

1 **Section 6.15 Subletting and Assignment**

2 (Effective March 24, 1998, except paragraphs (a) and (f) which are effective
3 May 25, 1998; amended and renumbered December 21, 1999)

3 **Section 6.15A Subletting and Assignment—Where Rental Agreement Includes an
4 Absolute Prohibition Against Subletting and Assignment**

(Amended March 29, 2005; amended [date])

5 This Section 6.15A applies only when a lease or rental agreement includes an absolute
6 prohibition against subletting and assignment.

7 (a) For agreements entered into on or after May 25, 1998, breach of an absolute
8 prohibition against subletting or assignment may constitute a ground for termination of tenancy
9 pursuant to, and subject to the requirements of, Ordinance Section 37.9(a)(2)(A) and subsection
10 (b) below, only if such prohibition was adequately disclosed to and agreed to by the tenant at the
11 commencement of the tenancy. For purposes of this subsection, adequate disclosure shall
12 include satisfaction of one of the following requirements:

13 (1) the prohibition against sublet or assignment is set forth in enlarged or
14 boldface type in the lease or rental agreement and is separately initialed by the tenant; or

15 (2) the landlord has provided the tenant with a written explanation of the
16 meaning of the absolute prohibition, either as part of the written lease or rental agreement, or in
17 a separate writing.

18 (b) If the lease or rental agreement specifies a number of tenants to reside in a unit,
19 or where the open and established behavior of the landlord and tenants has established that the
20 tenancy includes more than one tenant (exclusive of any additional occupant approved under
21 Ordinance Sections 37.9(a)(2)(B) or 37.9(a)(2)(C)), then the replacement of one or more of the
22 tenants by an equal number of tenants, subject to subsections (c) and (d) below, shall not
23 constitute a breach of the lease or rental agreement for purposes of termination of tenancy under
24 Section 37.9(a)(2) of the Ordinance.

25 (c) If the tenant makes ~~an initial~~ a written request to the landlord for permission to
26 sublease in accordance with Section 37.9(a)(2)(A), and the landlord fails to ~~respond~~ deny the
27 request in writing with a description of the reasons for the denial of the request, including
28 specific facts supporting the reasons for the denial, within fourteen (14) days of ~~actual~~ receipt of

1 the tenant's written notice request, the subtenancy is deemed approved pursuant to Ordinance
2 Section 37.9(a)(2)(A). *If the tenant's request is sent to the landlord by mail, the request shall be*
3 *deemed received on the fifth calendar day after the postmark date. If the tenant's request is*
4 *sent to the landlord by email, the request shall be deemed received on the second calendar day*
5 *after the date the email is sent. If the tenant's request is personally served on the landlord, the*
6 *request is considered received on the date of service. For purposes of this subsection 6.15A(c),*
7 *the 14-day period begins to run on the day after the tenant's written request is received by the*
8 *landlord.*

9 (d)(1) The tenant's inability to obtain the landlord's consent to subletting or assignment
10 to a person specified in subsection 6.15A(b) above shall not constitute a breach of the lease or
11 rental agreement for purposes of eviction under Ordinance Section 37.9(a)(2), where the
12 subletting or assignment is deemed approved pursuant to subsection (c) above or where the
13 landlord has unreasonably ~~withheld consent to such change~~ denied, pursuant to subsection (e)
14 below, the tenant's request to replace a departing tenant and ~~Withholding of consent by the~~
15 ~~landlord shall be deemed to be unreasonable if the tenant has met the following requirements:~~

16 (i) The tenant has requested in writing the permission of the landlord
17 to the sublease or assignment prior to the commencement of the proposed new tenant's or new
18 subtenant's occupancy of the unit; ~~and~~

19 (ii) *After receipt of the tenant's written request, the landlord has five*
20 *calendar days to request the tenant to submit a* ~~The proposed new tenant or new subtenant, if~~
21 ~~requested by the landlord, has completed the landlord's standard form application, for the~~
22 *proposed new tenant or subtenant* ~~or, in the event the landlord fails to provide an application or~~
23 ~~has no standard form application, the proposed new tenant or new subtenant has, upon request,~~
24 ~~provided sufficient information to allow the landlord to conduct a typical background check,~~
25 ~~including credit information, income information, references, and background information; The~~
26 *5-day period begins to run on the day after receipt of the tenant's written request for*
27 *permission to replace a departing tenant or subtenant.* ~~provided, however, that~~ The landlord may
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1 request credit or income information only if the new tenant or new subtenant will be legally
2 obligated to pay some or all of the rent to the landlord; . *Nothing in Section 6.15A shall be*
3 *construed as allowing a landlord to require a replacement roommate to pay some or all of the*
4 *rent to the landlord.*

5 (iii) The tenant has five calendar days after receipt of the landlord's
6 timely request pursuant to subsection 6.15A(d)(1)(ii) to provided the landlord ~~five (5) business~~
7 ~~days to process~~ with the proposed new tenant's or new subtenant's application or typical
8 background check information. ~~within xx days of receipt of the landlord's request;~~ *The 5-day*
9 *period begins to run on the day after actual receipt of the landlord's request.*

10 (iv) The proposed new tenant or new subtenant meets the regular
11 reasonable application standards of the landlord, except that creditworthiness may not be the
12 basis for denial of the tenant's request to replace a departing tenant if the new tenant or new
13 subtenant will not be legally obligated to pay some or all of the rent to the landlord;

14 (v) The proposed new tenant or new subtenant, if requested by the
15 landlord, has agreed in writing to ~~sign and~~ be bound by the current rental agreement between
16 the landlord and the tenant;

17 (vi) The tenant has not, without good cause, requested landlord
18 consent to a ~~new tenant or new subtenant~~ replacement of a departing tenant pursuant to this
19 section 6.15A more than one time per existing tenant residing in the unit during the previous 12
20 months;

21 (vii) The tenant is requesting replacement of a departing tenant or
22 tenants with an equal number of new tenants.

23 (2) This subsection (d) shall not apply to assignment of the entire tenancy or
24 subletting of the entire unit.

25 (e) Denial by the landlord of the tenant's written request to replace a departing tenant
26 shall not be considered unreasonable in some circumstances, including but not limited to the
27 following:

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1 (1) where the proposed new tenant or subtenant will be legally obligated to pay
2 some or all of the rent to the landlord and the landlord can establish the proposed new tenant's
3 or new subtenant's lack of creditworthiness;

4 (2) where *the landlord has made a timely request for the proposed new tenant or*
5 *subtenant to complete the landlord's standard form application or provide sufficient*
6 *information to allow the landlord to conduct a typical background check and* the proposed new
7 tenant or subtenant does not *comply* within *five calendar* days of *actual* receipt *by the tenant* of
8 the landlord's request; ~~complete the landlord's standard form application or provide sufficient~~
9 ~~information to allow the landlord to conduct a typical background check;~~

10 (3) where the landlord can establish that the proposed new tenant or subtenant
11 has intentionally misrepresented significant facts on the landlord's standard form application or
12 provided significant misinformation to the landlord that interferes with the landlord's ability to
13 conduct a typical background check;

14 (4) where the landlord can establish that the proposed new tenant or subtenant
15 presents a direct threat to the health, safety or security of other residents of the property; and,

16 (5) where the landlord can establish that the proposed new tenant or subtenant
17 presents a direct threat to the safety, security or physical structure of the property.

18 ~~(e) — Where a lease or rental agreement specifies the number of tenants to reside in a~~
19 ~~unit, or where the open and established behavior of the landlord and tenants has established~~
20 ~~that the tenancy includes more than one tenant, failure of the landlord to consent to the~~
21 ~~replacement of one or more of the tenants by an equal number of tenants, subject to subsection~~
22 ~~(d)(1) above, may constitute a decrease in housing services pursuant to Section 10.10 of these~~
23 ~~Regulations. [renumbered as subsection (g), with proposed amendments]~~

24 (f) Nothing in this Section shall prevent the landlord from providing a replacement
25 new tenant or new subtenant with written notice as provided under Section 6.14 that the tenant
26 is not an original ~~tenant~~ occupant as defined in Section 6.14(a)(1) and that when the last of the
27 original occupant tenant(s) who meet the latter definition vacates the premises, a new tenancy is
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1 created for purposes of determining the rent under the Rent Ordinance. Furthermore, nothing in
2 this Section 6.15A shall serve to waive, alter or modify the landlord's rights under the Costa-
3 Hawkins Rental Housing Act (California Civil Code §§1954.50 et seq.) to impose an unlimited
4 rent increase once the last original occupant(s) no longer permanently resides in the unit.

5 (g) Where a lease or rental agreement specifies the number of tenants to reside in a
6 unit, or where the open and established behavior of the landlord and tenants has established
7 that the tenancy includes more than one tenant, a landlord's unreasonable denial of a tenant's
8 written request to replace one or more of the tenants by an equal number of tenants, subject to
9 subsections 6.15A(d)(1)(i)-(vii) above, may constitute a decrease in housing services pursuant to
10 Section 10.10 of these Regulations. ~~A landlord may choose not to have any screening~~
11 ~~requirements or not to respond in any way when the tenant makes a written request to replace a~~
12 ~~departing tenant pursuant to this Section 6.15A. The landlord's choice not to screen a proposed~~
13 ~~new tenant or new subtenant or not to respond to the tenant's written request. *For purposes of*~~
14 *subsection 6.15A(g), a landlord's non-response to a tenant's written request shall not be*
15 *deemed an unreasonable denial of a tenant's request to replace a departing tenant.*

16 (h) In the event the landlord denies a tenant's request to replace a departing tenant
17 under Section 6.15A, either the landlord or the tenant may file a petition with the Board to
18 determine if the landlord's denial of the request was reasonable.

19 (i) Any petition filed under subsection 6.15A(g) or (h) shall be expedited.
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