

CHAPTER 10: JUST CAUSE REQUIRED FOR EVICTION

1000. Purpose

The purpose of this Chapter is to clarify provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance concerning termination of a tenancy for a breach of the lease or creating a nuisance, and the necessity of, in most situations, providing a written warning notice to cease.

[Formerly Regulation 17-08; adopted December 20, 2017]

1001. Notices of Termination of Tenancy or Change in Terms of Tenancy – All Rental Units

Landlords of Controlled Rental Units and Landlords of Rental Units as described in Chapter 2 of this Regulation shall file with the Board within two (2) business days *after* service of a notice on a Tenant of a termination of tenancy or change in terms of tenancy a copy of such notice, with a proof of service of the notice, including time and date of service, using, absent extraordinary circumstances, the appropriate online form on the Rent Program website. If a Landlord does not file with the Board the notice and proof of service concerning a change in the terms of a tenancy as provided in this Section, such change shall be deemed null and void. If a Landlord does not file with the Board the notice and proof of service concerning a termination of tenancy as provided in this Section, the failure is a complete defense in an unlawful detainer.

“Notice of Termination of Tenancy” as used in this Chapter 10 shall mean any notice served on a Tenant in accordance with State law which seeks to recover possession of a Rental Unit. This includes, but is not limited to, three-day notices to pay rent or quit, notices to perform covenant or quit, and all other termination notices permitted under State law.

[Formerly Regulation 17-10; adopted September 20, 2017]

1002. Termination of a Tenancy for Breach of Lease

The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (Chapter 11.100, Richmond Municipal Code) provides that a Landlord may terminate a tenancy if a Tenant has continued, after written notice to cease, to substantially violate the material terms of a rental agreement, provided such terms are reasonable, legal and have been accepted in writing by the Tenant or made part of the rental agreement. R.M.C § 11.100.050(a)(2). Some behavior, however, may warrant a Landlord to initiate the termination of a tenancy immediately without providing a written notice to cease. This Regulation would provide that authority.

- A. Notices to cease concerning violations of the material terms of a rental agreement: Except for those items identified in paragraph 3 of this Chapter, if a Tenant violates the material terms of a rental agreement, the Landlord must provide the Tenant with a Written Warning Notice to Cease. The Landlord must serve the written notice within a reasonable time period prior to serving a notice to terminate a tenancy. For purposes of this subsection (A), a reasonable

time period shall mean either not less than five business days or, if it is not reasonable that the time period to cure the violation can be accomplished within five business days, the Tenant has started to cure the violation within five business days and thereafter diligently pursues the cure of the violation. The written notice shall inform the Tenant (i) that the failure to cure the violation may result in the Landlord's initiating an eviction proceeding, (ii) of the right to request a reasonable accommodation and (iii) the contact number for the Rent Board. The written notice shall also include sufficient details allowing a reasonable person to comply and shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice. See R.M.C § 11.100.050(d). If the Tenant violates the same or substantially the same material terms of the rental agreement within 12 months from the date the Tenant received the initial Written Warning Notice to Cease, the Landlord need not serve a further Written Warning Notice to Cease but may then take action to terminate the tenancy. As to Tenants who violate paragraph 3 of this Chapter, a Landlord need not serve a Written Warning Notice to Cease for a violation of the terms of the lease.

- B. Tenant's right to sublease: R.M.C. § 11.100.050(a)(2)(i) RMC provides: If (i) a Tenant requests the Landlord in writing to sublease the rental unit, (ii) the Tenant continues to reside in the rental unit as the Tenant's primary residence, (iii) the sublease replaces one or more departed Tenants under a rental housing agreement on a one for one basis and (iv) the Landlord fails to respond to the Tenant in writing within fourteen (14) *calendar* days of receipt of the Tenant's written request, the Tenant's request shall be deemed approved by the Landlord.

(1) A Landlord's reasonable refusal of the Tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a rental unit exceeds the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health and Safety Code Section 17922, as described below:

- i. Every residential rental unit must have at least one room that is at least 120 square feet; other rooms used for living must be at least 70 square feet; and any room used for sleeping must increase the minimum floor area by 50 square feet for each occupant in excess of two. Different rules apply in the case of "efficiency units." (See 1997 Uniform Housing Code Section 503(b), Health and Safety Code Section 17958.1.)
- ii. The standard shall be two occupants per bedroom plus one additional occupant.

[Formerly Regulation 17-08; adopted December 20, 2017]

1003. Termination of a Tenancy for Engaging in Criminal Activity, including Drug-related Criminal Activity

A. A Landlord may initiate an action to terminate a tenancy (as provided under State law) without providing a written warning notice to cease if all of the following are met:

(1) The Tenant has:

- a. engaged in criminal activity, including drug-related criminal activity, in or near the Tenant's rental unit that threatens the health, safety or right to peaceful enjoyment of the property by other members of the Tenant's household or by other Tenants; or
- b. has engaged in or threatened violent or abusive behavior to other members of the Tenant's household or to other Tenants; or
- c. has permitted the rental unit to be used for, or to facilitate criminal activity, including drug related criminal activity, that threatens the health, safety or right to peaceful enjoyment of the property by other members of the Tenant's household or by other Tenants

(2) The Landlord has within a reasonable time reported the criminal activity or the violent or abusive behavior to law enforcement.

(3) Law enforcement has investigated the criminal activity or violent or abusive behavior and has advised the Landlord there is probable cause that the Tenant engaged in criminal activity or violent or abusive behavior as reported by the Landlord.

Notwithstanding the foregoing, if there is more than one Tenant in a rental unit, this Regulation 1003(A) shall apply only to that Tenant or those Tenants for which the law enforcement investigation determines there is probable cause that the Tenant(s) engaged in criminal activity or violent or abusive behavior.

B. A Landlord may initiate an action to terminate a Tenant's tenancy without providing a written warning notice to cease if (1) a member of Tenant's household or a guest or invitee of the Tenant engages in the activity or behavior set forth in paragraphs (i), (ii) or (iii) of subsection (a) of this Section 3, (2) the Landlord within a reasonable time has reported the activity or behavior to law enforcement, (3) law enforcement has investigated the activity or behavior and has advised the Landlord there is probable cause a member of the Tenant's household or a guest or invitee of the Tenant has engaged in the activity or behavior as reported by the Landlord and (4) the Tenant fails to demonstrate to the Landlord that the person who engaged in the activity or behavior has been removed from the Tenant's household or the Tenant demonstrated that the person who engaged in the activity or behavior had been removed from the Tenant's household but the Tenant has permitted such person to return to the Tenant's household. Notwithstanding the foregoing, if there is more than one Tenant in the rental unit, this subsection (b) shall apply only to that Tenant or those Tenants to which paragraphs (1) and (4) of this subsection (b) applies.

- C. For purposes of this Regulation, criminal activity shall include but not be limited to prostitution as defined in Penal Code, section 647 (b), criminal street gang activity as defined in Penal Code section 186.20 and following, assault and battery, as defined in Penal Code, sections 240 and 242, burglary as defined in Penal Code section 459, the unlawful use and discharge of firearms as prohibited under Penal Code section 245, sexual offenses as defined In Penal Code sections 261 and following and 286 or any other behavior that involves the imminent or actual threat to the health of safety of the Landlord or other Tenants or actual property damage in excess of \$5,000.
- 1) For purposes of this Regulation, drug related criminal activity includes, but is not limited to, the illegal manufacture, sale, distribution, use or possession with the intention to manufacture, sell, distribute or use a controlled substance as defined in Section 102 of the Controlled Substance Act [21 USC 802] and/or as defined in Health and Safety Code, Section 11350, except as may be permitted under State and local law.
 - 2) For purposes of this Regulation, abusive or violent behavior includes verbal as well as physical abuse or violence, including the use of racial epithets or other language, written or oral that is customarily used to intimidate.
 - 3) For purposes of this Regulation, threatening refers to oral or written threats or physical gestures that communicate to a reasonable person an intent to abuse to intent to commit violence.

[Formerly Regulation 17-08; adopted December 20, 2017]

1004. Termination of a Tenancy for Creating a Nuisance

- A. Definition: A nuisance, as used in this Regulation, is any conduct that constitutes a nuisance as defined in subsection 4 of Section 1161 of the Civil Code of Procedure or causing substantial damage to the rental unit. Nuisance also includes conduct by the Tenant occurring on the property that substantially interferes with the use and enjoyment of neighboring properties that rises to the level of a nuisance as defined in subsection 4 of Section 1161 of the Code of Civil Procedure.
- B. Violations for Creating a Nuisance within a 12 Month Period: If a Tenant engages in conduct that constitutes a nuisance, the Landlord must provide the Tenant with a Written Warning Notice to Cease. The Landlord must serve the written notice within a reasonable time period prior to serving a notice to terminate a tenancy. For purposes of this subsection (b), a reasonable time period shall mean either not less than five business days or, if it is not reasonable that the time period to abate the nuisance can be accomplished within five business days, the Tenant has taken steps to abate the nuisance within five business days and thereafter diligently pursues the abatement of the nuisance. The written notice shall inform the Tenant (i) that the failure to abate the nuisance may result in the Landlord's initiating an eviction proceeding, (ii) the right to request reasonable accommodation and (iii) the contact number for the Rent Board. The written notice shall also include sufficient details allowing a

reasonable person to comply and shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reasons for the notice. If the Tenant creates the same or substantially similar nuisance within 12 months from the date the Tenant received the initial Written Warning Notice to Cease, the Landlord need not serve a further Written Warning Notice to Cease, but may then take action to terminate the tenancy.

[Formerly Regulation 17-08; adopted December 20, 2017]

1005. Substantial Damage to the Rental Unit

Except as provided in Regulation 1003(C), notice that the Tenant has willfully caused substantial damage to the rental unit must give the Tenant at least 45 days after service of the notice to repair the damage or pay the Landlord for the reasonable cost of repairing such damage.

[Formerly Regulation 17-08; adopted December 20, 2017]

1006. Illegal Use of the Rental Unit or the Property on which the Rental Unit is located

A person who illegally sells a controlled substance in the rental unit or on the property on which the rental property is located, or uses the rental unit or the property on which the rental property is located to further that illegal purpose, is deemed to have committed the illegal act in the rental unit or on the property on which the rental unit is located, in accordance with subsection 4 of Section 1161 of the Civil Code of Procedure.

[Formerly Regulation 17-08; adopted December 20, 2017]

1007. Victims of Certain Criminal Activity

A. Notwithstanding Regulation 1003(A) and Regulation 1003(B), a Landlord shall not take any action to terminate a tenancy under R.M.C § 11.100.050 (a)(3), against a Tenant or a member of a Tenant's household who is a victim of domestic violence as defined in Section 6211 of the California Family Code, or against a Tenant or a member of a Tenant's household who is a victim of sexual assault, stalking, human trafficking or abuse or an elder or dependent adult if (i) the domestic violence, sexual assault, stalking, human trafficking or abuse of an elder or a dependent adult has been documented (A) by a temporary restraining order, emergency protective order or protective order issued within the last 180 days pursuant to law that protects the Tenant or member of Tenant's household from domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult or (B) there is a written report, written within the last 180 days, by a peace officer stating that the Tenant or a member of the Tenant's household has filed a report alleging that he or she is a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult or (ii) the person against whom the protective order has been issued or who was named in the police report as committing an act of domestic violence, sexual assault, stalking, human trafficking or abuse or an elder or a dependent adult is not a Tenant of the same rental unit as the Tenant or a member of the Tenant's household.

- B. Notwithstanding Regulation 1007(A), a Landlord may terminate the tenancy of a Tenant or a member of a Tenant's household if (i) either (A) the Tenant allows the person against whom he protective order has been issued or who was named in the police report as committing an act of domestic violence, sexual assault, stalking, human trafficking or abuse of an elder or a dependent adult to visit the rental property or (B) the Landlord reasonably believes the presence of the person against whom the protective order has been issued or who was named in the police report as having committing an act of domestic violence, sexual assault, stalking, human trafficking or abuse an elder or a dependent adult poses a physical threat to other Tenants, guests, invitees or to a Tenant's right to quiet enjoyment and (ii) the Landlord previously gave a three days' notice to the Tenant to correct a violation of paragraph (i) of subsection (b) of this Section.

[Formerly Regulation 17-08; adopted December 20, 2017]

1008. Requirement to File the Written Warning Notice to Cease with the Rent Board

If a Landlord seeks to terminate a tenancy on grounds of breach of lease, nuisance or failure to give access, the Landlord shall file with the Rent Board, within two business days of service on the Tenant of such notice of termination of tenancy, a proof of service that such notice of termination of tenancy, along with a copy of the Written Warning Notice(s), if applicable, was served on the Tenant.

[Formerly Regulation 17-08; adopted December 20, 2017]