

BOARD of SUPERVISORS



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June 4, 2020

File No. 190946-2

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

Dear Ms. Gibson:

On May 19, 2020, Supervisor Peskin submitted the following substitute legislation:

File No. 190946-2

Ordinance amending the Administrative Code to add a definition of Tourist or Transient Use under the Residential Hotel Unit Conversion Ordinance; to set the term of tenancy for such use at less than seven days, through December 31, 2021, and, starting on January 1, 2022, at no 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 32 to 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 Ordinance; to set the term of tenancy**
5 **for such use at less than seven days, through December 31, 2021, and, starting on**
6 **January 1, 2022, at no less than 30 days; to provide an amortization period applicable**
7 **to hotels currently regulated under the Ordinance; to provide a process by which the**
8 **owners or operators of regulated hotels can request that the amortization period be**
9 **longer, on a case-by-case basis; to amend the definition of Permanent Resident, from a**
10 **person who occupies a room for 32 to 30 days; and affirming the Planning**
11 **Department’s determination under the California Environmental 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.

21 The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
25 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. Any use of a guest room for less than a 7-day term of tenancy by a
20 party other than a Permanent Resident, through December 31, 2021. Starting January 1, 2022, Tourist
21 or Transient Use shall mean any use of a guest room for less than a 30-day term of tenancy by a party
22 other than a Permanent Resident, unless a hotel owner or operator demonstrates, in accordance with
23 the process described in Section 41.23, that a longer time is necessary to recover reasonable
24 investments in the owner or operator's hotel.

25 * * * *

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

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

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

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

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

10 * * * *

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” shall mean “any use of a guest room for less than a 7-day term of
15 tenancy by a party other than a Permanent Resident” beyond December 31, 2021, through the process
16 described in subsections (b) and (c).

17 (b) The owner or operator may initiate an extension by submitting a request to the Building
18 Inspection Commission (“Commission”), on or before December 31, 2020. Commission staff shall
19 amply publicize this deadline, to give notice to interested hotel owners of the provisions of this
20 subsection.

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

24 (1) The total cost of the hotel owner or operator’s investments to the hotel;

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

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

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

4
5 **SEC. 41.234. CONSTRUCTION.**

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

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

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LEGISLATIVE DIGEST

(Substituted, 5/19/20)

[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 Ordinance; to set the term of tenancy for such use at less than seven days, through December 31, 2021, and, starting on January 1, 2022, at no 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 32 to 30 days; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Chapter 41 of the Administrative Code, also known as the Residential Hotel Unit Conversion and Demolition Ordinance, regulates the conversion and demolition of residential hotel units, in order to minimize adverse impact on the housing supply and on displaced low income, elderly, and disabled persons resulting from the loss of such units.

Amendments to Current Law

This ordinance would amend Chapter 41 to add a definition of “Tourist or Transient Use,” defined as:

- Any use of a guest room for less than a 7-day term of tenancy by a party other than a Permanent Resident, through December 31, 2021.
- After that date, starting January 1, 2022, any use of a guest room for less than a 30-day term of tenancy by a party other than a Permanent Resident.

A Permanent Resident, in turn, is a term defined in Chapter 41 as “A person who occupies a guest room for at least 32 consecutive days.” The ordinance would change this definition to 30 days, to be consistent with the definition above.

The ordinance would thus create an amortization period, to allow residential hotel owners or operators to recover reasonable investments in their hotels. The ordinance would also create a process by which owners or operators of such hotels can request a longer amortization period, by requesting an extension from the Building Inspection Commission.

FILE NO. 190946

Background Information

This ordinance was introduced on May 19, 2020, as substitute legislation to the ordinance Board of Supervisors File No. 190946, which was introduced in September 2019.

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