

1 [Administrative Code - Short-Term Residential Rental Limit of 60 Days Per Year and Private
2 Right of Action]

3 **Ordinance amending the Administrative Code to revise the Residential Unit Conversion**
4 **Ordinance to limit short-term rental of a residential unit to no more than 60 days per**
5 **calendar year if the unit was registered on or after November 15, 2016; prohibit**
6 **neighbors outside the building at issue from filing a private right of action; allow**
7 **certain nonprofit organizations to file a private right of action prior to a final**
8 **determination of a violation by the Director of the Planning Department; and shorten**
9 **the waiting period for certain interested parties to file a private right of action; and**
10 **affirming the Planning Department's determination under the California Environmental**
11 **Quality Act.**

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
15 **Board amendment additions** are in double-underlined Arial font.
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code
18 subsections or parts of tables.

19 Be it ordained by the People of the City and County of San Francisco:

20 Section 1. Environmental Findings. The Planning Department has determined that the
21 actions contemplated in this ordinance comply with the California Environmental Quality Act
22 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
23 the Clerk of the Board of Supervisors in File No. 161093 and is incorporated herein by
24 reference. The Board affirms this determination.

25 Section 2. The Administrative Code is hereby amended by revising Sections 41A.4
and 41A.5, to read as follows:

1 **SEC. SEC. 41A.4. DEFINITIONS.**

2 * * * *

3 **Interested Party.** A Permanent Resident of the building in which the Tourist or
4 Transient Use is alleged to occur, any homeowner association associated with the Residential
5 Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential
6 Unit in which the Tourist or Transient Use is alleged to occur, ~~a Permanent Resident or Owner of~~
7 ~~a property within 100 feet of the property containing the Residential Unit in which the Tourist or~~
8 ~~Transient Use is alleged to occur,~~ the City and County of San Francisco, or any non-profit
9 organization exempt from taxation pursuant to Title 26, Section 501 of the United States
10 Code, which has the preservation or improvement of housing as a stated purpose in its
11 articles of incorporation or bylaws.

12 * * * *

13 **41A.5. UNLAWFUL CONVERSION; REMEDIES.**

14 * * * *

15 (d) **Civil Action.**

16 (1) The City may institute civil proceedings for injunctive and monetary relief,
17 including civil penalties, against an Owner, Business Entity, or Hosting Platform for violations
18 of this Chapter 41A under any circumstances, without regard to whether a Complaint has
19 been filed or the Director has made a determination of a violation.

20 (2) **Private Rights of Action.**

21 (A) Following the filing of a Complaint and the final determination of a
22 violation by the Director, any Interested Party may institute civil proceedings for injunctive and
23 monetary relief against an Owner or Business Entity.

24 (B) An Interested Party who (i) is a Permanent Resident of the building in
25 which the Tourist or Transient Use is alleged to occur, ~~is a Permanent Resident of a property~~

1 *within 100 feet of the property containing the Residential Unit in which the Tourist or Transient Use is*
2 *alleged to occur; (ii) is a non-profit organization exempt from taxation pursuant to Title 26, Section*
3 *501 of the United States Code, which has the preservation or improvement of housing as a stated*
4 *purpose in its articles of incorporation or bylaws, or (iii) is a homeowner association associated*
5 with the Residential Unit in which the Tourist or Transient Use is alleged to occur may institute
6 a civil action for injunctive and monetary relief against an Owner or Business Entity if

7 (i) The Interested Party has filed a Complaint with the Department;

8 (ii) The Director has not made a written determination pursuant to
9 subsection 41A.6(a) that there is no violation of this Chapter 41A or basis for an investigation
10 for an unlawful activity;

11 (iii) An administrative hearing officer has not issued a final
12 determination pursuant to subsection 41A.6(c) regarding the Complaint within ~~135~~30 days of
13 the filing of the Complaint with the Department;

14 (iv) After such ~~135~~30-day period has passed, the Interested Party
15 has provided 30 days' written notice to the Department and the City Attorney's Office of its
16 intent to initiate civil proceedings; and

17 (v) The City has not initiated civil proceedings by the end of that
18 30-day notice period or the City Attorney's Office has informed the Interested Party in writing that
19 the City Attorney's Office does not intend to initiate civil proceedings during the 30-day notice period.

20 Under this subsection 41A.5(d)(2)(B), the prevailing party shall be
21 entitled to the costs of suit, including reasonable attorneys' fees, pursuant to an order of the
22 Court.

23 * * * *

24 (g) **Exception for Short-Term Residential Rental.**

1 (1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent
2 Resident may offer his or her Primary Residence as a Short-Term Residential Rental if:

3 (A) The Permanent Resident occupies the Residential Unit for no less
4 than 275 days out of the calendar year in which the Residential Unit is rented as a Short-Term
5 Residential Rental or, if the Permanent Resident has not rented or owned the Residential Unit
6 for the full preceding calendar year, for no less than 75% of the days he or she has owned or
7 rented the Residential Unit, and in either case the Permanent Resident submits a complete
8 application for initial registration of ~~to register~~ the Residential Unit on the Registry:

9 (i) prior to ~~November 15~~ ~~October 14~~, 2016, and the Residential Unit
10 is rented as a Short-Term Residential Rental for no more than 90 days per calendar year at times when
11 the Permanent Resident is not also occupying the Residential Unit and for an unlimited number of days
12 per year at times when the Permanent Resident is also occupying the Residential Unit; or

13 (ii) on or after ~~November 15~~ ~~October 14~~, 2016, and the Residential
14 Unit is rented as a Short-Term Residential Rental for no more than 60 days per calendar year
15 regardless of whether the Permanent Resident is also occupying the Residential Unit during a given
16 short-term rental period;

17 (B) The Permanent Resident maintains records for two years
18 demonstrating compliance with this Chapter 41A, including but not limited to information
19 demonstrating Primary Residency, the number of days per calendar year he or she has
20 occupied the Residential Unit, the number of days per calendar year the Residential Unit has
21 been rented as a Short-Term Residential Rental, and compliance with the insurance
22 requirement in Subsection (D). These records shall be made available to the Department
23 upon request;

24 (C) The Permanent Resident complies with any and all applicable
25 provisions of state and federal law and the San Francisco Municipal Code, including but not

1 limited to the requirements of the Business and Tax Regulations Code by, among any other
2 applicable requirements, collecting and remitting all required transient occupancy taxes, and
3 the occupancy requirements of the Housing Code;

4 (D) The Permanent Resident maintains liability insurance appropriate to
5 cover the Short-Term Residential Rental Use in the aggregate of not less than \$500,000 or
6 conducts each Short-Term Residential Rental transaction through a Hosting Platform that
7 provides equal or greater coverage. Such coverage shall defend and indemnify the Owner(s),
8 as named additional insured, and any tenant(s) in the building for their bodily injury and
9 property damage arising from the Short-Term Residential Use;

10 (E) The Residential Unit is registered on the Short-Term Residential
11 Rental Registry and the Permanent Resident continues to use the Residential Unit as his or
12 her Primary Residence. Registrations on the Short-Term Residential Rental Registry are not
13 transferable and may only be renewed by the Permanent Resident that initially registered the
14 Residential Unit;

15 (F) The Permanent Resident includes the Department-issued registration
16 number on any Hosting Platform listing or other listing offering the Residential Unit for use as
17 a Short-Term Residential Rental;

18 (G) For units subject to the rent control provisions of Section 37.3, the
19 Permanent Resident complies with the initial rent limitation for subtenants and charges no
20 more rent than the rent the Permanent Resident is paying to any landlord per month; and

21 (H) The Permanent Resident can demonstrate to the satisfaction of the
22 Department that the Residential Unit and the property on which it is located is not subject to
23 any outstanding Building, Electrical, Plumbing, Mechanical, Fire, Health, Housing, Police, or
24 Planning Code enforcement, including any notices of violation, notices to cure, orders of
25 abatement, cease and desist orders, or correction notices. The Department shall not include a

1 property that is subject to any such outstanding violations in the Registry. If such a violation
2 occurs once a Residential Unit has been included in the Registry, the Department shall
3 suspend the Residential Unit's registration and registration number until the violation has been
4 cured.

5 * * * *

6 Section 3. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor's veto of the ordinance.

10
11 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: _____
21 MARLENA BYRNE
22 Deputy City Attorney

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