

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 17, 2019

Final Decision Date Deadline: July 17, 2019

**STATEMENT OF THE ISSUE:** Section 11.100.060 of the Rent Ordinance establishes a general framework for Rent Board composition, conduct, powers and duties, and qualifications. Since March 2017, the Rent Board has operated under these basic provisions. Additional regulations could provide greater clarity as to qualifications for Rent Board members, managing conflicts of interest, vacancies, the effective date of adopted regulations, Boardmember suspension, and public meeting decorum and procedure. Staff members have proposed particular topics where regulations could be created to clarify the intent of the Rent Ordinance and are requesting policy direction from the Rent Board, should it desire to promulgate additional regulations in this realm.

## INDICATE APPROPRIATE BODY

- |   |   |  |  |   |
|---|---|--|--|---|
| <input type="checkbox"/> City Council               | <input type="checkbox"/> Redevelopment Agency                             | <input type="checkbox"/> Housing Authority     | <input type="checkbox"/> Surplus Property Authority          | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> |   |

## ITEM

- |   |  |                                 |
|---|--|---------------------------------|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) |  |                                 |
| <input type="checkbox"/> Public Hearing   | <input checked="" type="checkbox"/> Regulation                                   | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Contract/Agreement   | <input type="checkbox"/> Rent Board As Whole                                     |                                 |
| <input type="checkbox"/> Grant Application/Acceptance                                 | <input type="checkbox"/> Claims Filed Against City of Richmond                   |                                 |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Video/PowerPoint Presentation (contact KCRT @ 620.6759) |                                 |

**RECOMMENDED ACTION:** RECEIVE a presentation on possible Rent Board governance regulations and PROVIDE direction to staff – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

AGENDA ITEM NO:  
**J-2.**



# AGENDA REPORT

**DATE:** July 17, 2019

**TO:** Members of the Rent Board

**FROM:** Nicolas Traylor, Executive Director  
Paige Roosa, Deputy Director

**SUBJECT:** RENT BOARD GOVERNANCE POLICIES

## STATEMENT OF THE ISSUE:

Section 11.100.060 of the Rent Ordinance establishes a general framework for Rent Board composition, conduct, powers and duties, and qualifications. Since March 2017, the Rent Board has operated under these basic provisions. Additional regulations could provide greater clarity as to qualifications for Rent Board members, managing conflicts of interest, vacancies, the effective date of adopted regulations, Boardmember suspension, and public meeting decorum and procedure. Staff members have proposed particular topics where regulations could be created to clarify the intent of the Rent Ordinance and are requesting policy direction from the Rent Board, should it desire to promulgate additional regulations in this realm.

## RECOMMENDED ACTION:

RECEIVE a presentation on possible Rent Board governance regulations and PROVIDE direction to staff – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

## FISCAL IMPACT:

There is no fiscal impact related to this item.

## DISCUSSION:

### Background

Section 11.100.060 of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (Rent Ordinance) establishes basic provisions governing the Rent Board. Subsections include *(the following is a summary of these provisions, a full excerpt is contained in Attachment 1)*:

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- a. Composition – the Rent Board is comprised of five Richmond residents
- b. Eligibility – No more than two members of the Rent Board may own or manage rental property or act as realtors. Anyone nominated to the Board must be in compliance with the Rent Ordinance and all other local, state and federal housing laws
- c. Full Disclosure of Hearings – Nominees shall submit a verified statement listing their interests and dealings in real property during the previous three years
- d. Term of Office – Boardmembers shall serve terms of two years and may be reappointed for a total of four terms for a total of fewer than 10 years
- e. Powers and Duties – Establishes the powers and duties of the Board, such as, but not limited to, establishing a Base Rent, making adjustments in rent increases and decreases, issuing orders, rules, and regulations, conducting hearings, charging fees, collecting notices of rent increase and termination of tenancy, and reporting annually to the City Council on the status of rental housing covered under the Rent Ordinance
- f. Rules and Regulations – The Board shall issue rules and regulations to further the purpose of the Rent Ordinance
- g. Community Education – The Board shall publicize the Rent Ordinance through the creation of a brochure so that all Richmond residents have the opportunity to become informed about their legal rights and duties
- h. Meetings – The Board holds regularly scheduled meetings to ensure the timely performance of its duties
- i. Quorum – Three Boardmembers constitutes a quorum
- j. Voting – The affirmative vote of three Boardmembers is required for a decision
- k. Dockets – The Board maintains in its office all hearing dockets
- l. Financing – The Board finances its reasonable and necessary expenses through charging an annual Residential Rental Housing Fee
- m. Integrity and Autonomy of Board – The Board (Rent Program) operates as an integral part of the government of the City, but exercises its powers and duties independent from the City Council, City Manager, and City Attorney except by request of the Board
- n. Budget – Prior to July 1 each year, the Board holds a public hearing and adopts an annual budget for the ensuing fiscal year

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- o. Personnel – The Board assesses annually that sufficient number of staff are employed as is necessary to perform its function
- p. Board Legal Work – The Board hires legal staff to represent and advise the Board and its staff in any civil matters, actions, or proceedings
- q. Contracts and Purchases – The Board procures goods and services as do other City agencies using existing support services within the City
- r. Conforming Regulations – The Board has the authority to enact replacement regulations consistent with the intent and purpose of any portion of the Rent Ordinance that is declared invalid or unenforceable by decision of a court of competent jurisdiction
- s. Reporting and Fee Payment Requirements – The Board may authorize the withholding of rent from Tenants of Rental Units for which the Rental Housing Fee has not been paid or for which a notice of rent increase or termination of tenancy has not been filed

Additional regulations could provide greater clarity as to qualifications for Rent Board members, managing conflicts of interest, vacancies, the effective date of adopted regulations, Board member suspension, and public meeting decorum and procedure.

### Possible Rent Board Governance Policies

The Rent Board is authorized under Section 11.100.060(f) of the Rent Ordinance to enact additional regulations to govern itself. Such regulations are commonplace in peer jurisdictions with rent boards, and could address policy questions such as:

- If a Boardmember does not own or manage rental property themselves, but an immediate family member has interest or manages real property or is a realtor, does the Boardmember “count” as one of two members who may own or manage rental property or act as realtors under Section 11.100.060(b) of the Rent Ordinance?
- What constitutes a conflict of interest for a Boardmember?
- Can Boardmembers file Rent Adjustment Petitions? How should this process work as to avoid bias or perception of bias?
- How should vacancies be handled?
- Should rules and regulations issued by the Board continue to become effective immediately upon adoption, or should such policies become effective 30 days after adoption and/or a “second reading”?

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- What are the grounds for Boardmember suspension? On a related note, what is the process if a Boardmember's eligibility is questioned? For example, what if a Boardmember violates a local, state, or federal housing law, or is themselves not in compliance with the Rent Ordinance?
- What policies should govern Boardmember decorum and procedure during public meetings? For example, when is the agenda packet to be published? Where are meetings to be held, and when? What types of items may be heard in closed session?
- How would the Board like correspondence addressed to the Board to be handled? If correspondence is profane or potentially slanderous or libelous, should such correspondence be included in Rent Board agendas?

### Established Regulations in Peer Jurisdictions

Examples of established regulations in the cities of Berkeley, San Francisco, and Santa Monica are included as Attachments 2 – 4 of this report. These examples are not meant to limit the scope of such regulations, but are meant to illustrate the types of regulations that may be established to govern Rent Board activities.

### Recommended Action

Specifically, staff members are requesting policy direction from the Rent Board concerning the following questions:

- Does the Board wish to enact regulations governing its activities?
- Which, if any, areas of regulation would the Board like to explore?
- How, if at all, would the Board prefer staff members bring forth proposed policy options for the Board's consideration? (E.g. piecemeal or comprehensive)

### **DOCUMENTS ATTACHED:**

Attachment 1 – Richmond Municipal Code Section 11.100.060

Attachment 2 – City of Berkeley Rent Board Regulations 601 – 690

Attachment 3 – City of San Francisco Rent Board Regulations Part 2: Board Organization and Procedures

Attachment 4 – City of Santa Monica Rent Board Regulations Chapter 1: Rules for Board Meetings

render the Landlord liable to the Tenant for actual damages, including damages for emotional distress, in a civil action for wrongful eviction. The Tenant or the Rent Board may seek injunctive relief and money damages for wrongful eviction. A Tenant prevailing in an action for wrongful eviction shall recover costs and reasonable attorney's fees.

11.100.060 **Richmond Rent Board**

(a) **Composition.** There shall be in the City of Richmond a Rent Board. The Board shall be made up of Richmond residents. The Board shall consist of five Board Members appointed by the City Council. The Board shall elect annually as chairperson one of its members to serve in that capacity.

(b) **Eligibility.** Duly qualified residents of the City of Richmond are eligible to serve as Members of the Board. There shall be no more than two members that own or manage any rental property or are realtors. Anyone nominated to this board must be in compliance with this Chapter and all other local, state and federal laws regulating the provision of housing.

(c) **Full Disclosure of Holdings.** Nominees for the position of Board Member shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, during the previous three (3) years. The Board may promulgate additional regulations.

(d) **Term of Office.** Board Members shall serve terms of two (2) years and maybe reappointed for a total of four (4) full terms for a total of fewer than ten (10) years.

(e) **Powers and Duties.** The Board shall have the following powers and duties:

- (1) Establish a Base Rent under Section 11.100.070 (a).
- (2) Make adjustments in the Rent Increase and Decreases in accordance with Section 11.100.070.
- (3) Set Rents at fair and equitable levels in order to achieve the intent of this Chapter.
- (4) Issue orders, rules and regulations, conduct hearings and charge fees as set forth below.
- (5) Make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.
- (6) Report annually to the City Council of the City of Richmond on the status of rental housing covered by this chapter. Reports shall include a summary of the numbers of notices served, the basis upon which they were served, the amount of the Rent increases and the addresses for which they were served.
- (7) Charge and collect registration fees, including penalties for late payments.

- (8) Collect and/or receive copies of notices of termination of tenancy and changes in terms of tenancy.
- (9) A searchable database will be created so that service of notice may be determined as well information for the reports described above.
- (10) Administer the withdrawal process for the removal of Rental Units from rental housing market under sections 11.100.050 (a)(6) and (7).
- (11) Administer oaths and affirmations and subpoena witnesses.
- (12) Establish rules and regulations for deducting penalties and settling civil claims under Section 11.100.100.
- (13) Refer violations of this Chapter to appropriate authorities for prosecution.
- (14) Seek injunctive and other civil relief under Section 11.100.100 - 110.
- (15) Any other duties necessary to administer and enforce this Chapter.

(f) **Rules and Regulations.** The Board shall issue and follow such rules and regulations, including those which are contained in this Chapter, as will further the purposes of the Chapter. The Board shall publicize its rules and regulations prior to promulgation on its website and any other appropriate medium. All rules and regulations, internal staff memoranda, and written correspondence explaining the decisions, orders, and policies of the Board shall be kept in the Board's office and shall be available to the public for inspection and copying.

(g) **Community Education.** The Board shall publicize this Chapter so that all residents of Richmond will have the opportunity to become informed about their legal rights and duties under this Chapter. The Board shall prepare a brochure which fully describes the legal rights and duties of Landlords and Tenants under The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. The brochure shall also include helpful information for homeowners. The brochure will be available to the public, and each Tenant of a Rental Unit shall receive a copy of the brochure from his, her or their Landlord. Landlords shall provide the brochure at the commencement of the tenancy and with each notice of rent increase. This brochure will be made available for download from the City of Richmond website and/or other appropriate technology. Information about the Ordinance shall be made available in all other languages that are requested by the community.

(h) **Meetings.** The Board shall hold such regularly scheduled meetings as are necessary to ensure the timely performance of its duties under this Chapter. All regular and special meetings shall be called and conducted in accordance with state law. There shall be minimally one (1) meeting a year so that the Board may comply with 11.100.070.

(i) **Quorum.** Three (3) Members shall constitute a quorum for the Board.

(j) **Voting.** The affirmative vote of three (3) Members of the Board is required for a decision, including all motions, regulations, and orders of the Board.

(k) **Dockets**. The Board shall maintain and keep in its office all hearing dockets.

(l) **Financing**. The Board shall finance its reasonable and necessary expenses by charging Landlords annual registration fees in amounts deemed reasonable by the Board. The Board is also empowered to request and receive funding when and if necessary from any available source for its reasonable and necessary expenses.

(1) **Residential Rental Housing Fee**. All Landlords shall pay a business license fee if required by Richmond Municipal Code plus a Residential Rental Housing Fee. The City shall charge the Residential Rental Housing Fee at the same time as the business license fee. The amount will be determined by the City Council after a recommendation by the Board is provided to the City Council. The City Council will vote on the recommendation at the next regularly scheduled meeting. The budget shall be funded by the Rental Housing Fee.

(2) This fee shall become due within thirty (30) days of inception of new tenancy if no fee was paid the prior year. Ongoing tenancies shall have fees collected at the same time as the City business license each year.

(m) **Integrity and Autonomy of Board**. The Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Chapter independent from the City Council, City Manager, and City Attorney, except by request of the Board. The City shall provide infrastructural support on an ongoing basis as it would with any other department. During the transition period before the Board Members are appointed and an Executive Director is hired, the City shall take whatever steps necessary to perform the duties of the Board and implement the purpose of this Chapter.

(n) **Budget**. The Board shall, prior to July 1 of each year, hold a public hearing on a proposed budget and adopt an annual budget for the ensuing fiscal year. At least thirty-five days prior to the beginning of each fiscal year, the Board's Executive Director shall submit to the Board the proposed budget as prepared by the Executive Director. After reviewing the same and making such revisions as it may deem advisable, the Board shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the Board at least ten days prior to said hearing. The City Council and the City Manager shall have no authority to oversee, supervise, or approve this budget. Upon final adoption, the budget shall be in effect for the ensuing fiscal year and the amounts stated therein shall be and become appropriated by the Board for the respective objects and purposes therein specified. At any meeting after the adoption of the budget the Board may amend or supplement the budget by the affirmative votes of at least three members. Copies of the adopted budget and any amendments or supplements shall be filed with the City Clerk, and City Manager. Necessary adjustments to city administrative procedures shall be made.

(o) **Personnel**. The Board shall review and assess yearly that sufficient number of staff are employed, including an Executive Director, hearing examiners, housing counselors and legal staff, as may be necessary to perform its function efficiently in order to fulfill the purpose of this Chapter. The Executive Director shall be hired by the Board. All employees of

the Board shall be hired, terminated, suspended, and demoted in accordance with the Charter and implementing provisions of the Municipal Code.

(p) **Board Legal Work.** Legal staff hired by the Board shall represent and advise the Board, its Members, and its staff in any civil matters, actions, or proceedings in which the Board, its Members, or its staff, in or by reason of their official capacity, are concerned or are a party. The Board may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions or proceedings.

(q) **Contracts and Purchases.** The Board shall procure goods and services as do other City agencies using existing support services within the City as would any other department, i.e. Finance, Information Technology, and Public Works among others. Provided, however, that the Board shall have sole and final authority to employ attorneys, legislative lobbyists, and other professionals, and to approve contracts for such professional services.

(r) **Conforming Regulations.** If any portion of this Chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Chapter to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to rent control matters as enumerated in this Chapter.

(s) **Reporting and Fee Payment Requirements.**

(1) Within sixty (60) days after the adoption of this Chapter, all Landlords shall be required to file a copy of all rental increase notices, change of terms of tenancy and tenancy termination notices with the Board before serving the tenant the notice. A proof of service with time and date of service of notice shall be included with notice filed with the City.

(2) If the Board, after the Landlord has proper notice and after a hearing, determines that a Landlord has willfully and knowingly failed to properly report, as described above, any rental increase notices, change of terms of tenancy or tenancy termination, or pay the Rental Housing fee, the Board may authorize the Tenant of such a non-reporting unit or where the Rent housing fee is unpaid to withhold all or a portion of the Rent for the Rental Unit until such time as the Rental Housing fee is paid or notice filed. After a notice is properly filed or fee paid, the Board shall determine what portion, if any, of the withheld Rent is owed to the Landlord for the period in which the notice was not properly filed or fee paid. Whether or not the Board allows such withholding, no Landlord who has failed to properly report or pay the fee shall at any time increase Rents for a Rental Unit until such fee or notice is reported. This shall go into effect thirty (30) days after determination of the Board.

(3) Further, failing to pay the fee or filing a copy of a notice before the filing of an unlawful detainer is a complete defense to an unlawful detainer. No Board action is required for defense to be alleged or litigated in an unlawful detainer.

(t) In the event the establishment of the Board under this Section is adjudged to be invalid for any reason by a court of competent jurisdiction, the City Council shall designate one or more City departments, agencies, boards, or commissions to perform the duties of the Board prescribed by this Chapter.

11.100.070 **Rent Control; Right of Reasonable Return for Landlords**

(a) **Establishment of Base Rent.** Beginning the effective date of this Chapter, no Landlord shall charge Rent for any Controlled Rental Units in an amount greater than the Rent in effect on July 21, 2015 except for increases expressly allowed under this Chapter. The Rent in effect on that date is the Base Rent. If there was no Rent in effect on July 21, 2015, the Base Rent shall be the Rent that was charged on the first date that Rent was charged following July 21, 2015. For tenancies commencing after the adoption of this Chapter, the Base Rent is the initial rental rate in effect on the date the tenancy commences. As used in this Subsection, the term "initial rental rate" means only the amount of Rent actually paid by the Tenant for the initial term of the tenancy. The Base Rent is the reference point from which the Maximum Allowable Rent shall be adjusted upward or downward in accordance with Section 11.100.070 (c).

(b) **Annual General Adjustment.** No later than June 30 each year, the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year.

(1) The Annual General Adjustment shall be equal to one hundred (100%) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region, or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year.

(2) Subparagraph 1 of this Subsection notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%).

(3) For the period between the effective date of this Charter and the first Annual General Adjustment announced September 1, the landlord may increase the Maximum Allowable Rent to include one Annual General Adjustment for September 2016.

(c) **Petitions.** Upon receipt of a petition by a Landlord and/or a Tenant, the Maximum Allowable Rent of individual Controlled Rental Units may be adjusted upward or downward in accordance with the procedures set forth elsewhere in this Section. The petition shall be on the form provided by the Board and shall include a declaration by the Landlord that the Rental Unit meets all requirements of this Chapter. Notwithstanding any other provision of this Section, the Board or hearing examiner may refuse to hold a hearing and/or grant a Rent

13.76.120, however, the noticed increase shall remain inoperative until a decision is rendered on the landlord's petition.

**(B)** Petitions filed under this section shall be expedited so that a hearing on the petition is held within 30 days of filing and a decision rendered within 30 days of the hearing. The parties shall be given at least 15 days notice of the hearing.

**(C)** Except as provided in subsection (B), proceedings on petitions filed under this section shall be conducted according to all provisions of Chapter 12, Subchapter B. A determination that a tenant is not a tenant in occupancy must be supported by a preponderance of the evidence presented to the hearing examiner. If the owner makes a prima facie showing that the unit is not continuously occupied by the individual as a residence, the burden of proving that the unit is the usual place of return and not a secondary residence or used primarily for commercial, office, or storage, except as provided in Section 524 (D), shall shift to the tenant. If the hearing examiner determines that the tenant is not a tenant in occupancy, any rent increase noticed by the landlord shall become effective on the date specified in the notice or the date on which rent is next due following service of the hearing examiner's decision, whichever is later.

[Effective Date: 05/22/03]

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## **526 - 599 (RESERVED)**

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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.

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### **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.

[Revised Regulation 603 effective April 19, 1991.]

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### **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.]

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### **604. (RESERVED) [Regulation 604 rescinded effective April 19, 1991.]**

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### **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.]

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**606. (RESERVED) [Regulation 606 rescinded effective April 19, 1991.]**

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**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.

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**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. The Board shall also have the authority to enact an emergency regulation or repeal an existing regulation to respond to changes in state or federal law that otherwise affect the administration and/or legality of any section of Berkeley Municipal Code Chapter 13.76. Any finding of an emergency or change in state or federal law 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.] [Revised Regulation 608 effective April 19, 1991; Amended subsection (B) to make clear that regulation may be used to adopt or repeal regulations if state or federal law changes in a way that affects administration and/or legality of Rent Ordinance (amended on 10/15/18).]

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**609 - 630 (RESERVED) [Regulation 630 rescinded effective April 19, 1991.]**

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### **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.]

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### **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.]

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**633 - 689 (RESERVED)**

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### **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.]

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**691 - 699 (RESERVED)**

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[Rent Stabilization Board](#), 2125 Milvia Street, Berkeley, CA 94704

Questions or comments? Email: [rent@cityofberkeley.info](mailto:rent@cityofberkeley.info) Phone: (510) 981-7368

(510) 981-CITY/2489 or 311 from any landline in Berkeley

TTY: (510) 981-6903

1 CITY AND COUNTY OF SAN FRANCISCO  
2 RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
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4  
5 **RULES AND REGULATIONS**  
6

7 \* \* \* \* \*

8 Amending Sections 6.10 and 12.17  
9 **Effective Date: September 11, 2018**  
10

11  
12 Rent Board Office: 25 Van Ness Avenue, Suite 320  
13 San Francisco, California 94102-6033  
14  
15 Office Hours: 8:00 a.m. – 5:00 p.m. Monday – Friday  
16 Phone Counseling Hours: 9:00 a.m. – Noon, 1:00 p.m. – 4:00 p.m.  
17  
18 Telephone: (415) 252.4602 (Counseling)  
19 FAX: (415) 252.4699  
20  
21 Website: [www.sfrb.org](http://www.sfrb.org)  
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1 **PART II BOARD ORGANIZATION AND PROCEDURES**

2 **Section 2.10 Election of Officers**  
3 (Amended February 21, 1989)

4 The members of the Board, including alternates, shall elect from among themselves a  
5 President and Vice-President for a term not to exceed one year. The election of each officer  
6 shall require a vote of the majority of the members. At the end of his or her one year term,  
7 neither the President or Vice-President will be eligible to hold the same office until at least one  
8 year after the expiration of their term.

9 The election of officers may be held at a regular or special meeting of the Board,  
10 provided notice of such an election is mailed to the members and alternates at least ten (10)  
11 days prior to the meeting at which the election will be held. The President or any two members  
12 may call a special meeting for the election of officers, if needed, or call for such an election at a  
13 regular Board meeting, provided the notice required in this section is given.

14 **Section 2.11 Board Alternates**  
15 (Amended February 21,1989)

16 Alternates may participate in discussion and deliberations and may preside over appeal  
17 hearings, but will only be allowed to vote when the member for whom the alternate serves as  
18 alternate is not present or has been excused from consideration of or voting on a matter by the  
19 Board.

20 **Section 2.12 Decisions by the Board**

21 A decision of the Board shall require a majority of all the members of the Board. All  
22 decisions of the Board shall be recorded by roll call vote and a record of such actions shall be  
23 available to the public. Each member present at a meeting shall vote either for or against any  
24 question put to a vote, unless excused from voting by a motion adopted by a majority of the  
25 members present.

26 **Section 2.13 Board Meetings**  
27 (Amended June 17, 1986; June 18, 1991; January 18, 1994;  
28 new section (e) added; amended March 23, 2004)

- (a) The Board shall meet on the first Tuesday of each month at 6:00 p.m. at Room

1 70, Lower Level, 25 Van Ness Avenue, San Francisco, California, 94102 except (i) when that  
2 day falls on a legal holiday or election day, the meeting shall be held on the next Tuesday which  
3 is neither a legal holiday nor an election day, or (ii) when the Board designates an alternate date  
4 or place for the meeting, the meeting shall be held on the designated date and at the designated  
5 place.

6 (b) The Board shall meet at such other times as necessary to stay current with the  
7 workload or tend to administrative matters.

8 (c) Special meetings may be held any time, upon compliance with Charter provision  
9 3.500.

10 (d) Meetings shall be open to the public, except that any member may require that  
11 matters for which meetings in executive session are allowed by law be discussed and  
12 considered in executive session, provided all votes of the members shall be matters of public  
13 record.

14 (e) For purposes of testimony at Public Hearings before the Board, members of the  
15 public shall be limited to testimony of three minutes duration. The Board shall have the authority  
16 to waive this limitation at its discretion.

17 **Section 2.14 Agenda**

18 Except for meetings in executive session, the agenda for each meeting of the Board shall  
19 be sent to each member and alternate with notice of the meeting. Notices of meetings and  
20 agendas shall be prepared and filed with the Public Library in the manner and within the times  
21 required by law. Matters on any meeting's agenda may be considered and decided out of the  
22 order on which they appear on the agenda upon approval of the members present. Except  
23 where prohibited by public notice requirements, the Board may, at any meetings, consider and  
24 decide matters not on the agenda for that meeting if the members present unanimously approve.

25 **Section 2.15 Per Diem Compensation**

26 (Amended September 21, 1999; amended March 23, 2004;  
27 amended August 24, 2004)

28 Each member shall receive \$75.00 for each Board meeting attended if the meeting lasts

1 for six hours or more in a single twenty-four hour period, and \$70.00 if the meeting lasts less  
2 than six hours in a single twenty-four hour period. If a member or the alternate is not in  
3 attendance for an entire meeting, compensation shall be determined by reference to the actual  
4 aggregate time the member was in attendance in proportion to the total time of the meeting.

5 **Section 2.16 Financial Disclosure and Conflict of Interest Statement**

6 Pursuant to the conflict of interest code adopted by the Board pursuant to Government  
7 Code Section 87300 and approved by the Board of Supervisors, all members shall disclose all  
8 present holdings and interests in real property, including interests in corporations, trusts, or other  
9 entities with real property holdings, in accordance with applicable state law.

10 **Section 2.17 Conflict of Interest**

11 No member of the Board or member of the staff of the Board may participate in the  
12 consideration or decision of any case in which such person has any personal interest, including  
13 an equity interest, an interest as a landlord, tenant or management person, or is related by blood  
14 or marriage or adoption to a landlord or tenant involved.

15 **Section 2.18 Waiver of Regulations**

16 (Amended August 29, 1989; September 27, 1994)

17 The Board may grant exception to these regulations for good cause shown in the interest  
18 of justice or to prevent hardship. If a majority of the board votes to accept a landlord or tenant  
19 appeal on the basis of financial hardship, they may delegate their authority to hear and decide  
20 such a claim to an Administrative Law Judge, subject to the right of appeal to the board.

21 **Section 2.19 Advisory Opinions**

22 No advisory opinion, oral or written, shall be given by the Board, or any of its members,  
23 except upon the vote of a majority of the Board.

24 **Section 2.20 Index of Decisions**

25 The Board shall establish and continuously maintain a file of decisions and opinions  
26 issued by Administrative Law Judges and the Board, properly indexed as to subject matter and  
27 available for public inspection in the Board office between the hours of 9 a.m. - 5 p.m. on  
28

1 weekdays, excluding holidays. Copies of decisions and opinions may be reproduced at the  
2 expense of the person requesting the copies, at a price equal to the cost of such reproduction to  
3 the Board, as determined by the Executive Director. Funds so received shall be deposited with  
4 the Controller.

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CHAPTER 1

**RULES FOR BOARD MEETINGS**

**1000. Quorum**

Three Boardmembers shall constitute a quorum of the Board. The affirmative vote of three members of the Board is required for a decision, including all motions, regulations, and orders of the Board.

**1001. Agenda**

The Secretary to the Board shall prepare the agenda. The agenda, with all supporting matters shall be delivered to the Boardmembers one week prior to the Thursday Board Meeting to which it pertains and shall be made available to the public no later than three o'clock on the Wednesday preceding the scheduled Board Meeting; providing, however, that at any time prior to the hour set for the meeting, any Boardmember, the Board's Counsel or the Administrator, may direct any matter he or she deems urgent to be placed upon the agenda; provided, further, that any item of public interest or concern added to the agenda after its publication to the general public shall not be considered unless it is accompanied by a full explanation by the advocate of such item and until after a majority of the Board has voted to do so. Matters directed to be placed on the Agenda by Boardmembers shall be listed thereon in order of receipt of such direction.

**1002. Time and Place for Holding Regular Meeting**

- (a) The Santa Monica Rent Control Board does hereby establish meetings on the first, second, fourth and/or fifth Thursday of each month at 7:00 p.m. However, if any such Thursday falls on any day designated by law by the City Council or by the Rent Control Board as a day for public feast, Thanksgiving or holiday, or if a change in the date for a regular meeting is reasonably necessary for the Board to perform its duties, the Board shall give the public reasonable notice of the alternative date for the meeting, which shall be preferably held on a Thursday. Regular meetings shall commence at 7:00 p.m., unless the agenda includes a closed-session item, in which case the meeting shall commence at 6:00 p.m.
- (b) The City Council Chamber in City Hall is established as the location for holding the Board's regular meetings held on the first, second, fourth and/or fifth Thursday of each month. If, for any reason, the City Council Chamber is unavailable for a particular regular meeting, the Board shall give the public reasonable notice of the alternative site of the meeting. If, however, the City Council Chamber becomes permanently unavailable, the Board shall, with reasonable notice, amend this regulation to set forth the new location(s) of its regular meetings.

[1002 Amended 5/29/86; Effective 5/29/86]  
[1002(a) Amended 1/27/00; Effective 2/11/00]  
[1002(a)-(b) Amended 10/13/11; Effective 10/21/11]  
[1002(a) Amended 11/8/18; Effective 11/15/18]

**1003. Meetings to be Public -- Exception for Closed Sessions**

- (a) All regular, adjourned regular, and special meetings of the Rent Control Board shall be public; provided, however, that the Rent Control Board may hold Closed Sessions during a regular or special meeting, from which the public may be excluded, for the purpose of considering the matters referred to in §§54956.7-54957.10 of the California Government Code relating to Closed Sessions of the legislative body, or pursuant to other provisions of law.

The above section is specifically limited by the following:

## ITEM J-2 ATTACHMENT 4

- (1) Restrictions in Closed Sessions do not apply to meetings of committees of the Rent Control Board consisting of less than a quorum of its members.
  - (2) Closed Sessions may not be held to consider the broad category of "personnel" matters.
  - (3) Closed Sessions relating to personnel are limited to those relating to the appointment, employment, evaluation of performance, or dismissal of an employee or to hear complaints or charges brought against such employee.
  - (4) Closed Sessions may not be held to determine the compensation of employees not represented by a collective bargaining organization.
- (b) The general categories permitting Closed Sessions shall include, but not be limited to:
- (1) Consider the employment, performance evaluation, or dismissal of an employee, or to hear charges brought against such person unless the employee in question requests a public hearing, in which event a public hearing shall be permitted.
  - (2) Discuss with the Board counsel pending, proposed or anticipated litigation where the threat of litigation is likely or would be likely, if discussed in an open meeting.
  - (3) Meeting with Attorney General, District Attorney, Sheriff or Chief of Police (or their Deputies) on matters "posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities."
  - (4) Instruct Board staff and/or authorized negotiators concerning salaries, salary schedules or compensation paid in the form of fringe benefits prior to or during negotiations with employee organizations.
  - (5) Negotiate and have discussions with employee organization representatives following intervention of a state labor conciliator in a labor dispute.
  - (6) Instruct Board staff and authorized negotiators concerning purchase, sale, exchange or lease of real property for the purpose of giving instructions regarding the price and terms of payment.
  - (7) Consider those matters which by law are properly subject to Closed Sessions.
- (c) No member of the Rent Control Board, employee, or any other person present during a Closed Session of the Rent Control Board shall disclose to any person the content or substance of any discussion which took place during said closed session unless the Rent Control Board shall authorize the disclosure of such information by majority vote, or unless such disclosure is required, and only to the extent so required, by the provisions of §54957.2 of the California Government Code.
- (d) At any given meeting, no more than one Commissioner may appear at open or closed sessions of the Board's meetings by teleconference, subject to limitations and noticing requirements imposed by Government Code § 54953. A Commissioner wishing to appear by teleconference must so notify the Board Secretary at the earliest possible moment, but no later than 72 hours before the time at which the meeting is scheduled to begin.

[1003 Amended 6/12/97; Effective 6/20/97]  
[1003(a) Amended 10/13/11; Effective 10/21/11]  
[1003(d) Adopted 11/8/18; Effective 11/15/18]

**1004. Board Correspondence**

(a) Non-Board Items

Written communications addressed to the Board, the subject matter of which comes within the jurisdiction of any other Board, Commission or Department of the City, may be referred to such Body or Department, or both, by the Secretary, and such communications shall not be placed on the Board agenda.

Any person submitting a written communication to the Board which is subsequently referred another Board, Commission, or Department of the City shall be notified of such referral by the Secretary. If dissatisfied with either the action of the Secretary or the action of the Body or Department to which the communication was referred, such person may appeal to the Board.

- (b) The Secretary is authorized to open all mail or other written communications collectively addressed to the Board and to give it immediate attention to the end that all administrative business referred to in said communications which does not necessarily require Board action may be acted upon between Board Meetings.

(c) Board Items

Correspondence collectively addressed to the Board shall be received and opened by the Secretary, transmitted to the appropriate officer having jurisdiction, and placed on the agenda if Board action is deemed appropriate by the Secretary, except in the following circumstances:

- (1) No communication containing material which:
- (i) Is profane;
  - (ii) Is in the nature of a criminal or civil slander, or is potentially slanderous or libelous;
  - (iii) Advocates or opposes the candidacy of any person or party for any elective office;
  - (iv) Is primarily an advertisement or promotion or has as a substantial purpose the advancement of any cause the major benefit of which is private and not public; or
  - (v) Does not necessitate Board action, shall be place upon any Board agenda.

(d) Availability to the Public

- (1) Correspondence addressed to individual Boardmembers shall not be opened by the Secretary unless authorized to do so by individual Boardmembers. Such communications shall not become public records until received and filed by the Board at a regular, special or adjourned meeting of the Board, or retained or used as provided in §6250 of the California Government Code.
- (2) Correspondence received in the Secretary's or other Board offices after twelve o'clock noon on Mondays prior to the Board Meeting shall not be placed on the agenda unless it concerns a matter to be considered by the Board at the next regular meeting or is determined by the Secretary to be an urgent matter which should be brought to the immediate attention of the Board.

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- (3) Correspondence shall not be read aloud at a Board Meeting unless requested by a majority vote of the Board. No item which is exempted by §6254 of the California Government Code shall be disclosed or treated as a public record.

### 1005. Order of Business

- (a) STANDARD ORDER. The Board will ordinarily consider and dispose of its business in the following order:
  - (1) Call to Order. The Chair will call the meeting to order, and the Board Secretary will call the roll.
  - (2) Closed Session. The Board will recess to closed session to consider items on the closed-session agenda. Closed session will ordinarily be held between 6:00 p.m. and 7:00 p.m.
  - (3) Reconvene to Open Session. The Chair will call the open session to order and invite the Board and public to salute the flag.
  - (4) Report of Closed Session. The General Counsel, or other person called upon by the Chair to do so, will provide a report of the Board's closed session.
  - (5) Approval of Minutes. The Board will review the previous meeting's minutes. If the minutes are accurate, the Board will approve them. If the minutes are inaccurate, the Board will correct any inaccuracies and approve the minutes as corrected.
  - (6) Special Agenda Items. The Chair, any member of the Board, or the Board Administrator, will make relevant announcements, present commendations or awards, introduce special guests, or conduct other brief business of a like nature.
  - (7) Public Comment. Members of the public will be given the opportunity to directly address the Board on any item of interest to the public that is within the Board's subject-matter jurisdiction; however, members of the public wishing to address the Board on specific agenda items should address the Board on those items when they are under consideration by the Board. In order to address the Board, any member of the public should inform the Board secretary of his or her name and the issue to be discussed, using a slip provided for the purpose. The speaker must be given three minutes to speak, unless the Board permits a longer or shorter period, or another period is required by regulation.
  - (8) Continued Business. The Board will consider any unconcluded items from previous Board Meeting agendas.
  - (9) Consent Calendar. The Board will consider all consent items as a group by a single motion to approve the consent calendar. Because the consent calendar includes only items of a noncontroversial nature that do not require a public hearing, such as receiving reports or making technical, non-substantive changes to regulations, the title to the individual consent items will not be read unless a request to do so is made by a member of the Board. Public discussion is permitted only if the item is removed from the consent agenda and a specific request to be heard is made.
  - (10) Jurisdictional Items. The Board will consider matters in which the Board is required to make a decision concerning an individual application or appeal.

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- (11) Public Hearings. As specifically required by law, or as previously agreed by the Board, the Board will hold a public hearing on the adoption or substantive amendment of any regulation or rule, or the adoption of a resolution necessary to implement any regulation or rule.
  - (12) Administrative Items. The Board will consider issues placed on the agenda by the Administrator. Examples of administrative items include the adoption or amendment of regulations, rules, or resolutions not specifically required by law or not previously suggested for discussion by the Board itself, the presentation of proposed budgets, and matters of a like nature.
  - (13) Reports of Committees. A subcommittee of the Board will present a report of its findings and recommendations, if any, to the entire Board and to the public.
  - (14) Board Discussion Items. A member of the Board, having caused an issue to be placed on the Board's agenda, will succinctly state the issue for the Board's consideration. No final Board action may be taken on anything arising under this part of the agenda. The Secretary must list items in this part of the agenda in the order in which they were received.
  - (15) Written Communications. The Board will receive written communication from the public. The Board Secretary must list all written communications on the agenda in the order in which they were received at the Board's offices, together with a succinct statement of their subject matter. The Board will not discuss the written communication except at the request of a Board member. The discussion may be limited in duration by a majority vote of the Board.
  - (16) Adjournment. The Board will adjourn, and will remain adjourned until its next regularly-scheduled meeting unless an emergency or special meeting is called before the next regularly-scheduled meeting.
- (b) The Board may alter the order of its agenda for an individual meeting, except the call to order and adjournment, by majority vote.

[1005 Amended 8/13/92; Effective 8/20/92]  
[1005 Amended 4/14/94; Effective 4/23/94]  
[1005 Amended 6/12/97; Effective 6/20/97]  
[1005 Amended 10/13/11; Effective 10/21/11]  
[1005 Amended 3/13/14; Effective 3/19/14]

### **1006. Preparation of Minutes**

The Secretary shall have exclusive responsibility for preparation of the minutes, and any directions for changes in the minutes shall be made only by a majority action of the Board.

### **1007. Reading of Minutes**

Unless the reading of the minutes of a Board Meeting is ordered by a majority vote of the Board, such minutes may be approved without reading if the Secretary has previously furnished each Boardmember with a copy.

### **1008. Presiding Officer**

The Chairperson shall be the Presiding Officer at all meetings of the Rent Control Board. In the absence

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of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, the Secretary shall call the Board to order whereupon a temporary Presiding Officer shall be elected by the Boardmembers present to serve until the arrival of the Chairperson or Vice-Chairperson or until adjournment.

### **1009. Powers and Duties of Presiding Officer**

#### (a) Participation

The Chairperson or Vice-Chairperson or such other member presiding may move, second and debate from the chair, subject only to such limitations of debate as are imposed upon members of the Board by these rules and shall not be deprived of any of the rights or privileges of a Boardmember by reason of his/her acting as Presiding Officer.

#### (b) Duties

The Presiding Officer shall preserve order at all regular, adjourned regular, and special meetings of the Board. Such officer shall state each question coming before the Board, announce the decisions of the Board on all subjects, rule on all evidentiary matters and decide all questions of order; subject, however, to an appeal by the Board, whereupon a majority vote of the Board on any question of order shall govern and determine conclusively such evidentiary ruling or question of order.

#### (c) Signing of Documents

The Presiding Officer shall sign all Resolutions and other documents necessitating his/her signature which were adopted in his/her presence, unless he/she is unavailable, in which case the signature of the alternate Presiding Officer may be used. The Administrator shall execute all contracts on behalf of the Board unless otherwise ordered by the Board. Prior to Board authorization each contract shall be reviewed by the Board's counsel as to the form and legality.

### **1010. Sworn Testimony**

(a) The Presiding Officer may require any person addressing the Board to be sworn as a witness and to testify under oath, and the Presiding Officer shall so require if directed to do so by a majority vote of the Board. Any member of the Board may request that anyone appearing before the Board on any matter shall be sworn. On receipt of such a request, all proceedings shall be suspended and the Board will, without debate, immediately vote on whether the individual should be sworn. A majority vote of the members present shall determine whether the speaker shall be placed under oath. All oaths and affirmations will be administered by the Secretary.

(b) The Board shall have the power and authority to compel the attendance of witnesses, to examine them under oath, and to compel the production of evidence before it. Subpoenas may be issued in the name of the Board and be attested by the Secretary.

### **1011. Rules of Debate**

#### (a) Getting the Floor

Every Boardmember desiring to speak shall first address the Chair, gain recognition by the Presiding Officer, and shall confine himself/herself to the question under debate, avoiding personalities and indecorous language.

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(b) Questions to Staff

Every Boardmember desiring to question Board staff shall, after recognition by the Presiding Officer, address his/her questions to the Administrator, the Board's counsel, or any staff member then present on the dais. If either the Administrator or the Board's counsel feels another staff member who is not located on the dais could best respond to the Boardmember's question, he or she may direct the question to a member of his/her staff in the audience for that purpose.

(c) Interruptions

(1) A Boardmember, once recognized, shall not be interrupted when speaking unless:

- (i) called to order by the Presiding Officer;
- (ii) a point of order or a personal privilege is raised by another Boardmember; or
- (iii) the speaker chooses to yield to a question by another Boardmember.

(2) If a Boardmember, while speaking, is called to order, he/she will cease speaking until the question of order is determined and, if determined to be in order, he/she may proceed.

(3) Members of the staff after recognition by the Presiding Officer shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

(d) Points of Order

The Presiding Officer shall determine all points of order subject to the right of any Boardmember to appeal to the Board. If an appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" A majority vote shall conclusively determine such question of order.

(e) Point of Personal Privilege

The right of a Boardmember to address the Board on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives are questioned or where the welfare of the Board is concerned. A Boardmember raising a point of personal privilege may interrupt another Boardmember who has the floor only if the Presiding Officer recognizes the privilege.

(f) Privilege of Closing Debate

The Boardmember moving the introduction or adoption of a Resolution or Motion, shall have the privilege of closing the debate, after other members of the Board have been given the opportunity to speak.

(g) Motion to Reconsider

A motion to reconsider any action taken by the Board may be made only by a Boardmember of the prevailing side and may be made only on the same day the action is taken and shall have precedence over all other motions or while a member has the floor and said motion shall be debatable.

(h) Calling for the Question

Neither the moving party nor the party seconding any motion is allowed to call for the question.

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(i) Limitation of Debate

No Boardmember shall be allowed to speak more than once upon any particular subject until every other Boardmember desiring to do so shall have spoken. Each Boardmember speaking on any item on the agenda shall be limited to ten (10) minutes per item to state his/her opinion and his/her views.

**1012. Remarks of Boardmembers and Synopsis of Debate**

A Boardmember may request through the Presiding Officer for the privilege of having an abstract of his/her statement on any subject under consideration by the Board entered in the minutes. If the Board consents thereto, such statement shall be entered in the minutes.

**1013. Protest Against Board Action**

Any Boardmember shall have the right to have the reasons for his/her dissent from, or his/her protest against any action of the Board entered in the minutes. Such dissent or protest to be entered in the minutes shall be made in the following manner: "I would like the minutes to show that I am opposed to this action for the following reasons . . ."

**1014. Rules of Order**

- (a) Except as otherwise provided in this Chapter, the City Charter, other rules adopted by the Board, or applicable provisions of State law, the procedures of this Board shall be governed by the latest revised edition of Robert's Rules of Order.
- (b) These Board rules, or any one thereof, may be suspended by a vote of two-thirds (2/3) of the Boardmembers.

**1015. Failure to Observe Rules of Order**

Rules adopted to expedite the transaction of the business of the Board in an orderly fashion are deemed to be procedural only and the failure to strictly observe such rules shall not affect the jurisdiction of the Board or invalidate any action taken at a meeting that is otherwise held in conformity with law.

**1016. Addressing the Board**

(a) Public Comment

Pursuant to the Brown Act, public comment is permitted on all agenda items and the public shall have an opportunity to comment on any matter which is not on the agenda but is within the Rent Control Board's jurisdiction. However, members of the public do not have the right to give comments outside the scope or unrelated to the agenda item under consideration. Additionally, members of the public should strive to avoid unduly reiterating their own or others' comments.

(b) Registration

Each person wishing to address the Board regarding items on the agenda where public discussion is permitted shall register his/her request to speak with the Secretary preferably prior to the start of the Board meeting, and to any discussion of that item. Each member of the public is encouraged, but not required, to provide his/her name and address. Except for public hearings, registration to speak is permitted after discussion of a particular agenda item has

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commenced. All persons wishing to speak at public hearings must register prior to the opening of the public hearing.

(c) Manner of Addressing the Board

- (1) Each person desiring to address the Board shall:
  - (i) step up to the microphone in front of the rail;
  - (ii) preferably state his/her name and home address for the record;
  - (iii) state the subject he/she wishes to discuss;
  - (iv) state whom he/she is representing if he/she represents an organization or other persons; and
  - (v) For public hearings, and jurisdictional items and proceedings, if the speaker is the applicant or appellant, unless further time is granted by majority vote of the Board, shall limit his/her remarks to five (5) minutes, for all other items, unless further time is granted by a majority vote of the Board, shall limit his/her remarks to three (3) minutes per item, except as limited by section 1016 (d).
- (2) All remarks shall be addressed to the Board as a whole and not to any member thereof.
- (3) No questions shall be asked of a Boardmember or a member of the Board staff without permission of the Presiding Officer.

(d) Discretion to Limit Duration and Number of Speakers

- (1) Where more than one person desires to speak on a particular item, it shall be within the discretion of the Presiding Officer to limit the number and duration of presentations to not less than ten (10) minutes for each side giving equal time for each position or side.
- (2) It is recommended that a spokesperson for each side be chosen prior to the meeting and the Secretary shall advise persons of this recommendation. If a spokesperson has not been selected prior to the meeting, the item may be called and the Presiding Officer may either pass the item or grant a recess to permit the selection of a spokesperson.
- (3) The Presiding Officer may also determine which persons have a predominant or proprietary interest in an item and permit such persons to speak first. If the Presiding Officer determines that more than one person desiring to speak has a predominant or proprietary interest, the person having the burden of proof on the matter should be called to speak first.
- (4) Nothing in this section shall be deemed to preclude the Presiding Officer or a majority of the Boardmembers present from allowing debate on any matter.

(e) Persons Speaking on More Than One Item

Any person wishing to speak on more than one item shall limit his/her remarks to three (3) minutes (five (5) minutes on public hearings) on the item he/she considers most important, two (2) minutes on the item he or she considers next most important, and one (1) minute on any other item unless a greater or lesser time is set by a majority vote of the Board. This subsection does not apply with respect to an applicant or appellant speaking on a Jurisdictional Proceeding item.

(f) After Motion

After a motion has been made or a public hearing has been closed, no member of the public shall address the Board from the audience on the matter under consideration without first securing permission to do so by a majority vote of the Board.

[1016 Amended 6/12/97; Effective 6/20/97]  
[1016 Amended 10/13/11; Effective 10/21/11]

**1017. Rules of Decorum**

(a) Boardmembers

- (1) When the Board is in session, the members must preserve order and decorum, and a member shall neither by conversation nor otherwise delay or interrupt the proceedings or the peace of the Board nor disturb any member while speaking nor refuse to obey the orders of the Presiding Officer.
- (2) Members of the Board shall not leave their seats during a meeting without first obtaining the permission of the Presiding Officer.

(b) Employees

Members of the Board staff and employees shall observe the same rules of order and decorum as are applicable to the Board, with the exception that members of the Board staff who are not seated at the Board table may leave their seats during a meeting without first obtaining the permission of the Presiding Officer.

(c) Persons Addressing the Board

- (1) No person other than a member of the Board and the person having the floor shall be permitted to enter into discussions either directly or through a member of the Board, without permission of the Presiding Officer.
- (2) No questions shall be asked of a Boardmember except through the Presiding Officer.
- (3) All remarks shall be addressed to the Board as a body and not to any one Boardmember.
- (4) Any person making impertinent, slanderous or profane remarks, speaks in a loud, abusive or threatening way, or who becomes boisterous while addressing the Board, or who engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of a Board meeting, shall be called to order by the Presiding Officer and if such conduct continues, may, at the discretion of the Presiding Officer, be barred from further audience before the Board during that meeting.

(d) Members of the Audience

- (1) When the Board is in session, all persons present must preserve safety and order. Members of the public should sit in the audience sitting area, unless addressing the Board or leaving the chambers where the Board meeting is being held. They should not block the aisles with personal belongings and should not bring audible equipment into the chambers including cellular telephones or pagers. Members of the public may not, except when testifying on or participating in an agenda item, enter the well area, which is the open area directly in front of the dais and extending outward from it to a line running between the points on the Secretary's desk and the podium nearest to the audience.

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- (2) Any person who disrupts the meeting shall be called to order by the Presiding Officer. Disruptions shall include but not be limited to handclapping, stamping of feet, whistling, using profane language, yelling, interrupting individual Boardmembers or the Secretary when the Board is in session, and blocking the audience or camera view of the proceeding. If such conduct continues, the Presiding Officer may request the Sergeant at Arms to remove the person from chambers.
  - (3) Any persons carrying placards, signs, posters, packages, bundles, suitcases, or other large objects shall not allow them to obstruct any person's view of the proceedings. The Presiding Officer may request any person carrying such objects to remove them from the hearing room or place them on the floor during the meeting, and the person carrying such objects shall comply with the Presiding Officer's request.
  - (4) No literature of whatever nature or kind shall be distributed during the meeting unless the person seeking to do so has notified the Secretary of his or her intent prior to the meeting. Literature may only be distributed during the first ten minutes after the meeting has been called to order.
- (e) Persons Authorized to be Within Rail
- No person except members of the Board, staff and recognized representatives of the news media shall be permitted within the rail without the consent of the Presiding Officer.
- (f) Enforcement of Decorum
- The Chief of Police or such member or members of the Police Department as he/she may designate, shall be Sergeant at Arms of the Board and shall carry out all orders given by the Presiding Officer (through the Secretary) for the purpose of maintaining order and decorum at the Board meetings. Any Boardmember may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the Board shall require him/her to do so.

[1017 Amended 6/12/97; Effective 6/20/97]  
[1017(d)(1)-(4) Amended 10/13/11; Effective 10/21/11]

### **1018. Voting Procedure**

Any vote of the Board, including a roll call vote, may be registered by the members by answering "AYE" for an affirmative vote or "NO" for a negative vote upon his/her name being called by the Secretary. Unless a member of the Board states that he/she is not voting, silence shall be recorded as an affirmative vote.

### **1019. Disqualification for Conflict of Interest**

- (a) Any Boardmember who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Presiding Officer state the nature of such disqualification in an open meeting.
- (b) Where no thoroughly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Boardmember affected, be decided by other Boardmembers.
- (c) A Boardmember who is disqualified by reason of conflict of interest in any matter shall not remain in his/her seat during the debate and vote on such matter, but shall request and be given the permission of the Presiding Officer to step down from the table and leave the Board Chamber.

- (d) A Boardmember stating such disqualification shall not be counted as part of a quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.

**1020. Failure to Vote**

Every Boardmember is entitled to vote unless disqualified by reason of conflict of interest.

**1021. Tie Vote**

Tie votes shall be lost motions and may be reconsidered.

**1022. Changing Vote**

A member may change his/her vote only if he/she makes a timely request to do so immediately following the announcement of the vote by the Secretary and prior to the time that the next item in the order of business is taken up.

**1023. Motion Procedures**

- (a) The Secretary or Presiding Officer will read the title.
- (b) A report will be presented by staff, if called for by the Presiding Officer.
- (c) Board members may ask questions of staff.
- (d) The public—or in the case of a jurisdictional item, the affected parties—will address the Board, subject to any limitations set forth in the Charter or Board regulations, or time limits imposed by the Board after a vote.
- (e) After all members of the public wishing to address the Board have done so, the Presiding Officer will announce the close of discussion by the public.
- (f) The Board may publicly deliberate.
- (g) A Commissioner may make a motion, or the Presiding Officer may ask for a motion. If the motion is seconded, the motion is before the Board.
- (h) The Board will discuss the motion that is before it.
- (i) The maker of the motion will have a chance for further discussion.
- (j) The Presiding Officer will restate the motion.
- (k) The Board will vote on the motion. If more than one motion is before the Board, the Board must vote on the last-made motion first, then proceed in reverse order to the first-made motion.

[1023 Amended 3/13/14; Effective 3/19/14]

**1024. Regulations and Resolutions**

- (a) The Presiding Officer, before calling for a motion on the adoption of any regulation or resolution,

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shall first inquire if there is anyone who desires to be heard on said proposed regulation or resolution. All persons desiring to be heard must have registered with the Secretary, prior to the discussion of the regulation item they wish to speak on and the Presiding Officer will call upon speakers from that list.

- (b) At the time adoption of a regulation or resolution, it shall be read in full unless, after the reading of the title thereof, the further reading thereof is waived by a unanimous vote of the Boardmembers present. Such consent may be expressed by a statement by the Presiding Officer that "If there is no objection, the further reading of the regulation or resolution shall be waived."

## **1025. Prior Approval by Administrative Staff**

All regulations and resolutions and contract documents shall, before presentation to the Board, have been approved as to form and legality by the Board's counsel, and shall have been examined for administration by the Administrator or his or her authorized representative.

## **1026. Informal Meetings**

The Board, subject to notice and other requirements imposed by law, may hold informal meetings in the Council Chambers of the City Hall at such times as may be designated in order for a special meeting. At any such informal meeting, the Board shall not take any formal motion, resolution, ordinance, nor any other action required by law to be taken by the Board. Such informal sessions shall be devoted exclusively to the presentation and exchange of information.

## **1027. Adjournment**

All Board Meetings shall adjourn at eleven o'clock p.m., unless two-thirds (2/3) of the Boardmembers vote otherwise.

## **1028. Record of Meetings**

All public meetings of the Board shall be electronically recorded. The recording shall be made by the Secretary and shall be part of the records of the Board. The use of other recording or television equipment is permitted so long as it is not disruptive of the meeting.

[1028 Amended 10/13/11; Effective 10/21/11]

## **1029. Interpretation and Modification of the Rules**

These rules shall be interpreted liberally in order to provide for the optimum in the free interchange of information and public debate without any unnecessary waste of time or duplication of effort.

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[Chapter 1 Adopted 1/10/85; Effective 2/5/85]  
[1002 Amended 5/29/86; Effective 5/29/86]  
[1005 Amended 8/13/92; Effective 8/20/92]  
[1005 Amended 4/14/94; Effective 4/23/94]  
[1003 Amended 6/12/97; Effective 6/20/97]  
[1005 Amended 6/12/97; Effective 6/20/97]  
[1016 Amended 6/12/97; Effective 6/20/97]  
[1017 Amended 6/12/97; Effective 6/20/97]

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[1002(a) Amended 1/27/00; Effective 2/11/00]  
[1002(a)-(b) Amended 10/13/11; Effective 10/21/11]  
[1003(a) Amended 10/13/11; Effective 10/21/11]  
[1005 Amended 10/13/11; Effective 10/21/11]  
[1016 Amended 10/13/11; Effective 10/21/11]  
[1017(d)(1)-(4) Amended 10/13/11; Effective 10/21/11]  
[1028 Amended 10/13/11; Effective 10/21/11]  
[1005 Amended 3/13/14; Effective 3/19/14]  
[1023 Amended 3/13/14; Effective 3/19/14]  
[1002(a) Amended 11/8/18; Effective 11/15/18]  
[1003(d) Adopted 11/8/18; Effective 11/15/18]