Section 6.15D Additional Family Members—Where Rental Agreement Limits the Number of Occupants or Limits or Prohibits Subletting
(Added March 29, 2005; amended [date])

(a)   This Section 6.15D applies when a lease or rental agreement includes a clause limiting the number of occupants or limiting or prohibiting subletting or assignment, and a tenant who resides in the unit requests the addition of the tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or the domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or the spouse or domestic partner of the tenant. **This Section 6.15D does not apply when a lease or rental agreement includes neither a limit on the number of occupants nor any restriction on subletting or assignment.**

(b)   If the tenant makes ~~an initial~~ a written request to the landlord for permission to add a person specified in subsection 6.15D(a) above, and the landlord fails to ~~respond~~ deny the request in writing with a description of the reasons for the denial of the request, *including specific facts supporting the reasons for the denial,* within fourteen (14) days of ~~actual~~ receipt of the tenant's written ~~notice~~ request, the tenant's request for the additional person is deemed approved pursuant to Ordinance Section 37.9(a)(2)(B). *If the tenant's request is sent to the landlord by mail, the request shall be deemed received on the fifth calendar day after the postmark date. If the tenant's request is sent to the landlord by email, the request shall be deemed received on the second calendar day after the date the email is sent. If the tenant's request is personally* ~~served on~~ **delivered to** *the landlord, the request is considered received on the date of* ~~service~~ **delivery**. *For purposes of this subsection 6.15D(b), the 14-day period begins to run on the day after the tenant's written request is received by the landlord.*

(c)   The tenant's inability to obtain the landlord's consent to the addition of a ~~person~~ *family member* specified in subsection 6.15D(a) above shall not constitute a breach of the lease or rental agreement for purposes of eviction under Ordinance Section 37.9(a)(2), where the additional ~~person~~ *family member* is deemed approved pursuant to subsection (b) above, or where the additional ~~person~~ *family member* is a minor child allowed under subsection 6.15D(a)

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above, or where the landlord has unreasonably ~~withheld consent to such~~ <u>denied, pursuant to</u>

<u>subsection (d) below, the tenant's request to add an</u> additional ~~person~~ *family member* <u>allowed</u>

<u>under subsection 6.15D(a) above who</u> ~~Withholding of consent by the landlord shall be deemed~~

~~to be unreasonable if the tenant has notified the landlord of the addition of a minor child, or if the~~

~~additional person~~ is not a minor child <u>and</u> ~~the tenant has met~~ the following requirements **have**

been met:

  ~~(i)~~ <u>(1)</u> The tenant has requested in writing the permission of the landlord to ~~the~~

<u>add an</u> additional ~~person's occupancy of~~ *<u>family member to</u>* the unit, and stated the relationship

of the person to the tenant~~.~~<u>.</u>

  ~~(ii)~~ <u>(2)</u> *<u>~~After receipt of the tenant's written request, t~~</u>* **T**he landlord has five

<u>calendar days</u> **after receipt of the tenant's written request** *<u>to request the</u>*

<u>tenant to submit a</u> ~~The additional occupant, if requested by the landlord, has~~ completed ~~the~~

~~landlord's~~ standard form application *<u>for the proposed additional family member</u>* or provide~~d~~

sufficient information to allow the landlord to confirm the relationship of the person to the tenant

and to conduct a typical background check, including **full name, date of birth and**

references **if requested**. ~~and background information;~~ *<u>The 5-day period begins to run on</u>*

<u>the day after receipt of the tenant's written request for permission to add an additional family</u>

<u>member to the unit.</u> ~~provided, however, t~~*<u>T</u>*he landlord may request credit or income information

only if the additional ~~person~~ *<u>family member</u>* will be legally obligated to pay some or all of the rent

to the landlord. *<u>Nothing in Section 6.15D shall be construed as allowing a landlord to require</u>*

<u>an additional family member to pay some or all of the rent to the landlord.</u>

  ~~(iii)~~ <u>(3)</u> The tenant has *<u>five calendar days after receipt of the landlord's timely</u>*

<u>request pursuant to subsection 6.15D(c)(2) to</u> provide~~d~~ the landlord ~~five (5) business days to~~

~~process~~ <u>with</u> the additional ~~occupant's~~ *<u>family member's</u>* application <u>or typical background check</u>

<u>information.</u> ~~within xx days of receipt of the landlord's request;~~ *<u>The 5-day period begins to run</u>*

<u>on the day after actual receipt of the landlord's request.</u>

  ~~(iv)~~ <u>(4)</u> The additional ~~occupant~~ *<u>family member</u>* meets the regular reasonable

application standards of the landlord, except that creditworthiness may <u>not</u> be the basis for ~~refusal~~ <u>denial</u> of the tenant's request for an additional ~~occupant~~ ***family member*** ~~only~~ if ~~and when~~ the additional ~~occupant~~ ***family member*** will <u>not</u> be legally obligated to pay some or all of the rent to the landlord;

~~(v)~~ <u>(5)</u> The additional ~~occupant~~ ***family member***, if requested by the landlord, has agreed in writing to be bound by the current rental agreement between the landlord and the tenant.

~~(vi)~~ <u>(6)</u> With the additional ~~occupant~~ ***family member***, the total number of occupants does not exceed the lesser of (a) two persons ~~per~~ <u>in a</u> studio rental unit, three ~~per~~ <u>persons in a</u> one-bedroom unit, four ~~per~~ <u>persons in a</u> two-bedroom unit, six ~~per~~ <u>persons in a</u> three-bedroom unit or eight ~~per~~ <u>persons in a</u> four-bedroom unit, or <u>(b)</u> the number of occupants permitted under state law and/or other local codes (e.g., Planning, Housing, Fire and Building Codes).

<u>(d)   Denial by the landlord of the tenant's written request to add an additional</u> ~~person~~ ***family member*** <u>allowed under subsection 6.15D(a) above shall not be considered unreasonable in some circumstances, including but not limited to the following:</u>

<u>(1) where the total number of occupants in the unit exceeds (or with the proposed additional occupant(s) would exceed) the lesser of:</u>

<u>(i) two persons in a studio unit, three persons in a one-bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom unit; or</u>

<u>(ii) the maximum number permitted in the unit under</u> ~~state law and/or other local codes such as the Building, Fire,~~ ***San Francisco*** <u>Housing</u> ~~and Planning~~ <u>Code</u>~~s~~ ***Section 503***<u>;</u>

<u>(2) where the proposed additional</u> ~~occupant~~ ***family member*** <u>will be legally obligated to pay some or all of the rent to the landlord and the landlord can establish the proposed additional</u> ~~occupant's~~ ***family member's*** <u>lack of creditworthiness;</u>

<u>(3) where</u> ***the landlord has made a timely request for the proposed additional***

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family member to complete the landlord's standard form application or provide sufficient information to allow the landlord to conduct a typical background check and the proposed additional ~~occupant~~ *family member* does not~~.~~ *comply* within *five calendar* days of *actual* receipt *by the tenant* of the landlord's request; ~~complete the landlord's standard form application or provide sufficient information to allow the landlord to conduct a typical background check;~~

(4) where the landlord can establish that the proposed additional ~~occupant~~ *family member* has intentionally misrepresented significant facts on the landlord's standard form application or provided significant misinformation to the landlord that interferes with the landlord's ability to conduct a typical background check;

(5) where the landlord can establish that the proposed additional ~~occupant~~ *family member* presents a direct threat to the health, safety or security of other residents of the property; and,

(6) where the landlord can establish that the proposed additional ~~occupant~~ *family member* presents a direct threat to the safety, security or physical structure of the property.

~~(d)~~ (e) Nothing in this Section shall prevent the landlord from providing an additional *family member* occupant with written notice as provided under Section 6.14 that the occupant is not an original ~~tenant~~ occupant as defined in Section 6.14(a)(1) and that when the last original ~~tenant~~ occupant vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. Furthermore, nothing in this Section 6.15D shall serve to waive, alter or modify the landlord's rights under the Costa-Hawkins Rental Housing Act (California Civil Code §§1954.50 *et seq.)* to impose an unlimited rent increase once the last original occupant(s) no longer permanently resides in the unit.

~~(e)~~ *(f)* A landlord's unreasonable ~~refusal to consent to~~ denial of a tenant's written request for the addition to the unit of a tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or the spouse or domestic partner of a tenant, subject to subsections ~~6.15D(c)(i)-(vi)~~ 6.15D(c)(1)-(6) above, may constitute a decrease in housing

services pursuant to Section 10.10 of these Regulations. ~~A landlord may choose not to have any screening requirements or not to respond in any way when the tenant makes a written request to add an additional occupant to the unit pursuant to this Section 6.15D. The landlord's choice not to screen a proposed additional occupant or not to respond to the tenant's written request~~ *For purposes of subsection 6.15D(f), a landlord's non-response to a tenant's written request* **within 14 calendar days shall be deemed an approval pursuant to subsection 6.15D(b) and** shall not be deemed an unreasonable denial of a tenant's request for the addition to the unit of a ~~person~~ *family member* specified in subsection 6.15D(a) above.

~~(f)~~ (g)   In the event the landlord ~~withholds consent to~~ denies a tenant's request for an additional ~~person~~ *family member* under ~~subsections~~ Section 6.15D~~(c)(i)-(vi) above~~, either the landlord or the tenant may file a petition with the Board to determine if the landlord's ~~withholding of consent~~ denial of the request was reasonable.

~~(g)~~ (h)   Any petition filed under subsection 6.15D~~(e) or~~ (f) or (g) shall be expedited.