

REVISED LEGISLATIVE DIGEST

(Amended in Board, 6/7/2016)

[Administrative Code - Short-Term Residential Rentals]

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to: require Hosting Platforms verify that a Residential Unit is on the City Registry prior to listing; require Hosting Platforms respond to notices and requests for information; and provide for civil, administrative, and criminal penalties against Hosting Platforms for violations of the Residential Unit Conversion Ordinance; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Chapter 41A currently includes two requirements for Hosting Platforms: (1) that the platforms provide notice to users of short term rental laws in San Francisco; and (2) that platforms comply with the requirements of the Business and Tax Code. Only violations of the notice requirement subject Hosting Platforms to administrative, civil, and criminal penalty provisions of Chapter 41A. Chapter 41A contains no provisions regarding monitoring of Hosting Platforms by the Office of Short Term Rentals (“Office”) or requiring responses by Hosting Platforms to requests for information from the Office.

Amendments to Current Law

This Ordinance would amend Chapter 41A to clarify the definition of Hosting Platforms and require that Hosting Platforms verify each unit has a valid registration prior to providing booking services for a unit. Hosting Platforms will have two options for complying with this requirement: (1) provide the verified registration number in the listing within the area of the web page/listing that currently contains information verified or compiled by the Hosting Platforms (such as host response rate, rating, and membership status); or (2) provide the verified registration number and unit information to the Office prior to posting the listing on the platform.

This Ordinance also amends Chapter 41A to mandate that Hosting Platforms respond within one business day to demands from the Office for information regarding the compliance of any listing. This Ordinance clarifies that civil, administrative, and criminal penalty provisions of Chapter 41A to apply to violations by a Hosting Platform of any of the four Hosting Platform requirements—(1) failure to provide notice to hosts of Chapter 41A rules, (2) failure to collect or pay taxes, (3) failure to verify and display or disclose registration numbers and compliance information, and (4) failure to respond to demands for information—that Hosting Platforms are mandated to perform.

This Ordinance also requires that the Office perform regular monitoring of Hosting Platforms to identify non-compliant or potentially non-compliant listings and provide quarterly reports on the results of the monitoring efforts—including number of units identified, notices sent out, responses received, and penalties imposed—to the Board of Supervisors. Further, this Ordinance requires that the Office shall make recommendations to the Board of Supervisors on ways to simplify and expedite the registration process.

Background Information

Chapter 41A of the Administrative Code prohibits short term rentals (rentals of less than 30 days) of residential units within the City. In February of 2015, the City amended Chapter 41A to allow short term rentals if the permanent resident registers the unit with the City and agrees to adhere to various rules and restrictions, including a 90 day cap on unhosted rentals and payment of Transit Occupancy Taxes.

Enforcement of Chapter 41A is difficult because Hosting Platforms generally do not post addresses, contact information, or registration numbers for listings. The Office lacks a direct method for determining if a listing has a valid registration number, or if a complaint's allegations of short term rental violations at a specific address correspond to listings on a platform. Hosting Platforms have not been responsive to voluntary requests from the Office for information about the status of potentially non-compliant listings. Chapter 41A does not mandate that the Hosting Platforms verify compliance with the registration requirements.

This Ordinance would expand Hosting Platforms' responsibilities to include verifying that listings have valid registration numbers and responding to demands from the Office for information regarding a listing's compliance with Chapter 41A. This Ordinance also provides that violations of any of these four responsibilities—notice to users, compliance with taxes, verifying registration, and responding to demands for information—would be subject to the administrative and civil penalties of Chapter 41A.

This digest reflects amendments to this Ordinance made by the Government Audit and Oversight Committee on June 2nd, 2016 and by the Board of Supervisors on June 7, 2016.