

1 [Administrative Code - Large Tourist Hotel Conversion]

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3 **Ordinance amending the San Francisco Administrative Code Chapter 41F, Section**  
4 **41F.3, to extend the deadline for Planning Commission approval of applications for**  
5 **conversion of large tourist hotels to condominium projects, subject to completion of**  
6 **project-specific milestones by November 1, 2010, and making required findings.**

7 NOTE: Additions are *single-underline italics Times New Roman*;  
8 deletions are ~~*strike-through italics Times New Roman*~~.  
9 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Findings.

12 (1) On March 18, 2008, the Board of Supervisors adopted the Large Tourist Hotel  
13 Conversion Ordinance.

14 (2) On May 23, 2008, the Zoning Administrator promulgated a Bulletin and Letter of  
15 Determination setting forth the process that the Planning Department would follow to  
16 determine "complete applications" for pre-lottery Conversion applications under Section  
17 41F.3(b) of the Large Tourist Hotel Conversion Ordinance. The Letter of Determination  
18 applied the principles set forth in the Bulletin to establish a priority listing of pending projects  
19 ("Queue"). The Board of Appeals issued a decision on November 12, 2008, that corrected the  
20 Bulletin, Letter of Determination, and Queue to conform with the Zoning Administrator's intent.

21 (3) On January 6, 2009, the Mayor signed legislation into effect that clarified the  
22 scope and implementation of the Large Tourist Hotel Conversion Ordinance, including minor  
23 edits to the definition of "Convert" and additional guidance regarding the conversion process  
24 for Large Tourist Hotels Rooms, and making required findings.

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1 (4) The Board of Supervisors intends that these amendments apply retroactively to  
2 the effective date of the original ordinance, April 24, 2008, except to the extent that such  
3 application would abridge vested rights under the law.

4 Section 2. Environmental Findings. The Planning Department has determined that the  
5 actions contemplated in this Ordinance are in compliance with the California Environmental  
6 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is  
7 on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
8 incorporated herein by reference.

9 Section 3. The San Francisco Administrative Code is hereby amended by amending  
10 Section 41F.3 to read as follows:

11 Sec. 41F.3 - CONVERSIONS RESTRICTED.

12 (a) General Prohibition. It shall be unlawful for any person to Convert any portion of a  
13 Large Tourist Hotel except as provided in this Chapter. Notwithstanding Conversion approval  
14 under this Chapter, a Conversion project must in addition obtain all applicable City permits  
15 and approvals, including any applicable conditional use authorization requirements. This  
16 Chapter shall not limit City discretion to deny or approve with conditions a proposed  
17 Conversion project.

18 (b) ~~Conversion prior to November 1, 2010~~Pre-Lottery Conversion Credits. Notwithstanding  
19 the foregoing restriction, the Planning Commission may approve use of Conversion credits  
20 allocated through the pre-lottery Conversion queue for a total of up to 550 Large Tourist Hotel Rooms  
21 to be Converted if, prior to November 1, 2010: (1) the project seeking Conversion submits a 41F.3  
22 Conversion application to the Planning Department; and (2) the Planning Commission holds a public  
23 hearing on the Draft Environmental Impact Report for the project seeking Conversion. The Planning  
24 Commission shall approve applications for such Conversions under this section on a first-come first-  
25 served basis. An applicant's place in the Conversion queue for the 550 pre-lottery Conversion

1 credits shall be based upon the date the Planning Department receives a complete  
2 subdivision or environmental application, as determined by the Zoning Administrator, and  
3 provided the application or subsequent written communication identifies the number of tourist  
4 hotel rooms to be Converted.

5 (c) Ancillary Hotel Areas. A person may Convert all or any portion of an Ancillary Hotel  
6 Area upon a showing that the Conversion shall not result in a reduction in the number of  
7 Large Tourist Hotel Rooms in the subject hotel.

8 (d) Conversion Lottery. Beginning in 2010, the Planning Department shall hold an  
9 annual lottery for Conversion credits for Large Tourist Hotel Rooms in accordance with the  
10 following:

11 (1) The Planning Department shall hold the lottery only if:

12 (i) The Annual Inventory shows a net increase of at least 100 Large Tourist Hotel  
13 Rooms over the prior year's inventory, as calculated in Section 41F.3(g) below; and

14 (ii) Conducting a lottery would not result in a reduction in the number of Large Tourist  
15 Hotel Rooms below the Baseline Inventory.

16 (2) The number of Conversion credits available in each lottery shall equal the net  
17 increase in Large Tourist Hotel Rooms during the previous year's inventory. Large Tourist  
18 Hotel Rooms lost through authorized Conversions shall not be considered for purposes of  
19 calculating the net increase in Large Tourist Hotel Rooms under this section, as described in  
20 Section 41F.3(g), below.

21 (3) In order to participate in the conversion credit lottery, applicants must submit a  
22 Section 41F.3(f)(3) application within 15 business days of the formal adoption of the Annual  
23 Inventory update. The Planning Department shall issue one lottery ticket per Large Tourist  
24 Hotel applicant. Only one application may be submitted per Large Tourist Hotel.

1 (4) The Planning Department shall hold the lottery at a public hearing within 6 weeks of  
2 the formal adoption of the Annual Inventory. Winning lottery tickets shall be chosen randomly,  
3 one at a time. If not enough credits remain in the pool to satisfy a winning ticket, then the  
4 applicant shall receive the number of credits remaining in the pool and be eligible to receive  
5 the remainder as the first applicant on the standby list. If a lottery would otherwise be required  
6 by the Chapter and the number of available credits exceeds the total number of applicants'  
7 requests for Conversion credits in a particular year, then the credits shall be granted and no  
8 lottery shall take place.

9 (5) If applicants collectively seek more Conversion credits than are available in the  
10 lottery pool, then, after the last winning ticket is drawn, the Planning Department shall draw a  
11 reasonable number of alternate tickets for inclusion in a standby list. If, nine months after the  
12 lottery, the Planning Department revokes winning credits according to subsection (e)(2),  
13 below, the credits shall be reallocated to the standby list, in the order drawn.

14 (e) Large Tourist Hotel Conversion Credits.

15 (1) Conversion is prohibited unless the applicant uses Conversion credits to offset the  
16 loss of Large Tourist Hotel Rooms. An award of Conversion credits does not grant the credit-  
17 holder a right to development or otherwise limit City discretion to deny or approve with  
18 conditions a proposed Conversion project. A credit holder must still obtain all otherwise  
19 applicable City permits and approvals, including but not limited to Planning Commission  
20 approval of the Conversion pursuant to Section 41F.3(f).

21 (2) Credits are building-specific and non-transferable, except that if the credit holder  
22 does not make diligent and good faith efforts within nine months of issuance of the  
23 Conversion credit(s), the credits may be revoked and reallocated to the queue, for pre-lottery  
24 credits, or the standby list, for lottery credits. Credits shall expire if the applicant or standby-list  
25 recipient fails to diligently and in good faith pursue Conversion for any 18 consecutive months,

1 as determined by the Zoning Administrator after notice and a public hearing. The Board of  
2 Appeals shall hear and determine appeals under this section.

3 (f) Conversion Process.

4 (1) The City may not issue permits related to use of pre-lottery or lottery Conversion  
5 credits until and unless the Planning Commission approves a Section 41F.3(f) Conversion  
6 application for the proposed Conversion project.

7 (2) The notice and hearing requirements applicable to conditional use authorizations  
8 shall apply to Planning Commission's action to approve or deny Conversion applications for  
9 use of Conversion credits under this Chapter.

10 (3) Any party seeking Conversion under this Chapter shall submit a written Conversion  
11 application to the Planning Department containing, at minimum, the following information:

12 (i) The name and address of the building in which the conversions are proposed;

13 (ii) The names and addresses of all owners and operators of said building;

14 (iii) A description of the proposed Conversion including the nature of the Conversion,  
15 the total number of Large Tourist Hotel Rooms prior to and following Conversion, a description  
16 of the area and/or rooms to be Converted, including floor number and location, and the  
17 estimated total number of Condominium Units to be created;

18 (iv) Preliminary drawings showing the existing floor plans and proposed floor plans;

19 (v) A description of the improvements or changes proposed to be constructed or  
20 installed and the tentative schedule for start of construction;

21 (vi) Information specifying any changes to the subject building or buildings' inventory of  
22 rooms in the 5 years preceding the date of application for Conversion;

23 (vii) The average rental rates of the rooms to be converted, calculated over the  
24 calendar year preceding the year of application for Conversion;

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1 (viii) Applicants for the lottery must provide information demonstrating that the  
2 Conversion will not reduce the supply of Large Tourist Hotel Rooms to levels below the  
3 Baseline Inventory.

4 (ix) Applicants for Ancillary Hotel Area Conversion must provide information  
5 demonstrating that the proposed Conversion will not result in loss of Large Tourist Hotel  
6 Rooms in the subject Large Tourist Hotel, including specifying any proposed changes to the  
7 subject buildings' inventory of rooms planned in the 5 years following the date of application  
8 for Conversion.

9 (x) Applicants for Conversion must pay the Planning Department a processing fee set  
10 by the Planning Director at a full cost recovery level.

11 (xi) As a condition of approval, an applicant must provide annual updates to the  
12 Planning Department on the status of the approved Conversions until such time as the  
13 Conversions are complete or the Conversion credits have been revoked or have expired.

14 (4) The Zoning Administrator shall make a recommendation regarding the approval,  
15 denial, or approval with conditions of the Conversion application to the Planning Commission,  
16 based upon whether the proposed Conversion meets Planning Code requirements including,  
17 but not limited to, this Chapter. The Planning Commission shall approve the Conversion, deny  
18 it, or approve it with conditions. Any member of the public wishing to appeal the decision of  
19 the Planning Commission must appeal the decision to the Board of Supervisors pursuant to  
20 the appeals process set forth in Section 308 of the Planning Code.

21 (g) Inventory Procedure.

22 (1) Adoption of Inventory. The Planning Commission shall adopt a Baseline Inventory  
23 and subsequent Annual Inventories of the number of Large Tourist Hotel Rooms in the City as  
24 of March 1 of each year. The Planning Department shall provide the public with an opportunity  
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1 for meaningful review and comment on Baseline and Annual Inventories, including a public  
2 hearing no later than March 15th of each year.

3 (2) Calculating Additions to the Annual Inventory. Large Tourist Hotel Rooms created  
4 by new Large Tourist Hotel construction and/or expansion shall be counted as part of the  
5 Annual Inventory year in which the City issues final certificates of occupancy.

6 (3) Calculating Losses from the Annual Inventory.

7 (i) Losses of Large Tourist Hotel Rooms shall count in the inventory year in which the  
8 rooms cease to be commercially available for rent.

9 (ii) In conducting its Annual Inventory, the Planning Department will distinguish how  
10 many Large Tourist Hotel Rooms were lost due to authorized Conversions, and how many  
11 were lost for other reasons.

12 (4) Calculating the number of Conversion credits available for the annual lottery. The  
13 number of Conversion credits available for each year's lottery shall equal the number of  
14 additions as calculated in subsection (2) above, less the number of rooms lost due to reasons  
15 other than authorized Conversions, as calculated in subsection (3) above.

16 Section 4. This section is uncodified.

17 In enacting this Ordinance, the Board intends to amend only those words, phrases,  
18 paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams or any  
19 other constituent part of the Planning Code that are explicitly shown in this legislation as  
20 additions, deletions, Board amendment additions, and Board amendment deletions in  
21 accordance with the "Note" that appears under the official title of the legislation. This  
22 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or  
23 deletions not explicitly shown as described above, omissions, or other technical and non-  
24 substantive differences between this Ordinance and the municipal code that are contained in  
25 this legislation are purely accidental and shall not effectuate an amendment to such code.

1 The Board hereby authorizes the City Attorney, in consultation with the Clerk and other  
2 affected City departments, to make those necessary adjustments to the published municipal  
3 code, including non-substantive changes such as renumbering or re-lettering, to ensure that  
4 the published version of the municipal is consistent with the laws that this Board enacts.

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6 APPROVED AS TO FORM:  
7 DENNIS J. HERRERA, City Attorney

8 By: \_\_\_\_\_  
9 Andrew W. Garth  
Deputy City Attorney

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