Section 6.15 Subletting and Assignment
(Effective March 24, 1998, except paragraphs (a) and (f) which are effective May 25, 1998; amended and renumbered December 21, 1999)

Section 6.15B Subletting and Assignment—Where Rental Agreement Contains a Clause Requiring Landlord Consent to Subletting and Assignment
(Amended March 29, 2005; amended [date])

This Section 6.15B applies only when a lease or rental agreement includes a clause requiring landlord consent to assignment or subletting.

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

(b) If the tenant makes a written request to the landlord for permission to sublease in accordance with Section 37.9(a)(2)(A), and the landlord fails to deny the request in writing with a description of the reasons for the denial of the request within fourteen (14) days of actual receipt of the tenant’s written request, the subtenancy is deemed approved pursuant to Ordinance Section 37.9(a)(2)(A).

(b)(c)(1) The tenant’s inability to obtain the landlord’s consent to subletting or assignment to a person specified in subsection 6.15B(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 subletting or assignment is deemed approved pursuant to subsection (b) above or where the landlord has unreasonably withheld consent to such change. Withholding of consent by the landlord shall be deemed to be unreasonable if denied, pursuant to subsection (d) below, the tenant’s request to replace a departing tenant and the tenant has met the following requirements:

(i) The tenant has requested in writing the permission of the landlord to the sublease or assignment prior to the commencement of the proposed new tenant’s or new
subtenant’s occupancy of the unit;

(ii) The proposed new tenant or new subtenant, if requested by the landlord, has completed the landlord’s standard form application, or, in the event the landlord fails to provide an application or has no standard form application, the proposed new tenant or new subtenant has, upon request, provided sufficient information to allow the landlord to conduct a typical background check, including credit information, income information, references, and background information; provided, however, the landlord may request credit or income information only if the new tenant or new subtenant will be legally obligated to pay some or all of the rent to the landlord;

(iii) The tenant has provided the landlord five (5) business days to process with the proposed new tenant's or new subtenant's application or typical background check information within xx days of receipt of the landlord's request;

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

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

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

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

(2) This subsection (c) shall not apply to assignment of the entire tenancy or subletting of the entire unit.
(c) Where a lease or rental agreement specifies the number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, failure of the landlord to consent to the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (b) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations. [renumbered as subsection (f), with proposed amendments]

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

1. Where the proposed new tenant or subtenant will be legally obligated to pay some or all of the rent to the landlord and the landlord can establish the proposed new tenant’s or new subtenant’s lack of creditworthiness;

2. Where the proposed new tenant or subtenant does not, within xx days of receipt 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;

3. Where the landlord can establish that the proposed new tenant or subtenant 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;

4. Where the landlord can establish that the proposed new tenant or subtenant presents a direct threat to the health, safety or security of other residents of the property; and,

5. Where the landlord can establish that the proposed new tenant or subtenant 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 a replacement new tenant or new subtenant with written notice as provided under Section 6.14 that the tenant is not an original tenant occupant as defined in Section 6.14(a)(1) and that when the last of the original occupant tenant(s) who meet the latter definition vacates the premises, a new tenancy is
created for purposes of determining the rent under the Rent Ordinance. Furthermore, nothing in this Section 6.15B 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.

(f) Where a lease or rental agreement specifies the number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, a landlord’s unreasonable denial of a tenant’s written request to replace one or more of the tenants by an equal number of tenants, subject to subsections 6.15B(c)(1)(i)-(vii) 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 replace a departing tenant pursuant to this Section 6.15B. The landlord’s choice not to screen a proposed new tenant or new subtenant or not to respond to the tenant’s written request shall not be deemed an unreasonable denial of a tenant’s request to replace a departing tenant.

(g) In the event the landlord denies a tenant’s request to replace a departing tenant under Section 6.15B, either the landlord or the tenant may file a petition with the Board to determine if the landlord’s denial of the request was reasonable.

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