

# Item G-2: Regulation 17-08 Written Warning Notices to Cease

Regular Meeting of the Richmond Rent Board | November 15, 2017

# Written Warning Notice Regulation: Statement of the Issue

- A regulation is necessary to clarify when Written Warning Notices to Cease are required prior to terminating a tenancy due to a tenant's breach of lease or creating a nuisance, particularly with respect to behavior that impairs health and safety.
- At their meeting on October 15, 2017, the Rent Board directed staff to return in November with a revised Regulation 17-08.
- Based on input from members of the community and Rent Board, staff prepared a revised Regulation 17-08 for the Board's consideration.

## Written Warning Notices to Cease: Background

### Written Warning Notice Requirements (RMC 11.100.050(d)):

1. Must be served by a Landlord a “reasonable” amount of time before terminating a tenancy due to Breach of Lease or Creating Nuisance
2. Shall inform the Tenant that a failure to cure may result in the initiation of eviction proceedings
3. Shall inform the Tenant of the right to request a reasonable accommodation
4. Must include the contact number for the Rent Program
5. Must include sufficient information and details about the incident or violation to allow a person to comply with the Warning Notice and cure the problem

Written  
Warning  
Notices to  
Cease:  
Proposed  
Definition of a  
“Reasonable”  
Period of Time

- The Rent Ordinance requires that a Landlord serve a Tenant a Written Warning Notice to Cease within a “reasonable” time period prior to serving the Tenant a notice to terminate a tenancy for the reason described in the Warning Notice.
  - A “reasonable” time period means either:
    - At least 3 business days;
    - OR-
    - If it is unreasonable that the time period to cure the violation can be accomplished in 3 business days, the Tenant must have started to cure the violation within 3 business days of receiving the Warning Notice, and diligently makes progress to cure the violation.

*(Proposed Regulation 17-08, Section 2(a))*

# Written Warning Notice Regulation: Proposed General (Revised) Rule

- **First violation → Landlord must serve a Written Warning Notice to Cease (RMC 11.100.050(d))**
- **Second incidence of the same violation within 12 months → Landlord may take immediate action to terminate the tenancy (e.g. service of a 3-day notice)**

*(Proposed Regulation 17-08, Section 2(a))*

Written  
Warning  
Notice  
Regulation:  
Proposed  
Exception for  
Criminal  
Activity

- A Landlord may initiate an action to terminate a tenancy (e.g. service of a 3-day notice) immediately if :
  1. The Tenant or a guest or invitee of the Tenant has engaged in criminal activity in or near the Rental Unit;  
-AND-
  2. The criminal activity or violent or abusive behavior has been reported to law enforcement and there is an official report, such as a police report, to document the criminal activity.

*(Proposed Regulation 17-08, Section 3(a)).*

Written  
Warning  
Notice  
Regulation:  
Proposed  
Definition of  
“Criminal  
Activity”

- “Criminal Activity” includes:
  - Prostitution (Penal Code Section 647(b))
  - Criminal street gang activity (Penal Code Sections 240 and 242)
  - Burglary (Penal Code Section 459)
  - Unlawful use and discharge of firearms (Penal Code Section 245)
  - Sexual offenses (Penal Code Section 261)
  - Any other behavior that involves an imminent or actual threat to the health and safety of the Landlord or other Tenants or actual property damage in excess of \$5,000

*(Proposed Regulation 17-08 Section 3(c))*

# Written Warning Notice Regulation: Proposed Protections for Victims of Criminal Activity

- A Landlord shall not take action to terminate a tenancy based on the Tenant's creating a nuisance (RMC 11.100.050(a)(3)) against a victim of domestic violence or against a victim of sexual assault, stalking, human trafficking or abuse of an elder or dependent adult unless:
  1. The victim has otherwise engaged in conduct constituting criminal activity, abusive or violent behavior OR
  2. The provisions of 1161.3(b) of the Civil Code apply

*(Proposed Regulation 17-08 Section 7)*

Written  
Warning  
Notice  
Regulation:  
Proposed  
Definition of  
“Nuisance”

- “Nuisance” is defined as conduct that substantially interferes with the use and enjoyment of neighboring properties
- Landlord shall follow same rules as with breach of lease as to providing a Written Warning Notice to Cease to the Tenant

*(Proposed Regulation 17-08 Section 4(a))*

# Written Warning Notice Regulation: Proposed Additions to Subleasing Provisions

- The Rent Ordinance states subleasing may not be considered a breach of the lease if a tenant is replaced one for one; landlord must be notified and have time to object the subtenant based on objective criteria.
- Tenant must attempt to secure a Landlord's approval of a subtenant in writing
  - If the Landlord fails to respond to the Tenant in writing within 14 calendar days of the written request, the tenant's request shall be deemed approved

*(Proposed Regulation 17-08 Section 2(b))*

# Written Warning Notice Regulation: Proposed Notice Filing Requirements

- If an eviction or termination of tenancy is based on breach of lease, creating a nuisance or tenant's failing to give access, the Landlord must file with the Board the notice of termination and written notice to cease, if applicable, within two business days after service of the termination notice on the Tenant (consistent with Regulation 17-10)

*(Proposed Regulation 17-08 Section 8)*

Written Warning  
Notice  
Regulation:  
**Recommended  
Action**

- **ADOPT Regulation 17-08, regarding Written Warning Notices to Cease before Terminating Tenancies due to a Breach of Lease or Creating Nuisance.**