

BOARD of SUPERVISORS



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July 20, 2022

File No. 220815

Lisa Gibson
Environmental Review Officer
Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Dear Ms. Gibson:

On July 12, 2022, Supervisor Peskin introduced the following legislation:

File No. 220815

Ordinance amending the Administrative Code to add a definition of Tourist or Transient Use under the Residential Hotel Unit Conversion and Demolition Ordinance; to set the term of tenancy for such use at less than seven days, for two years after the effective date of this Ordinance, and, after that two-year period, at less than 30 days; to provide an amortization period applicable to hotels currently regulated under the Ordinance; to provide a process by which the owners or operators of regulated hotels can request that the amortization period be longer, on a case-by-case basis; to amend the definition of Permanent Resident, from a person who occupies a room for at least 32 days to one who occupies a room for at least 30 days; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

1 [Administrative Code - Definition of Tourist or Transient Use under Hotel Conversion
Ordinance; Amortization Period]

2

3 **Ordinance amending the Administrative Code to add a definition of Tourist or Transient**
 4 **Use under the Residential Hotel Unit Conversion and Demolition Ordinance; to set the**
 5 **term of tenancy for such use at less than seven days, for two years after the effective**
 6 **date of this Ordinance, and, after that two-year period, at less than 30 days; to provide**
 7 **an amortization period applicable to hotels currently regulated under the Ordinance; to**
 8 **provide a process by which the owners or operators of regulated hotels can request**
 9 **that the amortization period be longer, on a case-by-case basis; to amend the definition**
 10 **of Permanent Resident, from a person who occupies a room for at least 32 days to one**
 11 **who occupies a room for at least 30 days; and affirming the Planning Department's**
 12 **determination under the California Environmental Quality Act.**

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

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

21 Section 1. Environmental Findings.

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

1 Section 2. Chapter 41 of the Administrative Code is hereby amended by revising
2 Sections 41.4 and 41.20, adding new Section 41.23, and renumbering existing Section 41.23
3 as Section 41.24, to read as follows:

4
5 **SEC. 41.4. DEFINITIONS.**

6 * * * *

7 Conversion. The change or attempted change of the use of a residential unit to a
8 Tourist or Transient ~~tourist~~ use, or the elimination of a residential unit, or the voluntary
9 demolition of a residential hotel. However, a change in the use of a residential hotel unit into a
10 non-commercial use which serves only the needs of the permanent residents, such as a
11 resident's lounge, community kitchen, or common area, shall not constitute a conversion
12 within the meaning of this Chapter 41, provided that the residential hotel owner establishes
13 that eliminating or re-designating an existing tourist unit instead of a residential unit would be
14 infeasible.

15 * * * *

16 Permanent Resident. A person who occupies a guest room for at least 30 ~~32~~
17 consecutive days.

18 * * * *

19 Tourist or Transient Use. For two years after the effective date of Ordinance No. _____ in
20 Board of Supervisors File No. 190946, "Tourist or Transient Use" shall mean any use of a guest room
21 for less than a 7-day term of tenancy by a party other than a Permanent Resident. After that two-year
22 period, "Tourist or Transient Use" shall mean any use of a guest room for less than a 30-day term of
23 tenancy by a party other than a Permanent Resident, unless a hotel owner or operator demonstrates, in
24 accordance with the process and factors described in Section 41.23, that a longer time is necessary to
25 recover reasonable investments in the owner or operator's hotel.

1 * * * *

2 **SEC. 41.20. UNLAWFUL CONVERSION; REMEDIES; FINES.**

3 (a) Unlawful Actions. It shall be unlawful to:

4 (1) Change the use of, or to eliminate a residential hotel unit or to demolish a
5 residential hotel unit except pursuant to a lawful abatement order, without first obtaining a
6 permit to convert in accordance with the provisions of this Chapter 41;

7 (2) Rent any residential unit for Tourist or Transient Use ~~a term of tenancy less than~~
8 ~~seven days~~ except as permitted by Section 41.19 of this Chapter;

9 (3) Offer for rent for ~~nonresidential use or~~ Tourist or Transient Use a residential
10 unit except as permitted by this Chapter.

11 * * * *

12 **SEC. 41.23. AMORTIZATION.**

13 (a) A hotel owner or operator may seek a reasonable extension of the time during which the
14 term "Tourist or Transient Use" means "any use of a guest room for less than a 7-day term of tenancy
15 by a party other than a Permanent Resident" for a period longer than the two-year period set forth in
16 Section 41.4, through the process described in subsections (b) and (c), below.

17 (b) The owner or operator may initiate an extension by submitting a request to the Building
18 Inspection Commission ("Commission") six months prior to the expiration of the two-year period set
19 forth in Section 41.4. Commission staff shall amply publicize this deadline, to give notice to interested
20 hotel owners of the provisions of this Section 41.23.

21 (c) The Commission shall consider the request at a public hearing and decide whether an
22 extension (for the time requested, or for a different period of time) would be reasonable, according to
23 the following factors:

24 (1) Total cost of the hotel owner or operator's investments in the hotel;

25 (2) Length of time those investments have been in place;

1 (3) Suitability of the investments for residential hotel use; and

2 (4) Any other factors relevant to determining the owner or operator's reasonable return
3 on investments.

4 **SEC. 41.234. CONSTRUCTION.**

5 * * * *

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

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

18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ Andrea Ruiz-Esquide
21 ANDREA RUIZ-ESQUIDE
22 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Definition of Tourist or Transient Use under Hotel Conversion Ordinance; Amortization Period]

Ordinance amending the Administrative Code to add a definition of Tourist or Transient Use under the Residential Hotel Unit Conversion and Demolition Ordinance; to set the term of tenancy for such use at less than seven days, for two years after the effective date of this Ordinance, and, after that two-year period, at less than 30 days; to provide an amortization period applicable to hotels currently regulated under the Ordinance; to provide a process by which the owners or operators of regulated hotels can request that the amortization period be longer, on a case-by-case basis; to amend the definition of Permanent Resident, from a person who occupies a room for at least 32 days to one who occupies a room for at least 30 days; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Chapter 41 of the Administrative Code contains the Residential Hotel Unit Conversion Ordinance (HCO), which regulates single room occupancy (SRO) hotels in the City. Currently, the HCO does not include a definition of what constitutes a tourist or transient use.

Amendments to Current Law

This ordinance would amend the HCO to add a definition of "Tourist or Transient Use;" to mean:

- For two years after the effective date of the ordinance, "any use of a guest room for less than a 7-day term of tenancy by a party other than a Permanent Resident;" and
- After those two years, "any use of a guest room for less than a 30-day term of tenancy by a party other than a Permanent Resident," unless a hotel owner or operator demonstrates that a longer time is necessary to recover reasonable investments in the owner or operator's hotel.

The ordinance provides that a hotel owner or operator may seek to extend the time during which the terms "Tourist or Transient Use" means "any use of a guest room for less than a 7-day term of tenancy by a party other than a Permanent Resident" beyond the two year period, by filing a request with the Building Inspection Commission six months prior to the expiration of that two-year period. The ordinance sets forth criteria for the Building Inspection Commission to take into account, when considering a reasonable extension of time, such as: the total cost of the hotel owner or operator's investments in the hotel; the length of time those

investments have been in place; suitability of the investments for residential hotel use; and any other relevant factors to determining the owner or operator's reasonable return on investments.

The ordinance mandates that Building Inspection Commission staff amply publicize the deadline to request an extension with the Commission, to give notice to interested hotel owners of the provisions of the procedures to obtain such an extension. Further, the Ordinance requires that the Commission consider the application at a public hearing.

Background Information

Board of Supervisors File No. 190946 contains a similar ordinance. This ordinance updates the amortization period to run for two years from the effective date of the ordinance.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Supervisor Peskin

Subject:

[Administrative Code - Definition of Tourist or Transient Use under Hotel Conversion Ordinance; Amortization Period]

The text is listed:

Ordinance amending the Administrative Code to add a definition of Tourist or Transient Use under the Residential Hotel Unit Conversion and Demolition Ordinance; to set the term of tenancy for such use at less than 7 days, for two years after the effective date of this ordinance, and, after that two-year period, at less than 30 days; to provide an amortization period applicable to hotels currently regulated under the ordinance; to provide a process by which the owners or operators of regulated hotels can request that the amortization period be longer, on a case-by-case basis; to amend the definition of Permanent Resident, from a person who occupies a room for at least 32 days to one who occupies a room for at least 30 days; and affirming the Planning Department's determination under the California Environmental Quality Act.

Signature of Sponsoring Supervisor: []