

COUNTY OF SAN JOAQUIN
BOARD OF HOUSING APPEALS
RULES OF PROCEDURE
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BOARD OF HOUSING APPEALS
RULES OF PROCEDURE

ARTICLE I. MEETINGS OF THE BOARD

- A. **MEETINGS.** The meeting of the Board of Housing Appeals shall be held at such location as may be announced.
- B. **MEETINGS TO BE OPEN AND PUBLIC.** All meetings of the Board of Housing Appeals shall be open to the public, and all persons shall be permitted to attend any meeting of the Board of Housing Appeals. However, the Board of Housing Appeals does reserve the right to exclude any person/animal that may pose a threat to their safety/well being or to the safety/well being of the public.
- C. **NOTICE OF MEETINGS.** The Secretary of the Board shall provide to each Board member of the Board notice of all regular or special meetings of the Board at least 72 hours in advance of the date of such meeting. Such notices shall include a tentative agenda for the meeting, and shall be accompanied by such informational material regarding agenda items as may be available. The secretary shall also provide to each local newspaper of general circulation, radio or television station requesting notice in writing, a written notice of all regular or special meetings of the Board at least 72 hours in advance of the date of such meetings.

ARTICLE II. OFFICERS OF THE BOARD

- A. **CHAIRPERSON.** When present, the chairperson shall preside at all meetings of the Board of Housing Appeals, and shall have all the powers and duties conferred upon him/her by law.
- B. **VICE-CHAIRPERSON.** When present, the Vice-Chairperson shall have all the powers, and perform all of the duties of the Chairperson in the absence of the Chairperson.
- C. **CHAIRPERSON PRO TEM.** If both the Chairperson and the Vice-Chairperson are absent, the Board shall select a Chairperson Pro Tem, who shall perform all of the duties of the Chairperson.
- D. **TERM OF OFFICE.** The members of the Board of Housing Appeals shall serve for terms as prescribed in the Ordinance Code of San Joaquin County, and as set forth in any rules of procedure hereinafter approved. The Chairperson and Vice-Chairperson shall serve in that capacity for a term of one year commencing on or after the first meeting in January of each year.
- E. **ELECTIONS.** The Chairperson and Vice-Chairperson shall be elected at the end of the first regular meeting of each calendar year.
- F. **SECRETARY.** In addition to the duties outlined in Article I. Section C, the Secretary of the Board shall attend all meetings of the Board. It shall be the duty of the Secretary to keep a full, true and correct record of all proceedings of the Board.

- G. **CONFLICT OF INTEREST.** Pursuant to Government Code Sections 87300 et. seq., the Board adopted the provisions of Government Code Sections 81000 et. seq., and 87000 et. seq. and implemented the provisions of the Political Reform Act of 1974, on December 13, 1976, pertaining to a Conflict of Interest Code which requires annual filing. No member of the Board shall pass upon any case which he/she is a shareholder, or has a financial interest, in accordance with the requirements of the Conflict of Interest Code.

ARTICLE III. ORDERS OF BUSINESS

- A. **QUORUM.** Three (3) members of the Board shall constitute a quorum for the transaction of business. Any action of the Board shall require the concurrence of not less than three (3) members.
- B. **MOTIONS.** The acts of the Board shall be expressed by motion. No motion shall have any validity or effect unless passes by the affirmative votes of a majority of the members of the Board, three (3) members.
- C. **ORDER OF BUSINESS.** At any meeting of the Board of Housing Appeals, the following shall be the order of business:
1. Roll Call
 2. Approval of minute
 3. Consent calendar
 4. Unfinished old business
 5. New business
 6. Committees Reports
 7. Staff Reports
 8. Communication
 9. Adjournment
- D. **MANNER OF VOTING.** The voting on resolutions and motions shall be by roll call, and the ayes and noes and members present and not voting shall be entered upon the minutes of the meeting.
- E. **AMENDMENTS TO RULES OF PROCEDURE.** These Rules of Procedure may be amended upon a majority vote of all of the members of the Board of Housing Appeals at any regular or special meeting when at least 10 days written notice thereof has previously been given to all of the members of the Board of Housing Appeals, or if notice was given at the previous regular meeting of the Board of Housing Appeals.

ARTICLE IV. APPEALS TO BOARD

- A. **WHO MAY APPEAL TO THE BOARD.** Any person or persons in possession, the recorded owner and any other parties holding recorded legal interest, may appeal any notice and order or any action of the enforcement agency under the Ordinance Code of San Joaquin County, Sections 85000 et. seq., by filing at the office of the Public Health Services, Environmental Health Division (PHS/EHD), a written appeal containing:

1. A heading in the words: "Before the Board of Appeals of the County of San Joaquin, California."
2. A caption reading: "Appeals of _____, giving names of all appellants participating in the appeal.
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of that specific order or action protested, together with any materials facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or other wise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal. The appeal shall be filed within 30 days from the date of service of such order or action of the Enforcement Agency, provided, however that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated by Public Health Services.

B. PROCESSING OF APPEALS Upon receipt of any appeal filed pursuant to this section, the Secretary of the Board shall present it at the next regular or special meeting of the Board of Appeals. Such date shall be not less than 10 days nor more than 60 days from the date of a properly filed appeal, is approved by the Public Health Services official. An appeal is properly filed when the appeal is in compliance with Article IV, Section A-1-7. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the Secretary of the Board either by causing a copy of the notice to be sent to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

C. WAIVER OF 10 DAY HEARING NOTICE

The ten (10) day notice may be waived if agreed in writing by the appellant and PHS/EHD.

D. EFFECT OF FAILURE TO APPEAL.

Failure of any person to file an appeal in accordance with the provisions of stated above shall constitute a waiver of the right to a hearing and adjudication of the notice and order or to any portion thereof.

E. SCOPE OF HEARING ON APPEAL.

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal

F. STAYING OF ORDER UNDER APPEAL.

Except for vacation orders and/or emergency abatement, enforcement of any notice and order of the enforcement agency official issued under the Ordinance Code of San Joaquin County, Sections 85000 et. seq., shall be stated during the pendency of an appeal therefrom which is properly and timely filed.

ARTICLE V. ABATEMENT HEARINGS

The Board of Housing Appeals shall be the hearing board for administrative abatement actions brought by PHS/EHD pursuant to Title 25 of the California Code of Regulations.

ARTICLE VI. STATEMENT OF EXPENSE HEARINGS

The Board of Housing Appeals will conduct Statement of Expense Hearings, if an appeal protesting the enforcement costs is received within thirty (30) calendar days of the date that the statement was mailed.

All Statement of Expenses not appealed will be brought to the Board of Housing Appeals at a regularly scheduled meeting for ratification.

ARTICLE VII. FINDINGS AND DECISIONS OF THE BOARD OF HOUSING APPEALS

A. CONDUCT OF HEARING

1. **Rules.** Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
2. **Oral Evidence.** Oral evidence shall be taken only on oath or affirmation.
3. **Hearsay Evidence.** Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
4. **Admissibility of Evidence.** Any relevant evidence shall be admitted if it is the type of evidence on which responsible person are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdictions in this state.
5. **Exclusion of Evidence.** Irrelevant and unduly repetitious evidence shall be excluded.
6. **Right of Parties.** Each party shall have these rights, among others:
 - a. To call and examine witnesses on any matter relevant to the issues of the hearing.
 - b. To introduce documentary and physical evidence.
 - c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
 - d. To impeach any witness regardless of party first called the witness to testify.
 - e. To rebut the evidence.
 - f. To be represented by anyone who is lawfully permitted to do so.
7. **Official Notice.**
 - a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the Board or departments and ordinances of a city or county and regulations of the board.

- b. Parties to be noticed. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
- c. Opportunity to refuse. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board.
- d. Inspection of the premises. The Board may inspect any building or premises involved in the appeal during the course of the hearing, provided that (I) notice of such inspection shall be given to the parties before the inspection is made, (II) the parties are given an opportunity to be present during the inspection and (III) the Board shall state for the record that the premises was inspected the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated.

B. METHOD AND FORM OF DECISION

- 1. When a contested case is heard before the Board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.
- 2. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issue presented, and the requirements to be compiled with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.
- 3. Effective date of decision. The effective date of the decision shall be as stated therein.

ARTICLE VIII. ADMINISTRATIVE VARIANCES

- A. After consideration of information and evidence presented by staff members regarding common minor violations of the provisions of codes referenced herein which violations the Board may determine do not in themselves constitute significant hazards to the public health and safety and the correction of which would impose an unreasonable burden upon property owners, the Board may authorize the granting of administrative variances from the requirements of said codes.
- B. The Board shall by resolution specifically designate the terms and conditions under which such administrative variances may be granted.
- C. The Secretary shall present administrative variance to the Board for approval at the time staff reports and recommendations are presented during a regular meeting of the Board.
- D. The Secretary shall transmit to the appellant a copy of the resolution adopted by the Board granting relief from the requirements of codes referenced herein of these Rules of Procedure, as specified in the administrative variance.
- E. The Secretary shall report to the Board the number of administrative variances granted at the next regular Board meeting.

The undersigned Acting Secretary of the San Joaquin County Board of Housing Appeals does hereby certify that the foregoing is a full, true and correct copy of the Rules of Procedure adopted by unanimous vote of the Board of Housing Appeals, at their regular meeting of November 1, 2000, that said Rules of Procedure rescind all previously approved Rules of Procedure.

Secretary of
San Joaquin County Board of Housing Appeals