

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Hui, Director, Department Building Inspection
Sonya Harris, Commission Secretary, Building Inspection Commission

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: September 25, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Peskin on September 17, 2019:

File No. 190946

Ordinance amending the Administrative Code to amend the definition of Tourist or Transient Use under the Residential Hotel Unit Conversion Ordinance, from a term of tenancy of less than 30 days to a term of tenancy of less than seven days, through December 31, 2021, and starting on January 1, 2022, back to a term of tenancy of less than 30 days, to provide a two year 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the files, 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: erica.major@sfgov.org.

c: William Strawn, Department Building Inspection
Carolyn Jayin, Department Building Inspection

[Administrative Code - Definition of Tourist or Transient Use Under Hotel Conversion Ordinance]

Ordinance amending the Administrative Code to amend the definition of Tourist or Transient Use under the Residential Hotel Unit Conversion Ordinance, from a term of tenancy of less than 30 days to a term of tenancy of less than seven days, through December 31, 2021, and starting on January 1, 2022, back to a term of tenancy of less than 30 days, to provide a two year 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

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

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

Section 1. Environmental Findings.

The Planning Department has determined that the actions contemplated in this 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 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this determination.

1 Section 2. Chapter 41 of the Administrative Code is hereby amended by revising
2 Section 41.4, adding new Section 41.23, and renumbering existing Section 41.23 as Section
3 41.24, to read as follows:

4
5 **SEC. 41.4. DEFINITIONS.**

6 * * * *

7 Tourist or Transient Use. Any use of a guest room for less than a ~~30~~-7-day term of
8 tenancy by a party other than a Permanent Resident, through December 31, 2021. Starting
9 January 1, 2022, Tourist or Transient Use shall mean any use of a guest room for less than a 30-day
10 term of tenancy by a party other than a Permanent Resident, unless a hotel owner or operator
11 demonstrates, in accordance with the process described in Section 41.23, that a longer time is
12 necessary to recover reasonable investments in the owner or operator's hotel.

13 * * * *

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15 **SEC. 41.23. AMORTIZATION.**

16 (a) A hotel owner or operator may seek to extend the time during which the term "Tourist or
17 Transient Use" shall mean "any use of a guest room for less than a 7-day term of tenancy by a party
18 other than a Permanent Resident" beyond December 31, 2021, through the process described in
19 subsections (b) and (c).

20 (b) The owner or operator may file a request to extend such period of time to a reasonable time
21 specified, by submitting the request to the Building Inspection Commission ("Commission"), on or
22 before December 31, 2020. Commission staff shall amply publicize this deadline, to give notice to
23 interested hotel owners of the provisions of this subsection. When considering a reasonable extension,
24 the Commission shall consider:

25 (A) The total cost of the hotel owner or operator's investments to the hotel;

1 (B) The length of time those investments have been in place;

2 (C) Suitability of the investments for residential hotel use; and

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

5 (c) The Commission shall consider the application at a public hearing. The Commission shall
6 decide whether an extension would be reasonable according to the above factors, and, if so, for how
7 long. The Commission may determine that a reasonable extension is warranted but for a shorter
8 period of time than specified in the owner or operator's request.

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10 **SEC. 41.234. CONSTRUCTION.**

11 * * * *

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13 Section 3. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance.

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1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

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

10 By:

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12 _____
13 ANDREA RUIZ-ESQUIDE
14 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Definition of Tourist or Transient Use Under Hotel Conversion Ordinance]

Ordinance amending the Administrative Code to amend the definition of Tourist or Transient Use under the Residential Hotel Unit Conversion Ordinance, from a term of tenancy of less than 30 days to a term of tenancy of less than seven days, through December 31, 2021, and starting on January 1, 2022, back to a term of tenancy of less than 30 days, to provide a two year 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Chapter 41 of the Administrative Code contains the Residential Hotel Unit Conversion Ordinance (HCO), which regulates single room occupancy (SRO) hotels in the City.

Currently, the HCO defines "Tourist or Transient Use" as "[a]ny use of a guest room for less than a 30-day term of tenancy by a party other than a Permanent Resident," but the City has entered into a stipulation that it will not enforce that definition, and instead, it will enforce the definition that existed prior to the 2017 amendments to the HCO, which set forth the maximum term of tenancy for tourist uses at 7 days.

Amendments to Current Law

This Ordinance would amend the HCO to change the definition of "Tourist or Transient Use" to "[a]ny 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." The ordinance establishes that starting on January 1, 2022, it shall mean "any use of a guest room for less than a 30-day term of tenancy by a party other than a Permanent Resident," unless a hotel owner or operator can show that a longer time is necessary to recover reasonable investments in the owner or operator's hotel.

The Ordinance provides that a hotel owner or operator may seek to extend the time during which the terms "Tourist or Transient Use" shall mean "any use of a guest room for less than a 7-day term of tenancy by a party other than a Permanent Resident" beyond December 31, 2021, by filing a request to extend such period of time with the Building Inspection Commission, on or before December 31, 2020. The Ordinance sets forth criteria for the Building Inspection Commission to take into account, when considering a reasonable extension of time, such as: the total cost of the hotel owner or operator's investments to the

hotel; the length of time those investments have been in place; suitability of the investments for residential hotel use; and any other relevant factors to determining the owner or operator's reasonable return on investments.

The Ordinance mandates that Building Inspection Commission staff amply publicize the deadline to request an extension with the Commission, to give notice to interested hotel owners of the provisions of the procedures to obtain such an extension. Further, the Ordinance requires that the Commission consider the application at a public hearing.

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