

File No. 190683

Committee Item No. 4

Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date Sept. 16, 2019

Board of Supervisors Meeting

Date OCTOBER 1 2019

Cmte Board

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Completed by: Victor Young Date Sept 12, 2019

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1 [Administrative Code - Conversion of Large Tourist Hotels]

2
3 Ordinance amending the Administrative Code to re-enact and revise the Tourist Hotel
4 Conversion Ordinance, which restricted the conversion of hotel rooms in large tourist
5 hotels to condominiums, ~~by deleting and delete~~ the sunset provision ~~and deleting the~~
6 ~~sections allowing conversion credits and a lottery~~; and affirming the Planning
7 Department's determination under the California Environmental Quality Act.

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

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

16 Section 1. CEQA Finding. The Planning Department has determined that the actions
17 contemplated in this ordinance comply with the California Environmental Quality Act
18 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
19 the Clerk of the Board of Supervisors in File No. 190683 and is incorporated herein by
20 reference. The Board affirms this determination.

21 Section 2. The Tourist Hotel Conversion Ordinance, which restricted the conversion of
22 hotel rooms in Large Tourist Hotels to condominiums, was enacted in 2008 as Chapter 41F of
23 the Administrative Code pursuant to Ordinance No. 41-08. Chapter 41F automatically expired
24 by operation of law 120 months after its initial effective date. The Board of Supervisors wants
25 to re-enact Chapter 41F and revise its provisions as shown in Section 3 of this ordinance.

1
2 Section 3. The Administrative Code is hereby amended by re-enacting and revising
3 Chapter 41F, to read as follows:

4 **CHAPTER 41F: TOURIST HOTEL CONVERSION**

5 **SEC. 41F.1. TITLE.**

6 This Chapter 41F may be referred to as the Tourist Hotel Conversion Ordinance.

7
8 **SEC. 41F.2. PURPOSE AND FINDINGS.**

9 (a) As one of the country's premier travel destinations, the City and County of San
10 Francisco ("San Francisco" or "the City") depends on visitors for its economic health and well-being.

11 (b) During the past ~~eleven~~ ten years since 2008, San Francisco's economy has been
12 bolstered by its convention market. In 2013, San Francisco deepened its investment in the convention
13 market by financing the expansion of the Moscone Center, noting at the time that the City had lost over
14 \$2 billion worth of trade show business due to capacity limitations. To remain competitive with other
15 large cities with respect to attracting conventions, which typically book large blocks of rooms in large
16 hotels, the City needs to continue the restrictions on the conversion of rooms in large hotels to
17 condominiums.

18 (c) Since its passage in 2008, the Tourist Hotel Conversion Ordinance (the "THCO") has
19 stabilized San Francisco's hotel sector and preserved thousands of hospitality industry jobs in the City
20 by restricting the conversion of rooms and suites in large hotels to condominiums. Because the THCO
21 has been a proven success over the past decade in fulfilling its purpose, the City wants to continue it
22 and strengthen its provisions.

23 (d) Absent the THCO, the high price of luxury housing would likely have resulted in the
24 conversion of thousands of tourist hotel units to condominiums, thereby constricting the number of
25 hotel rooms available to convention attendees and risking the loss of convention business to competing

1 markets. Given the continuing high prices of housing in San Francisco, it is vital to the City's
2 economic interest and well-being to continue the restriction on conversion of hotel rooms to
3 condominiums.

4 **SEC. 41F.3 2. DEFINITIONS.**

5 For purposes of this Chapter 41F, the following definitions shall apply:

6 ~~(a) — "Baseline Inventory" shall mean an inventory of the number of Large Tourist Hotel~~
7 ~~Rooms commercially available for rent as of March 1, 2009, as calculated according to the process~~
8 ~~described in Section 41F.3(g).~~

9 ~~(b) — "Annual Inventory" shall mean the inventory of the number of Tourist Hotel Rooms~~
10 ~~commercially available for rent as updated in each year after the Baseline inventory, as calculated~~
11 ~~according to the process described in Section 41F.3(g).~~

12 (a) "Baseline Inventory" shall mean an inventory of the number of Large Tourist
13 Hotel Rooms commercially available for rent as of October 1, 2019, as calculated according to
14 the process described in Section 41F.4(f).

15 (b) "Annual Inventory" shall mean the inventory of the number of Tourist Hotel
16 Rooms commercially available for rent as updated in each year after the Baseline Inventory,
17 as calculated according to the process described in Section 41F.4(f).

18 ~~For purposes of this Chapter 41F, the following definitions shall apply:~~

19 ~~(c) (i) "Ancillary Hotel Area" shall mean any area within a Large Tourist Hotel not~~
20 ~~defined as a Large Tourist Hotel Room, including, but not limited to, restaurant, retail, and~~
21 ~~parking areas.~~

22 ~~(d) (e) "Condominium Project" shall mean (1 i) a Community Apartment as defined in~~
23 ~~Section 1308(b) of the Subdivision Code; (2 ii) a Condominium as defined in Section 1308(c)~~
24 ~~of the Subdivision Code; (3 iii) a Stock Cooperative as defined in Section 1308(f) of the~~
25 ~~Subdivision Code; or (4 iv) any other subdivided interest in land.~~

1 (e) ~~(d)~~ "Convert" shall mean: (1 ~~i~~) to change the type of ownership of any real property
2 to that defined as a Condominium Project and in which two or more units are newly created
3 wholly or in substantial part within the existing structure of a Large Tourist Hotel, regardless of
4 whether substantial improvements have been made to such structures; or (2 ~~ii~~) to change the
5 ownership structure of one or more guest rooms, one or more suites of rooms, or any portion
6 thereof within an existing Large Tourist Hotel in a manner that reduces the number of Large
7 Tourist Hotel Rooms available for rent to the general public.

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

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

14 ~~(f) "Family" shall mean one or more persons, related or unrelated, living together as a~~
15 ~~single integrated household in a dwelling unit.~~

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

18 (h) ~~(g)~~ "Large Tourist Hotel" shall mean any building ~~(or set of buildings, (which shall~~
19 ~~mean buildings on the same lot, adjacent lots, or within the same block and owned by the same owner~~
20 ~~entity)~~ in the City containing 100 or more guest rooms or suites of rooms intended or
21 designated to be used for commercial tourist use by providing accommodation to transient
22 guests on a nightly basis or longer, as contemplated by the definition in Section 216(b) 102 of
23 the Planning Code. The definition of Large Tourist Hotel shall include , for purposes of this
24 Chapter, a building (or set of buildings, which shall mean buildings on the same lot, adjacent lots, or
25 within the same block and owned by the same entity) which would have qualified as a Large Tourist

1 Hotel in any of the five years preceding the application for Conversion. *A building (or set of*
2 *buildings) shall not be considered a Large Tourist Hotel if the total number of rooms intended to be*
3 *operated separately for transient use is less than 100 rooms.* A building (or set of buildings) shall
4 not be considered a Large Tourist Hotel if the total number of rooms intended to be operated
5 separately for transient use is less than 100 rooms.

6 (i) ~~(h)~~ "Large Tourist Hotel Room" shall mean any guest room, suite of rooms, or any
7 portion thereof in a Large Tourist Hotel intended or designated to be used for commercial
8 tourist use by providing accommodation to transient guests on a nightly basis or longer, as
9 contemplated by the definition in Section 216(b) 102 of the Planning Code.

10 **SEC. 41F.4 3. CONVERSIONS RESTRICTED.**

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

21 (b) — Conversion prior to November 1, 2010. Notwithstanding the foregoing restriction, the
22 Planning Commission may approve use of Conversion credits for a total of up to 550 Large Tourist
23 Hotel Rooms to be Converted prior to November 1, 2010. The Planning Commission shall approve
24 applications for Conversions under this section on a first come first served basis. An applicant's place
25 in the Conversion queue for the 550 pre-lottery Conversion credits shall be based upon the date the

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

4 (b e) **Ancillary Hotel Areas.** A person may Convert all or any portion of an Ancillary
5 Hotel Area with a Conditional Use authorization and upon a showing to the Planning Commission
6 that the Conversion ~~shall~~ will not result in a reduction in the number of Large Tourist Hotel
7 Rooms in the subject hotel.

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

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

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

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

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

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

23 (4) ~~The Planning Department shall hold the lottery at a public hearing within 6~~
24 ~~weeks of the formal adoption of the Annual Inventory. Winning lottery tickets shall be chosen randomly,~~
25 ~~one at a time. If not enough credits remain in the pool to satisfy a winning ticket, then the applicant~~

1 shall receive the number of credits remaining in the pool and be eligible to receive the remainder as the
2 first applicant on the standby list. If a lottery would otherwise be required by the Chapter and the
3 number of available credits exceeds the total number of applicants' requests for Conversion credits in a
4 particular year, then the credits shall be granted and no lottery shall take place.

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

10 (e) — **Large Tourist Hotel Conversion Credits.**

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

17 (2) — Credits are building specific and non transferable, except that if the credit
18 holder does not make diligent and good faith efforts within nine months of issuance of the Conversion
19 credit(s), the credits may be revoked and reallocated to the queue, for pre-lottery credits, or the
20 standby list, for lottery credits. Credits shall expire if the applicant or standby list recipient fails to
21 diligently and in good faith pursue Conversion for any 18 consecutive months, as determined by the
22 Zoning Administrator after notice and a public hearing. The Board of Appeals shall hear and
23 determine appeals under this section.

24 (f) — **Conversion Process.**

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

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

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

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

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

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

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

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

21 (vi) ~~Information specifying any changes to the subject building or buildings'~~
22 ~~inventory of 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~~
24 ~~the calendar year preceding the year of application for Conversion;~~

1 (viii) ~~Applicants for the lottery must provide information demonstrating that~~
2 ~~the Conversion will not reduce the supply of Large Tourist Hotel Rooms to levels below the Baseline~~
3 ~~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 Rooms in the~~
6 ~~subject Large Tourist Hotel, including specifying any proposed changes to the subject buildings'~~
7 ~~inventory of rooms planned in the 5 years following the date of application for Conversion.~~

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

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

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

20 (c) Conversion Lottery. Beginning in 2019, the Planning Department shall hold an
21 annual lottery for Conversion credits for Large Tourist Hotel Rooms in accordance with the
22 following:

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

24 (i) The Annual Inventory is above 40,000 hotel rooms; and
25

1 (ii) The Annual Inventory shows a net increase of at least 100 Large
2 Tourist Hotel Rooms over the prior year's inventory, as calculated in Section 41F.4(f) below;
3 and

4 (iii) Conducting a lottery would not result in a reduction in the number
5 of Large Tourist Hotel Rooms below 40,000 Large Tourist Hotel Room inventory citywide.

6 (2) The number of Conversion credits available in each lottery shall equal the
7 net increase in Large Tourist Hotel Rooms during the previous year's inventory. Large Tourist
8 Hotel Rooms lost through authorized Conversions shall not be considered for purposes of
9 calculating the net increase in Large Tourist Hotel Rooms under this section, as described in
10 Section 41F.4(f), below.

11 (3) In order to participate in the conversion credit lottery, applicants must
12 submit a Section 41F.4(e)(3) application within 15 business days of the formal adoption of the
13 Annual Inventory update. The Planning Department shall issue one lottery ticket per Large
14 Tourist Hotel applicant. Only one application may be submitted per Large Tourist Hotel.

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

23 (5) If applicants collectively seek more Conversion credits than are available
24 in the lottery pool, then, after the last winning ticket is drawn, the Planning Department shall
25 draw a reasonable number of alternate tickets for inclusion in a standby list. If, nine months

1 after the lottery, the Planning Department revokes winning credits according to subsection
2 (d)(2), below, the credits shall be reallocated to the standby list, in the order drawn.

3 (d) Large Tourist Hotel Conversion Credits.

4 (1) Conversion is prohibited unless the applicant uses Conversion credits to
5 offset the loss of Large Tourist Hotel Rooms. An award of Conversion credits does not grant
6 the credit-holder a right to development or otherwise limit City discretion to deny or approve
7 with conditions a proposed Conversion project. A credit holder must still obtain all otherwise
8 applicable City permits and approvals, including but not limited to Planning Commission
9 approval of the Conversion pursuant to Section 41F.4(e).

10 (2) Credits are building-specific and non-transferable, except that if the credit
11 holder does not make diligent and good faith efforts within nine months of issuance of the
12 Conversion credit(s), the credits may be revoked and reallocated to the queue, for pre-lottery
13 credits, or the standby list, for lottery credits. Credits shall expire if the applicant or standby-list
14 recipient fails to diligently and in good faith pursue Conversion for any 18 consecutive months,
15 as determined by the Zoning Administrator after notice and a public hearing. The Board of
16 Appeals shall hear and determine appeals under this section.

17 (e) Conversion Process.

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

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

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

4 (i) The name and address of the building in which the conversions
5 are proposed:

6 (ii) The names and addresses of all owners and operators of said
7 building:

8 (iii) A description of the proposed Conversion including the nature of
9 the Conversion, the total number of Large Tourist Hotel Rooms prior to and following
10 Conversion, a description of the area and/or rooms to be Converted, including floor number
11 and location, and the estimated total number of Condominium Units to be created:

12 (iv) Preliminary drawings showing the existing floor plans and
13 proposed floor plans:

14 (v) A description of the improvements or changes proposed to be
15 constructed or installed and the tentative schedule for start of construction:

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

18 (vii) The average rental rates of the rooms to be converted, calculated
19 over the calendar year preceding the year of application for Conversion:

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

23 (ix) Applicants for Ancillary Hotel Area Conversion must provide
24 information demonstrating that the proposed Conversion will not result in loss of Large Tourist
25 Hotel Rooms in the subject Large Tourist Hotel, including specifying any proposed changes to

1 the subject buildings' inventory of rooms planned in the 5 years following the date of
2 application for Conversion.

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

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

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

17 ~~(g) — *Inventory Procedure.*~~

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

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

1 ~~(3) Calculating Losses from the Annual Inventory.~~

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

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

7 ~~(4) Calculating the number of Conversion credits available for the annual lottery.~~

8 ~~The number of Conversion credits available for each year's lottery shall equal the number of additions~~
9 ~~as calculated in subsection (2) above, less the number of rooms lost due to reasons other than~~
10 ~~authorized Conversions, as calculated in subsection (3) above.~~

11 (f) Inventory Procedure.

12 (1) Adoption of Inventory. The Planning Commission shall adopt a
13 Baseline Inventory and subsequent Annual Inventories of the number of Large Tourist Hotel
14 Rooms in the City no later than October 1 of each year. The Planning Department shall
15 provide the public with an opportunity for meaningful review and comment on Baseline and
16 Annual Inventories, including a public hearing held no later than October 15th of each year.

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

20 (3) Calculating Losses from the Annual Inventory.

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

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

1 (4) Calculating the number of Conversion credits available for the
2 annual lottery. No conversions can take place until the City's Baseline Inventory of Large
3 Tourist Hotel Rooms exceeds 40,000. Once the Baseline Inventory exceeds 40,000 rooms,
4 the number of Conversion credits available for each year's lottery shall equal the number of
5 additions as calculated in subsection (2) above, less the number of rooms lost due to reasons
6 other than authorized Conversions, as calculated in subsection (3) above.

7 **SEC. 41F.5 4. ENFORCEMENT.**

8 (a) The Department of Building Inspection, in consultation with the Departments of
9 Planning and Public Works, shall be responsible for enforcement of this Chapter *41F* as it may
10 relate to physical alterations to a Large Tourist Hotel and may take any appropriate action
11 within its powers to enforce this Chapter, including, but not limited to, denial of any building,
12 construction, or change of use permits. The Department of Public Works, in consultation with
13 the Departments of Building Inspection and Planning, shall be responsible for enforcement of
14 this Chapter as it may relate to actions involving a subdivision under the Subdivision Map Act,
15 California Government Code ~~s~~Sections 66410 et seq.

16 (b) **Civil Penalties.**

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

23 (2) Any person who violates this *Article Chapter 41F* may be liable for a civil
24 penalty, not to exceed \$1,200 ~~\$500.00~~ per room for each day such violation is committed or
25 permitted to continue, which penalty shall be assessed and recovered in a civil action brought

1 in the name of the people of the City by the City Attorney in any court of competent
2 jurisdiction. The City Attorney also may seek recovery of ~~the~~ attorney's fees and costs incurred
3 in bringing a civil action pursuant to this ~~Subsection~~ (b).

4 (c) **Criminal Penalties.**

5 (1) The Department of Building Inspection or the Department of Public Works
6 may recommend to the District Attorney initiation of a criminal action to enforce this Chapter
7 hereunder.

8 (2) Any person who violates this ~~Article~~ Chapter 41F shall be deemed guilty of
9 a misdemeanor. Every violation determined to be a misdemeanor is punishable by a fine of
10 not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six
11 months, or by both such fines or imprisonments.

12 ~~SEC. 41F.5. SUNSET PROVISION.~~

13 ~~This Chapter shall automatically expire by operation of law 120 months after its initial effective~~
14 ~~date unless the Board of Supervisors, on or before that date, extends or re-enacts it. The City Attorney~~
15 ~~shall cause the Chapter to be removed from future editions of the Code.~~

16 **SEC. 41F.6. SEVERABILITY.**

17 ~~In the event that a Court or agency of competent jurisdiction holds that a Federal or State law,~~
18 ~~rule or regulation invalidates any clause, sentence, paragraph or section of this ordinance or the~~
19 ~~application thereof to any person or circumstances, it is the intent of the Board of Supervisors that the~~
20 ~~court or agency sever such clause, sentence, paragraph or section so that the remainder of this~~
21 ~~ordinance shall remain in effect. If any section, subsection, sentence, clause, phrase, or word of this~~
22 ~~Chapter 41F, or any application thereof to any person or circumstance, is held to be invalid or~~
23 ~~unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the~~
24 ~~validity of the remaining portions or applications of this Chapter. The Board of Supervisors hereby~~
25 ~~declares that it would have passed this Chapter and each and every section, subsection, sentence,~~

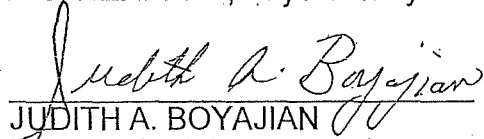
1 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other
2 portion of this Chapter or application thereof would be subsequently declared invalid or
3 unconstitutional.

4
5 Section 4. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

9
10 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
11 intends to enact those words, phrases, paragraphs, subsections, sections, articles, numbers,
12 punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that
13 are explicitly shown in this ordinance as additions and Board amendment additions, as
14 signified by the "Note" that appears under the official title of the ordinance, and also intends to
15 enact all words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation
16 marks, charts, diagrams, or any other parts of the Municipal Code that are not shown as
17 deletions or Board amendment deletions, as signified by the "Note" that appears under the
18 official title of the ordinance. Words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other parts of the Municipal Code that
20 are shown as deletions or Board amendment deletions are not being enacted.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:


24 JUDITH A. BOYAJIAN
Deputy City Attorney

25 n:\legana\as2018\1800709\01391409.docx

LEGISLATIVE DIGEST

(Revised 09/16/19)

[Administrative Code - Conversion of Large Tourist Hotels]

Ordinance amending the Administrative Code to re-enact and revise the Tourist Hotel Conversion Ordinance, which restricted the conversion of hotel rooms in large tourist hotels to condominiums, by deleting and delete the sunset provision and ~~deleting the sections allowing conversion credits and a lottery~~; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

The Tourist Hotel Conversion Ordinance, which restricted the conversion of hotel rooms in Large Tourist Hotels to condominiums, was enacted in 2008 as Chapter 41F of the Administrative Code pursuant to Ordinance No. 41-08. It. Chapter 41F automatically expired by operation of law 120 months after its initial effective date. By this ordinance, the Board will re-enact Chapter 41F and revise its provisions.

The version of Chapter 41F that was in effect prior to its automatic expiration in April 2018, restricted the conversion to condominiums of guest rooms or suites of rooms in Large Tourist Hotels, defined as hotels with 100 or more guest rooms or suites. Conversion of a limited number of hotel rooms was allowed through the use of "conversion credits" that offset loss of the rooms. The Planning Department held an annual lottery to issue the conversion credits; conversion credits expired if the applicant failed to pursue the conversion for 18 months. Conversion of an ancillary area, such as a restaurant, retail, and parking areas, was allowed if it did not result in a reduction of the number of hotel rooms. An application for conversion was approved by the Planning Commission and an appeal was heard by the Board of Appeals.

Proposed Amendments

The proposed amendments will delete the sunset provision and modify ~~delete~~ the sections allowing conversion credits and a lottery. Conversion of hotel rooms to condominiums in Large Tourist Hotels is prohibited below a baseline inventory of 40,000 Large Tourist Hotel Rooms. Conversion of an ancillary area is allowed with a Conditional Use authorization and a showing to the Planning Commission that the conversion would not result in a reduction in the number of hotel rooms in the subject hotel.

Background Information

As one of the country's premier travel destinations, San Francisco depends on visitors for its economic health and well-being. Since its passage in 2008, the Tourist Hotel Conversion Ordinance has stabilized San Francisco's hotel sector and preserved thousands of hospitality industry jobs in the City by restricting the conversion of rooms in large hotels to

FILE NO. 190683

condominiums. In addition, it has allowed the City to remain competitive with other large cities with respect to attracting conventions, which typically book blocks of rooms in large hotels. Because it has been a proven success over the past decade and a half, the City wants to continue the Tourist Hotel Conversion Ordinance and strengthen its provisions.

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BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

June 19, 2019

File No. 190683

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 11, 2019, Supervisor Peskin introduced the following legislation:

File No. 190683

Ordinance amending the Administrative Code to re-enact and revise the Tourist Hotel Conversion Ordinance, which restricted the conversion of hotel rooms in large tourist hotels to condominiums, by deleting the sunset provision and deleting the sections allowing conversion credits and a lottery; 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 black ink that reads "Victor Young".

By Victor Young, Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

joy navarrete

Digitally signed by joy navarrete
DN: dc=org, dc=sfgov, dc=chpplaning,
ou=CityPlaning, ou=Environmental Planning,
cn=joy.navarrete, email=joy.navarrete@sf.gov
Date: 2019.09.04 12:48:51 -0700

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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TDD/TTY No. 554-5227

MEMORANDUM

TO: Sophia Kittler, Mayor's Office
John Rahaim, Director, Planning Department

FROM: Victor Young, Assistant Clerk *Victor Young*
Rules Committee

DATE: June 19, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation on June 11, 2019:

File No. 190683

Ordinance amending the Administrative Code to re-enact and revise the Tourist Hotel Conversion Ordinance, which restricted the conversion of hotel rooms in large tourist hotels to condominiums, by deleting the sunset provision and deleting the sections allowing conversion credits and a lottery; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

c: Andres Power, Mayor's Office
Rebecca Peacock, Mayor's Office
Eddie McCaffrey, Mayor's Office
Scott Sanchez, Planning Department
Corey Teague, Planning Department
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
AnMarie Rodgers, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department

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By Victor Young, Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 JUN 11 PM 4:36
Time stamp
or meeting date

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

BY _____

- 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

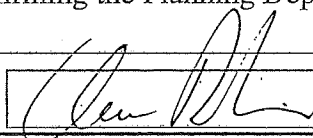
Subject:

[Administrative Code - Conversion of Large Tourist Hotels]

The text is listed:

Ordinance amending the Administrative Code to re-enact and revise the Tourist Hotel Conversion Ordinance, which restricted the conversion of hotel rooms in large tourist hotels to condominiums, by deleting the sunset provision and deleting the sections allowing conversion credits and a lottery; and affirming the Planning Department's determination under the California Environmental Quality Act.

Signature of Sponsoring Supervisor:



For Clerk's Use Only

Pages 747 –764

Intentionally

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