

**LEGISLATIVE DIGEST**

(1/27/20)

[Administrative Code - Hotel Conversion Ordinance]

**Ordinance repealing Ordinance Nos. 38-17 and 102-19, and reenacting certain provisions by amending the Administrative Code to update the Hotel Conversion Ordinance, including: adding or refining definitions of comparable unit, conversion, and low-income household; revising procedures for permits to convert residential units; harmonizing fees and penalty provisions with the Building Code; eliminating seasonal short-term rentals for residential hotels that have violated provisions of the Hotel Conversion Ordinance in the previous year; authorizing the Department of Building Inspection to issue administrative subpoenas; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Existing Law

The Hotel Conversion Ordinance ("HCO"), Administrative Code Chapter 41, regulates roughly 18,000 residential units within 500 residential hotels across the City. The HCO prohibits residential hotel operators from demolishing or converting registered residential units to tourist or transient use. The HCO allows limited seasonal use of vacant residential units for tourist use if the units comply with certain conditions.

Ordinance No. 38-17 ("38-17") amended the HCO to: provide a definition for tourist and transient use (rental of 32 days or less); revise the definition of unlawful conversions; eliminate seasonal tourist rentals of vacant residential units for hotels that violated record keeping provisions or committed an unlawful action as defined in the HCO within the last 12 months; update the requirements for permit to convert applications; authorize DBI to issue administrative subpoenas; and update the penalty provisions and amounts for violations of the HCO. Shortly after enactment of 38-17, a group of plaintiffs led by San Francisco SRO Coalition filed a lawsuit challenging the environmental review (CEQA review) conducted for the ordinance and the definition of tourist and transient use. The City stipulated to not enforce the definition of tourist and transient use while litigation proceeded. In May of 2019, the City enacted Ordinance No. 102-19 ("102-19"), which revised the definition of tourist and transient use to rentals from 32 to 30 days or less.

On September 24, 2019, the San Francisco Superior Court issued a writ of mandate setting aside and voiding 38-17 and 102-19 in their entirety.

Amendments to Current Law

Section 2 of the proposed legislation formally repeals 38-17 and 102-19 in their entirety in compliance with the court's order. The repeal will revert the HCO to the provisions as they existed prior to enactment of 38-17.

Section 3 of the proposed legislation would re-adopt all the provisions of 38-17 except for the definition of tourist and transient use. The proposed legislation reverts the provisions regarding unlawful conversion to the language prior to 38-17. This would, as mandated by the court, allow 7-day minimum rentals in residential hotel units.

The re-adopted provisions in the proposed legislation include: eliminating seasonal tourist rentals of vacant residential units for hotels that have violated the record keeping provisions of the HCO or committed an unlawful action as defined in the HCO in the last 12 months; updating the requirements for permit to convert applications, by requiring that applicants provide information about where replacement units will be located and the most recent rental amount for the units to be converted; updating the definition of “comparable unit” to require any replacement housing to be the same category of housing as the residential unit being replaced, and affordable to a similar resident, including the disabled, elderly and low income tenant; authorizing DBI to issue administrative subpoenas to compel production of records where a hotel operator objects to producing them for inspection; and updating the penalty provisions and amounts for failure to comply with HCO requirements.

Additionally, the proposed legislation includes amendments not made in 38-17 or 102-19, these include: mandating compliance with certain posting requirements in 41.6(d); requiring that owners maintain receipts of rental transactions; clarifying the timing for posting conversion notices; and requiring that annual unit usage logs be filed under penalty of perjury.

### Background Information

The HCO was first enacted in 1981. The HCO’s purpose is to “benefit the general public by minimizing adverse impact on the housing supply and on displaced low income, elderly, and disabled persons resulting from the loss of residential hotel units through their conversion and demolition.” The HCO includes findings that the City suffers from a severe shortage of affordable rental housing; that many elderly, disabled and low-income persons reside in residential hotel units, making it in the public interest to regulate and provide remedies for unlawful conversion of residential hotel units.

The HCO allows residents, hotel owners, and other interested parties to file an administrative complaint and/or request an administrative hearing to determine compliance with HCO provisions. Decisions resulting from the administrative hearing process may be appealed to the Board of Appeals. The HCO also provides owners with an administrative hearing process to exceed limits on seasonal tourist rentals for vacant residential units.

Prior to 38-17, the Board last amended and updated the provisions of the HCO in 1990. The proposed legislation, as was 38-17, is designed to re-adopt and update key provisions and clarify the application of the HCO in response to issues that have arisen over the last 29 years.

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The proposed legislation would revert the rental duration to a 7-day tenancy as required by the court's order.

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