

Chapter 01.60 - REGULATIONS⁽¹⁾

Footnotes:

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Editor's note— Serial No. 2003-23, § 2, June 9, 2003, repealed former Ch. 01.60 and enacted provisions designated as a new Ch. 01.60 to read as herein set out. Former Ch. 01.60 pertained to similar subject matter. See the Code Comparative Table.

Administrative Code of Regulations cross reference— Administrative Code of Regulations, Part IV.

ARTICLE I. - APPLICATION AND LIMITATIONS

01.60.100. - Application and intent.

Enactments, policies, and procedures, including those designated elsewhere in this Code as "regulations," shall be subject to the requirements of this chapter only if explicitly so provided by ordinance referring to this chapter.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.110. - Limitations.

- (a) This chapter does not confer authority upon or augment the authority of a municipal agency to adopt or enforce a regulation. To be effective, each regulation adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of this Code.
- (b) If by ordinance a municipal agency has authority to adopt regulations pursuant to this chapter to implement, interpret, make specific or otherwise carry out the provisions of the ordinance, a regulation adopted is not valid or effective unless consistent with the ordinance and reasonably necessary to carry out the purpose of the ordinance.
- (c) A regulation adopted pursuant to this chapter shall not authorize an agency to impose a jail sentence or criminal or civil fine. An agency authorized by ordinance to enforce a regulation may:
 - (1) Suspend or revoke the permit, certificate, or license issued pursuant to the regulation;
 - (2) Assess a charge or fee reasonably related to the cost to the municipality of enforcing the regulation. A failure to make such payment may serve as the basis for sanctions under subsection (c)(1) of this section; or
 - (3) Implement such other enforcement measure as may be established in the ordinance authorizing the regulation.
- (d) The attorney may enforce a regulation by seeking criminal or civil penalties or remedies in court as provided in the ordinance authorizing the regulation.
- (e) A regulation adopted pursuant to this chapter may require as a condition of receiving a permit, certificate, license or similar authorization, that the applicant not be delinquent in the payment of any municipal tax, assessment, fine, penalty, or other monetary obligation.

(Serial No. 2003-23, § 2, 6-9-2003)

ARTICLE II. - PROCEDURE FOR ADOPTING REGULATIONS

01.60.200. - Notice of proposed action.

- (a) At least 21 days before the adoption of a regulation, the agency undertaking the proposed action shall, at a minimum cause notice thereof to be:
 - (1) Published in a newspaper of general circulation;
 - (2) Posted on the municipal website at an address reserved for notice of all CBJ regulations;
 - (3) Distributed to the municipal clerk and all municipal libraries;
 - (4) Mailed to every person who has filed a written request for notice of the action proposed by the agency;
 - (5) Mailed to every person holding a permit governed by the regulation.
- (b) The failure to mail notice to a person as provided in this section does not invalidate an action taken by an agency under this chapter.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.210. - Contents of notice.

- (a) The notice of proposed adoption of a regulation must include:
 - (1) A statement of the time, place, and date of the public proceedings required by section 01.60.240;
 - (2) The text or an informative summary of the proposed subject of agency action; and
 - (3) A summary of the fiscal information required to be prepared under section 01.60.220.
- (b) A regulation that is adopted may vary in content from the summary specified in subsection (a)(2) of this section if the subject matter of the regulation remains the same and the original notice was written so as to ensure that members of the public are reasonably notified of the proposed subject of agency action in order for them to determine whether their interests could be affected by agency action on that subject.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.220. - Fiscal notes on regulations.

- (a) If adoption of a regulation would require increased appropriations by the municipality, the agency affected shall prepare and the director of finance shall approve an estimate of the appropriation increase for the fiscal year following adoption, amendment, or repeal of the regulation and for at least two succeeding fiscal years.
- (b) If adoption of a regulation would impose costs on persons subject to the regulation, the agency proposing the regulation shall prepare an estimate of such costs for the fiscal year following adoption, amendment, or repeal of the regulation and for at least two succeeding fiscal years. The estimate under this subsection shall include the direct capital and operating costs of compliance, but not the costs or savings, if any, attributable to secondary impacts, lost or gained efficiencies, lost or gained profits, goodwill, customer convenience or inconvenience, or similar indirect effects. The estimate to be prepared under this subsection is intended as a guide to approximate costs and not as an authoritative assessment of the costs of compliance.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.230. - [Reserved.]

01.60.240. - Public proceedings.

During the period designated in the notice, the agency:

- (a) Shall accept written comments from any interested person, the person's authorized representative, or both; and
- (b) May conduct a public hearing to receive written and oral comments.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.250. - Adoption, amendment, or repeal.

Upon completion of public proceedings the agency shall forward the proposed regulation to the city attorney for approval as to form and regulatory authority. After considering all relevant matter presented to it, the agency may adopt, amend, or repeal the regulation, as described in the notice, considered at the public proceedings, and approved by the city attorney.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.260. - Assembly review.

- (a) After taking action, the agency shall forward the regulation to the manager for presentation to the assembly as an information item on the agenda for the next regularly scheduled meeting, or a special meeting called for that purpose.
- (b) If the assembly upon presentation of the regulation does not take up consideration of the item, or takes up consideration and approves the regulation, it shall be deemed approved and the agency shall submit the regulation to the municipal clerk for filing as provided in section 01.60.300. The assembly shall not amend the regulation.
- (c) If the assembly disapproves the regulation it:
 - (1) Shall return the matter to the agency together with a copy of the relevant portions of the minutes of the assembly or assembly committee meeting at which the disapproval was issued, in which event the assembly may state the reasons for its disapproval but shall not establish explicit conditions for subsequent approval or direct particular amendments of the regulation; or
 - (2) Shall direct that the matter be prepared as an ordinance or resolution for consideration by the assembly.

(Serial No. 2003-23, § 2, 6-9-2003)

ARTICLE III. - SUBMISSION, FILING, AND PUBLICATION OF REGULATIONS

01.60.310. - Endorsement and filing.

Upon approval under section 01.60.260(b), the municipal clerk shall:

- (a) Endorse on the signed original of each regulation filed the date of filing;
- (b) Maintain a permanent file of the signed originals of regulations for public inspection.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.320. - Presumptions from filing.

- (a) The filing of a certified copy of a regulation by the municipal clerk raises the rebuttable presumptions that:
 - (1) It was duly adopted;
 - (2) It was duly filed and made available for public inspection on the day endorsed on it;
 - (3) All requirements of this chapter have been complied with; and
 - (4) The text of the signed original of a regulation is the text of the regulation as adopted.
- (b) The courts shall take judicial notice of the contents of the certified copy of each regulation duly filed.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.330. - Effective date.

A regulation filed by the municipal clerk becomes effective on the seventh day after the date of filing unless:

- (a) Otherwise specifically provided by the ordinance under which the regulation is adopted, in which event it becomes effective on the day prescribed by the ordinance;
- (b) It is an emergency regulation adopted under section 01.60.420, in which case the finding and the statement of the facts constituting the emergency shall be submitted to the municipal clerk, together with the emergency regulation, which, in that event only, becomes effective upon filing by the municipal clerk or upon a later date specified by the agency in a written instrument submitted with, or as part of, the regulation; or
- (c) A later date is prescribed by the agency in a written instrument submitted with, or as part of, the regulation.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.340. - Codification and publication.

- (a) The city attorney shall provide for the continuing compilation, codification, and publication of all regulations filed by the municipal clerk's office. The publication of compiled regulations is the City and Borough administrative code.
- (b) The City and Borough attorney shall prescribe a uniform system of indexing, numbering, arrangement of text, and citation of authority for the City and Borough administrative code.

(Serial No. 2003-23, § 2, 6-9-2003)

ARTICLE IV. - GENERAL PROVISIONS

01.60.400. - Regulatory assistance by City and Borough attorney.

The City and Borough attorney shall:

- (a) Upon request assist municipal agencies with the preparation of regulations, and
- (b) Correct formal errors in regulations as provided for ordinances in CBJ 01.20.040.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.410. - Regulation by petition.

- (a) Unless the right to petition for adoption of a regulation is restricted by ordinance to a designated group or the procedure for the petition is prescribed by ordinance, an interested person may petition an agency for the adoption or repeal of a regulation. The petition must state clearly and concisely:
 - (1) The substance or nature of the regulation, amendment, or repeal requested;
 - (2) The reasons for the request; and
 - (3) Reference to the authority of the agency to take the action requested.
- (b) Upon receipt of a petition requesting the adoption, or repeal of a regulation, the agency shall, within 30 days, deny the petition in writing and forward notice thereof to the assembly or schedule the matter for proceedings in accordance with sections 01.60.200—01.60.340. However, if the petition is for an emergency regulation, and the agency finds that an emergency exists, the requirements of sections 01.60.200—01.60.220 and sections 01.60.240—01.60.260 do not apply, and the agency may submit the regulation to the municipal clerk immediately after making the finding of emergency and putting the regulation into proper form.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.420. - Emergency regulations.

A regulation may be adopted as an emergency regulation if the manager makes a written finding, including a statement of the facts that constitute the emergency, that the adoption of the regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The requirements of sections 01.60.200—01.60.260 do not apply to the initial adoption of emergency regulations; however, upon adoption of an emergency regulation the adopting agency shall immediately submit a copy of it to the municipal clerk for filing and within five days after filing by the municipal clerk the agency shall give notice of the adoption in accordance with subsection 01.60.200(a). Failure to give the required notice by the end of the tenth day automatically repeals the regulation.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.430. - Limitation on effective period of emergency regulations.

- (a) A regulation adopted as an emergency regulation does not remain in effect more than 120 days unless the adopting agency complies with sections 01.60.200—01.60.260 either before submitting the regulation to the municipal clerk or during the 120-day period.
- (b) Before the expiration of the 120-day period, the agency shall transmit to the municipal clerk for filing a certification that sections 01.60.200—01.60.260 were complied with before submitting the regulation to the municipal clerk, or that the agency complied with those sections within the 120-day period. Failure to so certify repeals the emergency regulation; it may not be renewed or refiled as an emergency regulation.

(Serial No. 2003-23, § 2, 6-9-2003)

01.60.440. - Definitions.

The following words, terms and phrases when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means the manager, the attorney, a department, a board or commission, or such other municipal organization as may be specified in this Code establishing the authority to issue regulations.

Regulation means a regulation, an amendment to a regulation, or an order of repeal of a regulation adopted pursuant to this chapter.

(Serial No. 2003-23, § 2, 6-9-2003)