.

(E) In the event an emergency regulation is adopted as an amendment to an existing regulation, upon failure of the Board to comply with subdivision (D), above, the regulation as it existed prior to such emergency amendment shall thereupon become effective.

(F) In the event a regulation is originally adopted as an emergency regulation and the Board fails to comply with subdivision (d), above, such failure shall constitute repeal of said regulation.

(G) In the event an order of repeal is originally adopted as an emergency order of repeal and the Board fails to comply with subdivision (D), above, the regulation as it existed prior to such emergency order of repeal shall thereupon become effective.

(H) The Board shall make reasonable efforts to notify the public and local media of the pendency of any emergency regulation or order of repeal prior to the adoption thereof.

[Revised Regulation 608 effective April 19, 1991.]

609 - 630 (RESERVED)

[Regulation 630 rescinded effective April 19, 1991.]

631. Effective Date of Rules and Regulations

Rules and regulations adopted by the Board shall become effective on the date of publication under Regulation 607, unless a later date is specified by the Board.

[Revised Regulation 631 effective April 19, 1991.]

632. Application of New Regulations and Amendments to Existing Regulations to Actions Pending Before the Board

Unless otherwise stated, all newly adopted regulations and amendments to existing regulations shall apply to all petitions and appeals pending before the Board at the time of adoption or amendment.

[Effective April 10, 1992.]

633 - 689 (RESERVED)

690. Litigation by Commissioner

(A) Litigation v. Rent Stabilization and Eviction for Good Cause Ordinance. Any Commissioner of the Berkeley Rent Stabilization Board who is a plaintiff or petitioner in any court action challenging the validity or seeking to enjoin the enforcement of any part of the Rent Stabilization and Eviction for Good Cause Ordinance shall be deemed to have breached his or her public trust of office and to have thereby faithfully indicated an inability to faithfully discharge her or his duties and responsibilities as a Commissioner.

(B) Suspension. Upon a finding by the Board that any member is a plaintiff or petitioner in any court action prohibited by this rule, the Board shall immediately suspend said Commissioner from the Board, with such suspension subject to review and rescission by the City Council. If the suspended Commissioner is not present when the Board suspends, said Commissioner shall be promptly notified in writing of said suspension.

(C) Right to Hearing. Any Commissioner suspended pursuant to this rule has a right to request in writing a hearing before the Board, at which the suspended Commissioner may ask the Board to reinstate said Commissioner or rescind the suspension. The hearing shall be held within 15 days of receipt of the written request, and a final decision shall be made within 15 days of the hearing. The Board shall make every effort to expedite the hearing process by holding the hearing at its earliest opportunity at the request of the suspended Commissioner, particularly where the litigation status of the suspended Commissioner is the reason for the request for reinstatement. At the hearing, the suspended Commissioner shall have the right to be represented by counsel or a representative, to present evidence and make arguments.

(D) Rescission of Suspension. If, after the hearing, or at any subsequent hearing, the Board concludes that it incorrectly found that the suspended Commissioner was a plaintiff or petitioner to a court action prohibited by this rule, the Board shall immediately rescind the suspension.

(E) Reinstatement. If, after the hearing, or at any subsequent hearing, the Board finds that the suspended Commissioner is no longer a plaintiff or petitioner to any such prohibited court action, and that said Commissioner will be able to faithfully discharge the duties and responsibilities of being a Rent Stabilization Board Commissioner, the Board shall reinstate said member. In making this determination, the Board shall consider all evidence and factors relevant to said Commissioner's involvement in the litigation.

(F) Plaintiff or Petitioner. For purposes of this rule, a Commissioner shall be deemed to be a plaintiff or petitioner to a court action if the Commissioner is:

- (1) a named plaintiff or petitioner;
- (2) a general partner in a partnership which is named plaintiff or petitioner;

(3) an officer or director in a corporation or unincorporated association which is a named plaintiff or petitioner; or

(4) a trustee of a trust which is a named plaintiff or petitioner.

(G) Effective Date. This rule shall take effect immediately upon approval by a majority of the Board and the City Council after it is publicized by the Board.

[Effective Date: November 3, 1980.]

[Original policy adopted 9/30/80. Modified and approved by City of Berkeley Council on 10/14/80. Adopted by the Board on October 29, 1980]

691 - 699 (RESERVED)