

1 **Section 6.15E Additional Occupants Who Are Not Family Members—Where Rental**
2 **Agreement Limits the Number of Occupants or Limits or Prohibits**
3 **Subletting**

(Added [date])

****DRAFT****

4 (a) This Section 6.15E applies when a lease or rental agreement includes a clause
5 limiting the number of occupants or limiting or prohibiting subletting or assignment, and a tenant
6 who resides in the unit requests the landlord's permission to add an additional occupant to the
7 rental unit that will exceed the number of people allowed by the lease or rental agreement or by
8 the open and established behavior of the parties. For purposes of this Section 6.15E, the term
9 "additional occupant" shall not include persons who occupy the unit as a Tourist or Transient
10 Use, as defined in Administrative Code Section 41A.5 or persons who are considered family
11 members under Section 6.15D(a).

12 (b) If the tenant makes an initial written request to the landlord for permission to add
13 an additional occupant to the rental unit, and the landlord fails to deny the request in writing with
14 a description of the reasons for the denial of the request within fourteen (14) days of receipt of
15 the tenant's written request, the tenant's request for the additional occupant is deemed approved
16 pursuant to Ordinance Section 37.9(a)(2)(C).

17 (c) The tenant's inability to obtain the landlord's consent to the addition of a person
18 specified in subsection 6.15E(a) above shall not constitute a breach of the lease or rental
19 agreement for purposes of eviction under Section 37.9(a)(2), where the additional person is
20 deemed approved pursuant to subsection (b) above or where the landlord has unreasonably
21 withheld consent to such additional person pursuant to subsection (d) below and the tenant has
22 met the following requirements:

23 (1) The tenant has requested in writing the permission of the landlord to the
24 additional person's occupancy of the unit;

25 (2) The additional occupant, if requested by the landlord, has completed the
26 landlord's standard form application or provided sufficient information to allow the landlord to
27 conduct a typical background check, including references and background information; provided,
28 however, the landlord may request credit or income information only if the additional person will
be legally obligated to pay some or all of the rent to the landlord;

1 (3) The tenant has provided the landlord with the additional occupant's
2 application or typical background check information within a reasonable time of the landlord's
3 request, not to exceed ___ days;

4 (4) The additional occupant meets the regular reasonable application
5 standards of the landlord, except that creditworthiness may not be the basis for refusal of the
6 tenant's request for an additional occupant if the additional occupant will not be legally obligated
7 to pay some or all of the rent to the landlord;

8 (5) The additional occupant, if requested by the landlord, has agreed in
9 writing to be bound by the current rental agreement between the landlord and the tenant.

10 (6) With the additional occupant, the total number of occupants does not
11 exceed the lesser of (a) two persons in a studio unit, three persons in a one-bedroom unit, four
12 persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-
13 bedroom unit, or (b) the number of occupants permitted under state law and/or other local codes.

14 (d) Withholding of consent by the landlord shall not be considered unreasonable in some
15 circumstances, including but not limited to the following:

16 (1) where the landlord resides in the same rental unit as the tenant;

17 (2) where the total number of occupants in the unit exceeds (or with the proposed
18 additional occupant(s) would exceed) the lesser of:

19 (i) two persons in a studio unit, three persons in a one-bedroom unit, four
20 persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-
21 bedroom unit; or

22 (ii) the maximum number permitted in the unit under state law and/or other
23 local codes such as the Building, Fire, Housing and Planning Codes.

24 (3) where the proposed additional occupant will be legally obligated to pay some
25 or all of the rent to the landlord and the landlord can establish the proposed additional
26 occupant's lack of creditworthiness;

27 (4) where the proposed additional occupant does not, within a reasonable time
28 not to exceed ____ days, complete the landlord's standard form application or provide sufficient

1 information to allow the landlord to conduct a typical background check;

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

6 (6) where the landlord can establish that the proposed additional occupant
7 presents a direct threat to the health, safety or security of other residents of the property;

8 (7) where the landlord can establish that the proposed additional occupant
9 presents a direct threat to the safety, security or physical structure of the property; and,

10 (8) where an additional occupant would require the landlord to increase the
11 electrical or hot water capacity in the building, or adapt other building systems or amenities, and
12 payment for such enhancements presents a financial hardship to the landlord, as determined by
13 a Rent Board Administrative Law Judge.

14 (e) Nothing in this Section shall prevent the landlord from providing an additional
15 occupant with written notice as provided under Section 6.14 that the occupant is not an original
16 tenant as defined in Section 6.14(a) and that when the last original tenant vacates the premises,
17 a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

18 (f) A landlord's unreasonable refusal to consent to a tenant's written request for the
19 addition to the unit of a person specified in subsection 6.15E(a) above, subject to subsections
20 6.15E(c)(1)-(6) above, may constitute a decrease in housing services pursuant to Section 10.10
21 of these Regulations.

22 (f) In the event the landlord withholds consent to a tenant's request for an additional
23 person under Sections 6.15E, either the landlord or the tenant may file a petition with the Board
24 to determine if the landlord's withholding of consent was reasonable.

25 (g) Any petition filed under subsection 6.15E(e) or (f) shall be expedited.
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