

1 [Administrative, Planning Codes - Suspension of Ordinance No. 218-14 - Regulation of Short-
2 Term Residential Rentals]

3 **Ordinance amending the Administrative and Planning Codes to suspend Ordinance No.**
4 **218-14, which provided an exception for permanent residents to the prohibition on**
5 **short-term residential rentals under certain conditions, created procedures, including a**
6 **registry administered by the Planning Department, for tracking short-term residential**
7 **rentals and compliance, established an application fee for the registry, and clarified**
8 **that short-term residential rentals shall not change a unit's type as residential, but**
9 **provide that Ordinance No. 218-14 will become operative again 30 days after the**
10 **Treasurer/Tax Collector certifies that all short-term residential rental hosting platforms**
11 **have remitted all Transient Occupancy Taxes that are due and payable; affirming the**
12 **Planning Department's determination under the California Environmental Quality Act;**
13 **and making findings of consistency with the General Plan, and the eight priority**
14 **policies of Planning Code, Section 101.1.**

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

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

23 Section 1. Environmental, General Plan, and Planning Code Findings.

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance comply with the California Environmental Quality Act (California Public Resources
Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
2 determination.

3 (b) On _____, the Planning Commission, in Resolution No. _____,
4 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
5 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
6 Board adopts these findings as its own. A copy of said resolution is on file with the Clerk of
7 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code Section 302, the Board finds that this Ordinance will
9 serve the public necessity, convenience and welfare for the reasons set forth in Planning
10 Commission Resolution No. _____, which reasons are incorporated herein by reference
11 as though fully set forth.

12

13 Section 2. Suspension of Ordinance No. 218-14.

14 (a) Background. On October 21, 2014, the Board of Supervisors adopted Ordinance
15 No. 218-14, Board File No. 140381. That ordinance provided an exception for permanent
16 residents to the prohibition on short-term residential rentals, under certain conditions; created
17 procedures, including a registry administered by the Planning Department, for tracking short-
18 term residential rentals and compliance; established an application fee for the registry; and
19 clarified that short-term residential rentals do not change a unit's type as residential for zoning
20 purposes. The Mayor signed Ordinance No. 218-14 on October 27, 2014, and it became
21 effective 30 days thereafter. By its terms, Ordinance No. 218-14 is operative and enforceable
22 starting on February 1, 2015.

23 (b) Suspension of Ordinance No. 218-14. This ordinance suspends the operation of
24 Ordinance No. 218-14 in its entirety.

25

1 (c) Lifting of Suspension of Ordinance No. 218-14; Expiration of This Ordinance. If at
2 any time subsequent to the enactment of this ordinance, the Treasurer/Tax Collector certifies
3 to the Clerk of the Board of Supervisors that all Hosting Platforms that are responsible for
4 collecting Transient Occupancy Tax pursuant to Tax Collector Regulation 2012-1 have
5 remitted all Transient Occupancy Taxes that are due and payable under the Business and
6 Tax Regulations Code and Regulation 2012-1, this ordinance shall expire by operation of law
7 and Ordinance No. 218-14 shall become operative again, 30 days after the Treasurer/Tax
8 Collector makes that certification.

9 (d) Hosting Platform Defined. For purposes of this Section 2, a “Hosting Platform”
10 shall mean a person or entity that provides a means through which an owner may offer a
11 residential unit for tourist or transient use. This service is usually, though not necessarily,
12 provided through an online platform and generally allows an owner to advertise the residential
13 unit through a website provided by the hosting platform and provides a means for potential
14 tourist or transient users to arrange tourist or transient use and payment, whether the tourist
15 or transient pays rent directly to the owner or to the hosting platform.

16 (e) Codification. During the period of suspension of Ordinance No. 218-14, Sections 3
17 and 4 of this ordinance shall be codified in the Municipal Code, in accordance with the
18 instructions accompanying those sections. The City Attorney’s Office shall direct the
19 publisher of the Municipal Code to insert an explanatory note or notes as appropriate
20 regarding the suspension of Ordinance No. 218-14. Upon the expiration of this ordinance and
21 the lifting of the suspension of Ordinance No. 218-14, the City Attorney’s Office shall cause
22 the provisions of Ordinance No. 218-14 affecting the Municipal Code to again be codified in
23 the Municipal Code.

24 (f) Intended Scope of Ordinance. In enacting Sections 3 and 4 of this Ordinance, the
25 Board of Supervisors intends only to amend those words, phrases, paragraphs, subsections,

1 sections, articles, numbers, punctuation marks, or any other constituent parts of the Municipal
2 Code necessary to suspend Ordinance No. 218-14 and to return the amended sections and
3 subsections to their content immediately prior to the enactment of Ordinance No. 218-14.

4
5 Section 3. The Administrative Code is hereby amended by suspending the operation
6 of Ordinance No. 218-14 in accordance with Section 2 of this ordinance, so that, during the
7 period of suspension, Sections 37.9, 41A.4, 41A.5, and 41A.6, shall read as follows:

8 **SEC. 37.9. EVICTIONS.** Notwithstanding Section 37.3, this Section shall apply as of
9 August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

10 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

11 * * * *

12 (4) The tenant is using or permitting a rental unit to be used for any
13 illegal purpose, ~~provided however that a landlord shall not endeavor to recover possession of a rental~~
14 ~~unit solely as a result of a first violation of Chapter 41A that has been cured within 30 days written~~
15 ~~notice to the tenant;~~ or

16 * * * *

17
18 **SEC. 41A.4. DEFINITIONS.**

19 ~~Whenever used in this Chapter 41A, the following words and phrases shall have the definitions~~
20 ~~provided in this Section:~~

21 ~~—— **Business Entity.** A corporation, partnership, or other legal entity that is not a natural~~
22 ~~person that owns or leases one or more residential units.~~

23 ~~—— **Complaint.** A complaint submitted to the Department alleging a violation of this~~
24 ~~Chapter 41A and that includes the Residential Unit's address, including unit number, date(s) and~~

1 ~~nature of alleged violation(s), and any available contact information for the Owner and/or resident of~~
2 ~~the Residential Unit at issue.~~

3 ~~—— **Conversion or Convert.** A change of use from Residential Use to Tourist or Transient~~
4 ~~Use, including, but not limited to, renting a residential Unit as a Tourist or Transient Use.~~

5 ~~—— **Department.** The Planning Department.~~

6 ~~—— **Director.** The Director of the Planning Department.~~

7 ~~—— **Hosting Platform.** A person or entity that provides a means through which an Owner~~
8 ~~may offer a Residential Unit for Tourist or Transient Use. This service is usually, though not~~
9 ~~necessarily, provided through an online platform and generally allows an Owner to advertise the~~
10 ~~Residential Unit through a website provided by the Hosting Platform and provides a means for~~
11 ~~potential tourist or transient users to arrange Tourist or Transient Use and payment, whether the~~
12 ~~tourist or transient pays rent directly to the Owner or to the Hosting Platform.~~

13 ~~—— **Interested Party.** A Permanent Resident of the building in which the Tourist or~~
14 ~~Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in~~
15 ~~which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the~~
16 ~~Tourist or Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit~~
17 ~~organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which~~
18 ~~has the preservation or improvement of housing as a stated purpose in its articles of incorporation or~~
19 ~~bylaws.~~

20 ~~—— **Owner.** Owner includes any person who is the owner of record of the real property. As~~
21 ~~used in this Chapter 41A, the term “Owner” includes a lessee where the lessee is offering a Residential~~
22 ~~Unit for Tourist or Transient use.~~

23 ~~—— **Permanent Resident.** A person who occupies a Residential Unit for at least 60~~
24 ~~consecutive days with intent to establish that unit as his or her primary residence. A Permanent~~
25 ~~Resident may be an owner or a lessee.~~

1 ~~—— **Primary Residence.** The Permanent Resident's usual place of return for housing as~~
2 ~~documented by at least two of the following: motor vehicle registration; driver's license; voter~~
3 ~~registration; tax documents showing the Residential Unit as the Permanent Resident's residence for the~~
4 ~~purposes of a home owner's tax exemption; or a utility bill. A person may have only one Primary~~
5 ~~Residence.~~

6 (a) Residential Unit. Room or rooms, including a condominium or a room or
7 dwelling unit that forms part of a tenancy-in-common arrangement, in any building, or portion
8 thereof, which is designed, built, rented, leased, let or hired out to be occupied ~~for Residential~~
9 ~~Use, or which is occupied as the home or residence of four or more households living independently of~~
10 ~~each other in dwelling units~~ as defined in the San Francisco Housing Code, provided that the
11 residential unit was occupied by a permanent resident on or after February 8, 1981. It is presumed that
12 a residential unit was occupied by a permanent resident on or after February 8, 1981, and the owner
13 has the burden of proof to show that a residential unit is not subject to this Chapter.

14 (b) Residential Use. Any use for occupancy of a dwelling Residential Unit by a
15 ~~p~~Permanent ~~r~~Resident.

16 ~~—— **Short-Term Residential Rental.** A Tourist or Transient Use where all of the following~~
17 ~~conditions are met:~~

18 ~~—— (a) —— the Residential Unit is offered for Tourist or Transient Use by the Permanent~~
19 ~~Resident of the Residential Unit;~~

20 ~~—— (b) —— the Permanent Resident is a natural person;~~

21 ~~—— (c) —— the Permanent Resident has registered the Residential Unit and maintains good~~
22 ~~standing on the Department's Short-Term Residential Rental Registry; and~~

23 ~~—— (d) —— the Residential Unit: is not subject to the Inclusionary Affordable Housing~~
24 ~~Program set forth in Planning Code Section 415 et seq.; is not a residential hotel unit subject to the~~
25 ~~provisions of Chapter 41, unless such unit has been issued a Permit to Convert under Section 41.12; is~~

1 ~~not otherwise a designated as a below market rate or income restricted Residential Unit under City,~~
2 ~~state, or federal law; and no other requirement of federal or state law, this Municipal Code, or any~~
3 ~~other applicable law or regulation prohibits the permanent resident from subleasing, renting, or~~
4 ~~otherwise allowing Short Term Residential Rental of the Residential Unit.~~

5 ~~———— **Short Term Residential Rental Registry or Registry.** A database of information~~
6 ~~maintained by the Department that includes information regarding Permanent Residents who are~~
7 ~~permitted to offer Residential Units for Short Term Residential Rental. Only one Permanent Resident~~
8 ~~per Residential Unit may be included on the Registry at any given time. The Registry shall be available~~
9 ~~for public review to the extent required by law, except that, to the extent permitted by law, the~~
10 ~~Department shall redact any Permanent Resident names from the records available for public review.~~

11 ~~(c) **Tourist or Transient Use.** Any uUse of a rResidential uUnit for occupancy for~~
12 ~~less than a 30-day term of tenancy, or occupancy for less than 30 days of a rResidential uUnit~~
13 ~~leased or owned by a bBusiness eEntity, whether on a short-term or long-term basis,~~
14 ~~including any occupancy by employees or guests ~~of a Business Entity~~ for less than 30 days~~
15 ~~where payment for the rResidential uUnit is contracted for or paid by the bBusiness eEntity.~~

16 ~~(d) **Permanent Resident.** A person who occupies a residential unit for at least 60~~
17 ~~consecutive days with intent to establish that unit as his or her principal place of residence.~~

18 ~~(e) **Conversion or Convert.** The change of the use or to rent a residential unit from~~
19 ~~residential use to tourist or transient use.~~

20 ~~(f) **Owner.** Owner includes any person who is the owner of record of the real property.~~
21 ~~Owner includes a lessee where an interested party alleges that a lessee is offering a residential unit for~~
22 ~~tourist or transient use.~~

23 ~~(g) **Interested Party.** A permanent resident of the building in which the tourist or transient~~
24 ~~use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt~~

1 from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation
2 or improvement of housing as a stated purpose in its articles of incorporation or bylaws.

3 (h) **Director.** The Director of the Department of Building Inspection.

4 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

5 (a) **Unlawful Actions.** ~~Except as set forth in subsection 41A.5(g), i~~It shall be unlawful
6 for

7 (1) any ~~Owner~~ to offer a ~~Residential Unit~~ for rent for ~~Tourist~~ or ~~Transient~~
8 ~~Use;~~

9 (2) any ~~Owner~~ to offer a ~~Residential Unit~~ for rent to a ~~Business Entity~~
10 that will allow the use of a ~~Residential Unit~~ for ~~Tourist~~ or ~~Transient Use;~~ or

11 (3) any ~~Business Entity~~ to allow the use of a ~~Residential Unit~~ for ~~Tourist~~
12 or ~~Transient Use~~.

13 (b) **Records Required.** The ~~Owner~~ and ~~Business Entity~~, ~~if any,~~ shall retain and
14 make available to the Department ~~or Building Inspection occupancy~~ records to demonstrate
15 compliance with this Chapter ~~41A upon written request as provided herein. Any Permanent Resident~~
16 ~~offering his or her Primary Residence as a Short-Term Residential Rental shall retain and make~~
17 ~~available to the Department records to demonstrate compliance with this Chapter 41A, including but~~
18 ~~not limited to records demonstrating Primary Residency, the number of days per calendar year he or~~
19 ~~she has occupied the Residential Unit, and the number of days per calendar year, with dates and the~~
20 ~~duration of each stay, the Residential Unit has been rented for Short-Term Residential Rental Use.~~

21 (c) **Determination of Violation.** Upon the filing of a ~~written~~ ~~Complaint~~ that an
22 ~~Owner or Business Entity has engaged in an alleged~~ unlawful ~~Conversion~~ ~~has occurred~~ ~~or that a~~
23 ~~Hosting Platform is not complying with the requirements of subsection (g)(4)(A),~~ the Director shall
24 take reasonable steps necessary to determine the validity of the ~~Complaint~~. The Director may
25 independently determine whether an ~~Owner~~ or ~~Business Entity~~ may be renting a

1 ~~R~~esidential ~~U~~nit for ~~T~~ourist or ~~T~~ransient ~~U~~se as defined in violation of this Chapter 41A or
2 ~~whether a Hosting Platform has failed to comply with the requirements of subsection (g)(4)(A).~~ To
3 determine if there is a violation of this Chapter 41A, the Director may initiate an investigation of
4 the subject property ~~or Hosting Platform's allegedly unlawful activities.~~ This investigation may
5 include, but is not limited to, an inspection of the subject property and/or a request for any
6 pertinent information from the ~~O~~wner, ~~B~~usiness Entity, or ~~H~~osting Platform, such as leases,
7 ~~business records,~~ or other documents. The Director shall have discretion to determine whether
8 there is a potential violation of this Chapter 41A and whether to conduct an administrative
9 review hearing as set forth below. ~~Notwithstanding any other provision of this Chapter 41A, any~~
10 ~~alleged violation related to failure to comply with the requirements of the Business and Tax~~
11 ~~Regulations Code shall be enforced by the Treasurer/Tax Collector under the provisions of that Code.~~

12 (d) **Civil Action.** Following the filing of a ~~C~~omplaint and the determination of a
13 violation by the Director through an administrative review hearing as set forth in this Chapter
14 41A, ~~the City may institute civil proceedings for injunctive and monetary relief against a Hosting~~
15 ~~Platform for violation of subsection (g)(4)(A) or the City or any other i~~nterested ~~p~~arty may
16 institute ~~civil~~ proceedings for injunctive and monetary relief ~~against an Owner or Business Entity.~~
17 In addition, ~~the an O~~wner ~~or B~~usiness ~~E~~ntity in violation of this Chapter or a ~~H~~osting Platform
18 ~~in violation of subsection (g)(4)(A)~~ may be liable for civil penalties of not more than \$1,000 per
19 day for the period of the unlawful rental activity. If the City or the ~~i~~nterested ~~p~~arty is the
20 prevailing party, the City or the ~~i~~nterested ~~p~~arty shall be entitled to the costs of enforcing this
21 Chapter 41A, including reasonable attorneys' fees, up to the amount of the monetary award,
22 pursuant to an order of the Court. Any monetary award obtained by the City and County of
23 San Francisco in such a civil action shall be deposited in the Mayor's Office of Housing, Housing
24 Affordability Fund less the reasonable costs incurred by the City and County of San Francisco in
25 pursuing the civil action ~~Department to be used for enforcement of Chapter 41A. The Department,~~

1 ~~through the use of these funds, shall reimburse City departments and agencies, including the City~~
2 ~~Attorney's Office, for all costs and fees incurred in the enforcement of this Chapter 41A.~~

3 (e) **Criminal Penalties.** Any ~~O~~owner or ~~B~~business ~~E~~ntity who rents a ~~R~~esidential
4 ~~U~~nit for ~~T~~ourist or ~~T~~ransient ~~U~~se as defined in ~~violation of this Chapter 41A without correcting~~
5 ~~or remedying the violation as provided for in subsection 41A.6(b)(7)~~ shall be guilty of a
6 misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a
7 fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more
8 than six months, or by both. Each ~~R~~esidential ~~U~~nit rented for ~~T~~ourist or ~~T~~ransient ~~U~~se
9 shall constitute a separate offense.

10 (f) **Method of Enforcement, Director.** The Director shall have the authority to
11 enforce this Chapter against violations thereof by any or all of the means provided for in this
12 Chapter 41A.

13 ~~(g) — Exception for Short-Term Residential Rental.~~

14 ~~—— (1) — Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent~~
15 ~~Resident may offer his or her Primary Residence as a Short-Term Residential Rental if:~~

16 ~~—— (A) — The Permanent Resident occupies the Residential Unit for no less than~~
17 ~~275 days out of the calendar year in which the Residential Unit is rented as a Short-Term Residential~~
18 ~~Rental or, if the Permanent Resident has not rented or owned the Residential Unit for the full preceding~~
19 ~~calendar year, for no less than 75% of the days he or she has owned or rented the Residential Unit;~~

20 ~~—— (B) — The Permanent Resident maintains records for two years demonstrating~~
21 ~~compliance with this Chapter, including but not limited to information demonstrating Primary~~
22 ~~Residency, the number of days per calendar year he or she has occupied the Residential Unit, the~~
23 ~~number of days per calendar year the Residential Unit has been rented as a Short-Term Residential~~
24 ~~Rental, and compliance with the insurance requirement in Subsection (D). These records shall be made~~
25 ~~available to the Department upon request;~~

1 ~~————— (C) — The Permanent Resident complies with any and all applicable provisions~~
2 ~~of state and federal law and the San Francisco Municipal Code, including but not limited to the~~
3 ~~requirements of the Business and Tax Regulations Code by, among any other applicable requirements,~~
4 ~~collecting and remitting all required transient occupancy taxes, and the occupancy requirements of the~~
5 ~~Housing Code;~~

6 ~~————— (D) — The Permanent Resident maintains liability insurance appropriate to~~
7 ~~cover the Short-Term Residential Rental Use in the aggregate of not less than \$500,000 or conducts~~
8 ~~each Short-Term Residential Rental transaction through a Hosting Platform that provides equal or~~
9 ~~greater coverage. Such coverage shall defend and indemnify the Owner(s), as named additional~~
10 ~~insured, and any tenant(s) in the building for their bodily injury and property damage arising from the~~
11 ~~Short-Term Residential Use;~~

12 ~~————— (E) — The Residential Unit is registered on the Short-Term Residential Rental~~
13 ~~Registry;~~

14 ~~————— (F) — The Permanent Resident includes the Department issued registration~~
15 ~~number on any Hosting Platform listing or other listing offering the Residential Unit for use as a Short-~~
16 ~~Term Residential Rental;~~

17 ~~————— (G) — For units subject to the rent control provisions of Section 37.3, the~~
18 ~~Permanent Resident complies with the initial rent limitation for subtenants and charges no more rent~~
19 ~~than the rent the Permanent Resident is paying to any landlord per month; and~~

20 ~~————— (H) — The Permanent Resident can demonstrate to the satisfaction of the~~
21 ~~Department that the Residential Unit and the property on which it is located is not subject to any~~
22 ~~outstanding Building, Electrical, Plumbing, Mechanical, Fire, Health, Housing, Police, or Planning~~
23 ~~Code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and~~
24 ~~desist orders, or correction notices. The Department shall not include a property that is subject to any~~
25 ~~such outstanding violations in the Registry. If such a violation occurs once a Residential Unit has been~~

1 *included in the Registry, the Department shall suspend the Residential Unit's registration and*
2 *registration number until the violation has been cured.*

3 ~~————— (2) ——— Additional Requirements.~~

4 ~~————— (A) ——— Offering a Residential Unit for Short-Term Residential Rental, including~~
5 ~~but not limited to advertising the Residential Unit's availability, while not maintaining good standing~~
6 ~~on the Registry shall constitute an unlawful conversion in violation of this Chapter 41A and shall~~
7 ~~subject the person or entity offering the unit in such a manner to the administrative penalties and~~
8 ~~enforcement procedures, including civil penalties, of this Chapter.~~

9 ~~————— (B) ——— Only one Permanent Resident may be associated with a Residential Unit~~
10 ~~on the Registry, and it shall be unlawful for any other person, even if that person meets the~~
11 ~~qualifications of a "Permanent Resident", to offer a Residential Unit for Short-Term Residential~~
12 ~~Rental.~~

13 ~~————— (C) ——— A Permanent Resident offering a Residential Unit for Short-Term~~
14 ~~Residential Rental shall maintain a valid business registration certificate.~~

15 ~~————— (D) ——— A Permanent Resident offering a Residential Unit for Short-Term~~
16 ~~Residential Rental shall post a clearly printed sign inside his or her Residential Unit on the inside of~~
17 ~~the front door that provides information regarding the location of all fire extinguishers in the unit and~~
18 ~~building, gas shut off valves, fire exits, and pull fire alarms.~~

19 ~~————— (3) ——— Short-Term Residential Rental Registry Applications, Fee, and Reporting~~
20 ~~Requirement.~~

21 ~~————— (A) ——— Application. Registration shall be for a two-year term, which may be~~
22 ~~renewed by the Permanent Resident by filing a completed renewal application. Initial and renewal~~
23 ~~applications shall be in a form prescribed by the Department. The Department shall determine, in its~~
24 ~~sole discretion, the completeness of an application. Upon receipt of a complete initial application, the~~
25 ~~Department shall send mailed notice to the owner of record of the Residential Unit, informing the~~

1 owner that an application to the Registry for the unit has been received. If the Residential Unit is in a
2 RH-1(D) zoning district, the Department shall also send mailed notice to any directly associated
3 homeowner association that has previously requested such notice.

4 Both the initial application and any renewal application shall contain information sufficient to
5 show that the Residential Unit is the Primary Residence of the applicant, that the applicant is the unit's
6 Permanent Resident, and that the applicant has the required insurance coverage and business
7 registration certificate. In addition to the information set forth here, the Department may require any
8 other additional information necessary to show the Permanent Resident's compliance with this Chapter
9 41A. Primary Residency shall be established by showing the Residential Unit is listed as the applicant's
10 residence on at least two of the following: motor vehicle registration; driver's license; voter
11 registration; tax documents showing the Residential Unit as the Permanent Resident's Primary
12 Residence for home owner's tax exemption purposes; or utility bill. A renewal application shall contain
13 sufficient information to show that the applicant is the Permanent Resident and has occupied the unit
14 for at least 275 days of each of the two preceding calendar years. Upon the Department's
15 determination that an application is complete, the unit shall be entered into the Short-Term Residential
16 Rental Registry and assigned an individual registration number.

17 ~~————— (B) — Fee. The fee for the initial application and for each renewal shall be~~
18 ~~\$50, payable to the Director. The application fee shall be due at the time of application. Beginning with~~
19 ~~fiscal year 2014-2015, fees set forth in this Section may be adjusted each year, without further action~~
20 ~~by the Board of Supervisors, as set forth in this Section. Within six months of the operative date of this~~
21 ~~ordinance and after holding a duly noticed informational hearing at the Planning Commission, the~~
22 ~~Director shall report to the Controller the revenues generated by the fees for the prior fiscal year and~~
23 ~~the prior fiscal year's costs of establishing and maintaining the registry and enforcing the requirements~~
24 ~~of this Chapter 41A, as well as any other information that the Controller determines appropriate to the~~
25 ~~performance of the duties set forth in this Chapter. After the hearing by the Planning Commission, but~~

1 ~~not later than August 1, 2015, the Controller shall determine whether the current fees have produced or~~
2 ~~are projected to produce revenues sufficient to support the costs of establishing and maintaining the~~
3 ~~registry, enforcing the requirements of this Chapter 41A and any other services set forth in this Chapter~~
4 ~~and that the fees will not produce revenue that is significantly more than the costs of providing such~~
5 ~~services. The Controller shall, if necessary, adjust the fees upward or downward for the upcoming~~
6 ~~fiscal year as appropriate to ensure that the program recovers the costs of operation without producing~~
7 ~~revenue that is significantly more than such costs. The adjusted rates shall become operative on July 1.~~

8 ~~————— (C) — Reporting Requirement. To maintain good standing on the Registry, the~~
9 ~~Permanent Resident shall submit a report to the Department on January 1 of each year regarding the~~
10 ~~number of days the Residential Unit or any portion thereof has been rented as a Short Term Residential~~
11 ~~Rental since either initial registration or the last report, whichever is more recent, and any additional~~
12 ~~information the Department may require to demonstrate compliance with this Chapter 41A. ———~~

13 ~~————— (4) — Requirements for Hosting Platforms.~~

14 ~~————— (A) — Notice to Users of Hosting Platform. All Hosting Platforms shall provide~~
15 ~~the following information in a notice to any user listing a Residential Unit located within the City and~~
16 ~~County of San Francisco through the Hosting Platform's service. The notice shall be provided prior to~~
17 ~~the user listing the Residential Unit and shall include the following information: that Administrative~~
18 ~~Code Chapters 37 and 41A regulate Short Term Rental of Residential Units; the requirements for~~
19 ~~Permanent Residency and registration of the unit with the Department; and the transient occupancy tax~~
20 ~~obligations to the City.~~

21 ~~————— (B) — A Hosting Platform shall comply with the requirements of the Business~~
22 ~~and Tax Regulations Code by, among any other applicable requirements, collecting and remitting all~~
23 ~~required Transient Occupancy Taxes, and this provision shall not relieve a Hosting Platform of liability~~
24 ~~related to an occupant's, resident's, Business Entity's, or Owner's failure to comply with the~~
25 ~~requirements of the Business and Tax Regulations Code. A Hosting Platform shall maintain a record~~

1 ~~demonstrating that the taxes have been remitted to the Tax Collector and shall make this record~~
2 ~~available to the Tax Collector upon request.~~

3 ~~————— (C) — Any violation of a Hosting Platform’s responsibilities under subsection~~
4 ~~(g)(5)(A) shall subject the Hosting Platform to the administrative penalties and enforcement provisions~~
5 ~~of this Chapter, including but not limited to payment of civil penalties of up to \$1,000 per day for the~~
6 ~~period of the failure to comply, with the exception that any violation related to failure to comply with~~
7 ~~the requirements of the Business and Tax Regulations Code shall be enforced by the Treasurer/Tax~~
8 ~~Collector under that Code.~~

9 ~~————— (5) — The exception set forth in this subsection (g) provides an exception only to the~~
10 ~~requirements of this Chapter 41A. It does not confer a right to lease, sublease, or otherwise offer a~~
11 ~~residential unit for Short Term Residential Use where such use is not otherwise allowed by law, a~~
12 ~~homeowners association agreement or requirements, any applicable covenant, condition, and~~
13 ~~restriction, a rental agreement, or any other restriction, requirement, or enforceable agreement. All~~
14 ~~Owners and residents are required to comply with the requirements of Administrative Code Chapter~~
15 ~~37, the Residential Rent Stabilization and Arbitration Ordinance, including but not limited to the~~
16 ~~requirements of Section 37.3(c).~~

17 ~~————— (6) — Department Contact Person. The Department shall designate a contact person~~
18 ~~for members of the public who wish to file Complaints under this Chapter or who otherwise seek~~
19 ~~information regarding this Chapter or Short Term Residential Rentals. This contact person shall also~~
20 ~~provide information to the public upon request regarding quality of life issues, including for example~~
21 ~~noise violations, vandalism, or illegal dumping, and shall direct the member of the public and/or~~
22 ~~forward any such Complaints to the appropriate City department.~~

23 ~~————— (7) — Notwithstanding any other provision of this Chapter, nothing in this Chapter~~
24 ~~shall relieve an individual, Business Entity, or Hosting Platform of the obligations imposed by any and~~
25 ~~all applicable provisions of state law and the San Francisco Municipal Code including but not limited~~

1 ~~to those obligations imposed by the Business and Tax Regulations Code. Further, nothing in this~~
2 ~~Chapter shall be construed to limit any remedies available under any and all applicable provisions of~~
3 ~~state law and the San Francisco Municipal Code including but not limited to the Business and Tax~~
4 ~~Regulations Code.~~

5 ~~———— (8) ——— Annual Department Reporting Requirement. Within one year of the effective~~
6 ~~date of this ordinance and annually thereafter, the Department shall provide a report to the Board of~~
7 ~~Supervisors regarding the Department’s administration and enforcement of the Short-Term Residential~~
8 ~~Rental program. The study shall make recommendations regarding proposed amendments to this~~
9 ~~Chapter 41A necessary to reduce any adverse effects of the Short-Term Residential Rental program.~~

10 **SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.**

11 (a) **Notice of Complaint.** Within ~~1530~~ days of the filing of a ~~C~~complaint and upon
12 the Director’s independent finding that there may be a violation of this Chapter, the Director
13 shall notify the ~~O~~owner by certified mail that the ~~O~~owner’s ~~R~~esidential ~~U~~nit is the subject of
14 an investigation for an unlawful use and provide the date, time, and place of an administrative
15 review hearing in which the ~~O~~owner can respond to the ~~C~~complaint. ~~If the Director finds there is~~
16 ~~no violation of this Chapter or basis for an investigation for an unlawful activity, the Director shall so~~
17 ~~inform the complainant within 30 days of the filing of the Complaint. If the Complaint concerns the~~
18 ~~failure of a Hosting Platform to comply with the requirements of subsection (g)(4)(A), within 30 days of~~
19 ~~the filing of the Complaint and upon the Director’s independent finding that there may be a violation of~~
20 ~~this Chapter, the Director shall notify the Hosting Platform by certified mail that the Hosting Platform~~
21 ~~is the subject of an investigation for failure to comply with the requirements of that subsection and~~
22 ~~provide the date, time, and place of an administrative review hearing in which the Hosting Platform~~
23 ~~can respond to the Complaint.~~

24 (b) **Administrative Review Hearings.** In the event the Director determines that an
25 administrative review hearing shall be conducted, the Director's appointed hearing officer will

1 hold an administrative review hearing within 6045 days of the filing of the complaint ~~Director's~~
2 ~~finding that there may be a violation of this Chapter 41A~~ to review all information provided by the
3 Interested Party, members of the public, City staff, and the Owner ~~or Hosting Platform~~ for the
4 investigation and the hearing officer shall thereafter make a determination whether the
5 ~~Owner or Hosting Platform~~ has violated this Chapter.

6 (1) ~~For hearings regarding alleged unlawful conversions,~~ Nnotice of the hearing
7 shall be conspicuously posted on the building that is the subject of the hearing. The owner shall
8 state under oath at the hearing that the notice remained posted for at least calendar days prior the
9 hearing. The Director shall appoint a hearing officer to conduct the hearing.

10 (2) **Pre-hearing Submission.** No less than ten working days prior to the
11 administrative review hearing, parties to the hearing shall submit written information to the
12 Director including, but not limited to, the issues to be determined by the hearing officer and
13 the evidence to be offered at the hearing. Such information shall be forwarded to the hearing
14 officer prior to the hearing along with any information compiled by the Director.

15 (3) **Hearing Procedure.** If more than one hearing is requested for
16 ~~R~~residential ~~U~~units located in the same building at or about the same time, the Director shall
17 consolidate all of the hearings into one hearing. The hearing shall be tape recorded. Any party
18 to the hearing may at his or her own expense cause the hearing to be recorded by a certified
19 court reporter. Parties may be represented by counsel and shall have the right to cross-
20 examine witnesses. All testimony shall be given under oath. Written decisions and findings
21 shall be rendered by the hearing officer within 2030 working days of the hearing. Copies of the
22 findings and decision shall be served upon the parties by certified mail. A notice that a copy of
23 the findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00
24 p.m. Monday through Friday shall be posted by the ~~O~~owner or the Director in the building in
25 the same location in which the notice of the administrative review hearing was posted.

1 (4) **Failure to Appear.** In the event the ~~Owner, authorized Hosting Platform~~
2 ~~representative~~, or an interested party fails to appear at the hearing, the hearing officer may
3 nevertheless make a determination based on the evidence in the record and files at the time
4 of the hearing, and issue a written decision and findings.

5 (5) **Finality of the Hearing Officer's Decision and Judicial Review.** The
6 decision of the hearing officer shall be final. Within 20 days after service of the hearing
7 officer's decision, any party may seek judicial review of the hearing officer's decision.

8 (6) **Hearing Officer Decision and Collection of Penalties.** If any imposed
9 administrative penalties and costs have not been deposited at the time of the Hearing Officer's
10 decision~~Upon the Hearing Officer's decision~~, the Director may proceed to collect the penalties
11 and costs pursuant to the lien procedures set forth in Subsection 41A.6(~~e~~), consistent with
12 the Hearing Officer's decision.

13 (7) **Remedy of Violation.** If the Hearing Officer determines that a violation
14 has occurred, the Hearing Officer's Decision ~~should~~shall:

15 (A*i*) Specify a reasonable period of time during which the ~~Owner,~~
16 ~~Business Entity, or Hosting Platform~~ must correct or otherwise remedy the violation; and

17 (B*ii*) State that if the violation is not corrected or otherwise remedied within
18 this period, Detail the amount of any administrative penalties the ~~Owner or Hosting Platform~~ shall be
19 may be required to pay the administrative penalties~~as~~ set forth in Subsection 41A.6(c); ~~and,~~

20 ~~————— (C) ——— For violations by Owners, state that if the violation is not corrected or~~
21 ~~otherwise remedied within this period, the Department shall remove or prohibit the registration of the~~
22 ~~Residential Unit from the Short-Term Residential Registry for one year even if the Residential Unit~~
23 ~~otherwise meets the requirements for Short-Term Residential Rental.~~

24 (8) If the Hearing Officer determines that no violation has occurred, the
25 determination is final.

1 (c) **Imposition of Administrative Penalties for Unabated Violations and**
2 **Enforcement Costs.**

3 (1) **Administrative Penalties.** If the violation has continued unabated beyond the
4 time specified in the notice required by the Hearing Officer ~~determines that a violation has occurred,~~
5 an administrative penalty ~~of shall be assessed as follows:~~

6 ~~————— (A) — for the initial violation,~~ not more than four times the standard hourly
7 administrative rate of ~~\$104.00~~~~121.00~~ shall be charged for each unlawfully converted unit, ~~or for~~
8 ~~each identified failure of a Hosting Platform to comply with the requirements of subsection (g)(4), per~~
9 ~~day from the day the unlawful use activity commenced~~ notice of Complaint until such time as the
10 unlawful use activity terminates;

11 ~~————— (B) — for the second violation by the same Owner(s), Business Entity, or~~
12 ~~Hosting Platform, not more than eight times the standard hourly administrative rate of \$121.00 for~~
13 ~~each unlawfully converted unit, or for each identified failure of a Hosting Platform to comply with the~~
14 ~~requirements of subsection (g)(4), per day from the day the unlawful activity commenced until such~~
15 ~~time as the unlawful activity terminates; and~~

16 ~~————— (C) — for the third and any subsequent violation by the same Owner(s),~~
17 ~~Business Entity, or Hosting Platform, not more than twelve times the standard hourly administrative~~
18 ~~rate of \$121.00 for each unlawfully converted unit or for each identified failure of a Hosting Platform~~
19 ~~to comply with the requirements of subsection (g)(4) per day from the day the unlawful activity~~
20 ~~commenced until such time as the unlawful activity terminates.~~

21 (2) **Enforcement Costs.** The owner shall reimburse the City for the costs of
22 enforcement of this Chapter, which shall include, but not be limited to, reasonable attorneys' fees.

23 ~~Prohibition on Registration and Listing Unit(s) on Any Hosting Platform. In the event of~~
24 ~~multiple violations, the Department shall remove the Residential Unit(s) from the Registry for one year~~
25 ~~and include the Residential Unit(s) on a list maintained by the Department of Residential Units that~~

1 ~~may not be listed on any Hosting Platform until compliance. Any Owner or Business Entity who~~
2 ~~continues to list a Residential Unit in violation of this section shall be liable for additional~~
3 ~~administrative penalties and civil penalties of up to \$1,000 per day of unlawful inclusion.~~

4 (d) **Notice of Continuing Violation and Imposition of Penalties.** The Director shall
5 notify the ~~Owner or Hosting Platform~~ by certified mail ~~that~~ of the violation has continued unabated
6 and that administrative penalties shall be imposed pursuant to this Chapter 41A. The notice
7 shall state the time of the continued existence of the violation and the resulting imposition of
8 penalties. Payment of the administrative penalties and enforcement costs shall be made
9 within 30 days of the certified mailed notice to the ~~Owner or Hosting Platform~~. If the
10 administrative penalties and enforcement costs are not paid, the Director shall ~~refer the matter~~
11 ~~to the Treasurer/Tax Collector and/or~~ initiate lien procedures to secure the amount of the
12 penalties and costs against the real property that is subject to this Chapter, under Article XX
13 of Chapter 10 of the San Francisco Administrative Code to make the penalty, plus accrued
14 interest, a lien against the real property regulated under this Chapter. Except for the release of
15 the lien recording fee authorized by Administrative Code Section 10.237, all sums collected by
16 the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and distributed
17 as provided in Section 41A.5(d) of this Chapter ~~deposited as set forth in subsection (e) below.~~

18 (e) **Deposit of Penalties.** Administrative penalties paid pursuant to this Chapter shall be
19 deposited in the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs
20 incurred by the City and County of San Francisco in pursuing enforcement under this Chapter 41A. If
21 enforcement costs were imposed, such funds shall be distributed according to the purpose for which
22 they were collected. ~~Any fees and penalties collected pursuant to this Chapter 41A shall be deposited in~~
23 ~~the Department, which shall reimburse City departments and agencies, including the City Attorney's~~
24 ~~Office, for all costs and fees incurred in the enforcement of this Chapter 41A.~~

1 Section 4. The Planning Code is hereby amended by suspending the operation of
2 Ordinance No. 218-14 in accordance with Section 2 of this ordinance, so that, during the
3 period of suspension, Sections 102.7, 102.13, 790.88 and 890.88, shall read as follows:

4 **SEC. 102.7. DWELLING UNIT.**

5 A room or suite of two or more rooms that is designed for, or is occupied by, one family
6 doing its own cooking therein and having only one kitchen. A housekeeping room as defined
7 in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of
8 this Code, a live/work unit, as defined in Section 102.13 of this Code, shall not be considered
9 a dwelling unit. *Notwithstanding the foregoing, use of a dwelling unit as a Short Term Residential
10 Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a
11 residential use.*

12
13 **SEC. 102.13. LIVE/WORK UNIT.**

14 A live/work unit is a structure or portion of a structure combining a residential living
15 space for a group of persons including not more than four adults in the same unit with an
16 integrated work space principally used by one or more of the residents of that unit; provided,
17 however, that no otherwise qualifying portion of a structure which contains a Group A
18 occupancy under the San Francisco Building Code shall be considered a live/work unit.
19 *Notwithstanding the foregoing, use of a live/work unit as a Short Term Residential Rental in
20 compliance with Administrative Code Section 41A.5 shall not alter the use type as a live/work unit.*

21
22 **SEC. 790.88. RESIDENTIAL USE.**

23 A use which provides housing for San Francisco residents, rather than visitors,
24 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a
25 residential hotel, as defined in Section 790.47 of this Code and in Chapter 41 of the San

1 Francisco Administrative Code. ~~Notwithstanding the foregoing, use of a dwelling unit as a Short-~~
2 ~~Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use~~
3 ~~type as a residential use.~~

4 (a) **Dwelling Unit.** A residential use which consists of a suite of two or more rooms
5 and includes sleeping, bathing, cooking, and eating facilities, but has only one kitchen.

6 (b) **Group Housing.** A residential use which provides lodging or both meals and
7 lodging without individual cooking facilities for a week or more at a time in a space not defined
8 as a dwelling unit. Group housing includes, but is not limited to, a rooming house, boarding
9 house, guest house, lodging house, residence club, commune, fraternity and sorority house,
10 monastery, nunnery, convent, and ashram. It also includes group housing operated by a
11 medical or educational institution when not located on the same lot as such institution.

12
13 **SEC. 890.88. RESIDENTIAL USE.**

14 A use which provides housing for San Francisco residents, rather than visitors,
15 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a
16 residential hotel, as defined in Section 890.47 of this Code and in Chapter 41 of the San
17 Francisco Administrative Code. ~~Notwithstanding the foregoing, use of a dwelling unit as a Short-~~
18 ~~Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use~~
19 ~~type as a residential use.~~

20 (a) **Dwelling Unit.** A residential use which consists of a suite of two or more rooms
21 and includes sleeping, bathing, cooking, and eating facilities, and has only one kitchen.

22 (b) **Group Housing.** A residential use which provides lodging or both meals and
23 lodging without individual cooking facilities for a week or more at a time in a space not defined
24 as a dwelling unit. Group housing includes, but is not limited to, a roominghouse, boarding
25 house, guest house, lodging house, residence club, commune, fraternity and sorority house,

1 monastery, nunnery, convent, and ashram. It also includes group housing operated by a
2 medical or educational institution when not located on the same lot as such institution.

3 (c) **Single Room Occupancy (SRO) Unit.** A dwelling unit or group housing room
4 consisting of no more than one occupied room with a maximum gross floor area of 350 square
5 feet and meeting the Housing Code's minimum floor area standards. The unit may have a
6 bathroom in addition to the occupied room. As a dwelling unit, it would have a cooking facility
7 and bathroom. As a group housing room, it would share a kitchen with one or more other
8 single room occupancy unit/s in the same building and may also share a bathroom. A single
9 room occupancy building (or "SRO" building) is one that contains only SRO units and non
10 nonaccessory living space.

11
12 Section 5. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

16
17 Section 6. Other Uncodified Provisions.

18 (a) Undertaking for the General Welfare. In enacting and implementing this
19 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
20 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
21 would be liable in money damages to any person who claims that such breach proximately
22 caused injury.

23 (b) No Conflict with State or Federal Law. Nothing in this ordinance shall be
24 interpreted or applied so as to create any requirement, power, or duty in conflict with any
25 State or federal law.

1 (c) Severability. If any section, subsection, sentence, clause, phrase, or word of
2 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
3 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
4 affect the validity of the remaining portions or applications of the ordinance. The Board of
5 Supervisors hereby declares that it would have passed this ordinance and each and every
6 section, subsection, sentence, clause, phrase, and word not declared invalid or
7 unconstitutional without regard to whether any other portion of this ordinance or application
8 thereof would be subsequently declared invalid or unconstitutional.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 JON GIVNER
14 Deputy City Attorney

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