

1 [Administrative Code – Amendment to Tourist Hotel Conversion Ordinance.]

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3 **Ordinance amending the Administrative Code to add Section 41F to prohibit**
4 **conversion of Large Tourist Hotels into condominium projects, allowing the Planning**
5 **Commission to issue exemptions for conversion of up to 500 units in the following two**
6 **years, listing criteria for additional conversions as determined by the Planning**
7 **Commission, requiring applicants for exemptions to provide the Planning Department**
8 **with certain information regarding the conversion, creating a 120-month sunset period,**
9 **and making environmental findings.**

10 Note: Additions are single-underline italics Times New Roman;
11 deletions are ~~strikethrough italics Times New Roman~~.
12 Board amendment additions are double underlined.
13 Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. Findings.

16 (1) As one of the country's premier travel destinations, the City and County of San
17 Francisco depends on visitors for its economic health and well-being.

18 (2) In 2005, according to the California Employment Development Department, leisure
19 and hospitality services accounted for 1 in 7 (14%) of the jobs in the City and the San
20 Francisco hotel industry employed over 18,000 workers.

21 (3) In 2006, according to the San Francisco Convention and Visitors Bureau
22 ("SFCVB"), San Francisco hosted 15.8 million visitors, contributing \$7.8 billion to the City's
23 economy. (San Francisco Visitor Volume and Spending Report 2006.)

24 (4) The hospitality industry also provides a crucial source of revenue to the City. 2006
25 visitor taxes totaled \$478 million, or \$14,563 per room (See San Francisco Visitor Volume
and Spending Report 2006; SFCVB San Francisco Visitor Industry Statistics.) The San

1 Francisco Controller estimates that during FY 2007-08 the City will glean \$210 million in Hotel
2 Room Tax alone.

3 (5) There are roughly 33,000 tourist hotel rooms in the City, spread across
4 approximately 200 hotels. The majority of these tourist hotel rooms are located in 80 large
5 hotels with 100 or more tourist hotel rooms each. (SFCVB San Francisco Visitor Industry
6 Statistics.)

7 (6) Competition between cities for major conventions, requiring in excess of 8,000
8 rooms, is intense. San Francisco has invested hundreds of millions of dollars in improving its
9 tourism infrastructure, including the construction of public facilities for major conventions.
10 Large conventions depend on a reliable supply of hotel rooms concentrated at one site. The
11 ability of San Francisco to compete for major conventions or events (a national presidential
12 convention, for example) or to bid for events such as the Olympics, will be compromised if the
13 City's major hotels convert tourist hotel rooms to residential use.

14 (7) Residential real estate prices remain near historic highs in San Francisco.
15 Concerns have been raised that the combination of low interest rates and high real estate
16 prices in the City will lead to the conversion of tourist hotel units in condominiums. Such
17 conversions have become a growing trend in other cities such as New York City, Orlando, and
18 the Miami-Ft. Lauderdale area. Such conversions could have a devastating impact on the
19 City's tourism industry and all those whom it employs. (San Francisco Real Estate Trends –
20 Sep 07; NYT 3/6/05 "If They Come, Where Will They Sleep?"; NYT 10/19/05 "Fewer Rooms
21 at the Inn.")

22 (8) In other cities where hotel rooms have been converted to residential condominiums
23 the units have been sold as extremely high-priced housing. According to the Housing
24 Element of the San Francisco General Plan, San Francisco already exceeds the necessary
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1 production of market-rate housing, with a substantial amount being high-end houses and
2 condominium units.

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

8 Section 3. The San Francisco Administrative Code is hereby amended to add Section
9 41F to read as follows:

10
11 Sec. 41F: TOURIST HOTEL CONVERSION

12 SEC. 41F.1. TITLE.

13 This Chapter may be referred to as the Tourist Hotel Conversion Ordinance.

14 SEC. 41F.2. DEFINITIONS.

15 (a) "Condominium Project" shall mean (i) a Community Apartment as defined in Section
16 1308(b) of the Subdivision Code; (ii) a Condominium as defined in Section 1308(c) of the Subdivision
17 Code; (iii) a Stock Cooperative as defined in Section 1308(f) of the Subdivision Code; or (iv) any other
18 subdivided interest in land.

19 (b) "Convert" shall mean: (i) to change the type of ownership of any real property to that
20 defined as a Condominium Project and in which two or more units are newly created wholly or in
21 substantial part within the existing structure of a Large Tourist Hotel, regardless of whether substantial
22 improvements have been made to such structures; or (ii) to change one or more guest rooms, one or
23 more sites of rooms, or any portion thereof within an existing Large Tourist Hotel into a Dwelling Unit.

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1 (c) "Dwelling Unit" shall mean any building or portion thereof that contains living
2 facilities, including provisions for sleeping, eating, cooking, and sanitation as required by the Housing
3 Code, for not more than one Family.

4 (d) "Family" shall mean one or more persons, related or unrelated, living together as a
5 single integrated household in a dwelling unit.

6 (e) "Large Tourist Hotel" shall mean any building containing 100 or more guest rooms or
7 sites of rooms intended or designated to be used for commercial tourist use by providing
8 accommodation to transient guests on a nightly basis or longer, as contemplated by Section 216(b) of
9 the Planning Code.

10 SEC. 41F.3. CONVERSIONS PROHIBITED.

11 (a) It shall be unlawful for any person to Convert any portion of an existing Large Tourist
12 Hotel.

13 (b) Notwithstanding the foregoing prohibition, the Planning Commission may approve a
14 total of up to 500 hotel rooms to be Converted in the first two years following the effective date of this
15 ordinance. Following the 24th month after the effective date of this Ordinance, the Planning
16 Commission may further approve hotel rooms to be Converted if the applicant can demonstrate that
17 such Conversion will not reduce the supply of Largest Tourist Hotel rooms available within the City
18 and County of San Francisco.

19 (c) A person may Convert all or any portion of a Large Tourist Hotel, provided that the
20 right of any one person to occupy a Dwelling Unit, guest room, or suite after the Conversion is
21 restricted to not more than 30 consecutive days per year or 90 days in aggregate per year, but only if
22 the original approval of such Large Tourist Hotel was obtained before the effective date of this
23 ordinance as part of a mixed-use development including both tourist hotel and residential uses. The

1 foregoing restrictions on occupancy will not apply to the previously approved residential portion of the
2 development.

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4 SEC. 41F.4. ENFORCEMENT.

5 (a) The Department of Building Inspection, in consultation with the Departments of
6 Planning and Public Works, shall be responsible for enforcement of this Chapter as it may relate to
7 physical alterations to a Large Tourist Hotel and may take any appropriate action within its powers to
8 enforce this Chapter, including, but not limited to, denial of any building, construction, or change of
9 use permits. The Department of Public Works, in consultation with the Departments of Building
10 Inspection and Planning, shall be responsible for enforcement of this Chapter as it may relate to
11 actions involving a subdivision under the Subdivision Map Act, California Government Code Sections
12 66410 et seq.

13 (b) Civil Penalties.

14 (1) The Department of Building Inspection or the Department of Public Works may
15 recommend to the City Attorney initiation of a civil action hereunder. The City Attorney shall have the
16 power to bring an action for injunctive relief to restrain or summary abatement to cause the correction
17 or abatement of the violation of this article and for assessment and recovery of a civil penalty and
18 reasonable attorney's fees for such violation, or other judicial relief hereunder.

19 (2) Any person who violates this Article may be liable for a civil penalty, not to exceed \$500
20 per room for each day such violation is committed or permitted to continue, which penalty shall be
21 assessed and recovered in a civil action brought in the name of the people of the City by the City
22 Attorney in any court of competent jurisdiction. The City Attorney also may seek recovery of the
23 attorney's fees and costs incurred in bringing a civil action pursuant to this Section.

24 (c) Criminal Penalties.
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1 (1) The Department of Building Inspection or the Department of Public Works may
2 recommend to the District Attorney initiation of a criminal action hereunder.

3 (2) Any person who violates this Article shall be deemed guilty of a misdemeanor. Every
4 violation determined to be a misdemeanor is punishable by a fine of not more than \$1,000 or by
5 imprisonment in the County Jail for a period of not more than six months, or by both such fines or
6 imprisonments.

7 (d) Exemptions

8 (1) Applicants for Conversion pursuant to Section 41F.3(b) or Section 41F.3(c) must
9 provide the following information to the Planning Department:

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

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

12 (iii) A description of the proposed conversion including the nature of the conversion,
13 the total number of hotel rooms prior to and following conversion, a description of the
14 rooms to be converted, including floor number and location, the estimated total number
15 of Condominium Units to be created;

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

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

19 (vi) The average rental rates of the rooms to be converted, calculated over the calendar
20 year preceding the year of application for exemption; and

21 (vii) Evidence, if applicable, that such Conversion will not reduce the supply of Large
22 Tourist Hotel Rooms available within the City and County of San Francisco.

23 (2) Upon receipt of the application for exemption, the Planning Department shall issue
24 public notice of the application. A ten-day comment period shall commence on the day of the notice.
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1 The Planning Commission shall hold a public hearing on the exemption no sooner than ten days after
2 the day the notice is issued. The Zoning Administrator shall recommend approval of the exemption if
3 the applicant meets the requirements in subsections 41F.3(b) or 41F.3(c). When reviewing the request
4 for exemption, the Planning Department may take into consideration Large Tourist Hotel rooms under
5 construction at the time of the application, and must take into consideration other exemptions
6 previously approved pursuant to this subsection, to ensure that no single exemption and no exemptions
7 in aggregate would result in net loss of Large Tourist Hotel rooms. Thus, increase in hotel rooms
8 resulting from a Large Tourist Hotel under construction cannot justify an exemption or exemptions if
9 such exemption or exemptions would reduce the net supply of Large Tourist Hotel rooms available
10 within the City and County of San Francisco except to the extent allowable under subsections 41F.3(b)
11 or 41F.3(c). To ensure that exemptions do not result in net loss of Large Tourist Hotel rooms, multiple
12 applications for exemption under subsections 41F.3(b) or 41F.3(c) will be processed in the order
13 received, and evaluated on the merits of each application, as if no other applications were pending.
14 The Zoning Administrator shall make a recommendation regarding the approval, denial, or approval
15 with conditions of the exemption application to the Planning Commission. The Planning Commission
16 shall approve the exemption, deny it, or approve it with conditions. The decision of the Planning
17 Commission may be appealed to the Board of Supervisors by any member of the public pursuant to the
18 appeals process set forth in Section 306.8 of the Planning Code.

19 SEC. 41F.5. SUNSET PROVISION.

20 This Chapter shall be repealed 120 months after its initial effective date unless the Board of
21 Supervisors, on or before that date, extends or re-enacts it.

22 SEC. 41F.6. SEVERABILITY.

23 In the event that a court or agency of competent jurisdiction holds that a federal or state law,
24 rule or regulation invalidates any clause, sentence, paragraph or section of this ordinance or the
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1 application thereof to any person or circumstances, it is the intent of the Board of Supervisors that the
2 court or agency sever such clause, sentence, paragraph or section so that the remainder of this
3 ordinance shall remain in effect.

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

7 By: _____
8 Andrew W. Garth
9 Deputy City Attorney

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