

1 [Administrative Code - Hotel Conversion Ordinance Update]

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3 **Ordinance amending the Administrative Code to update the Hotel Conversion**  
 4 **Ordinance, including: adding or refining definitions of tourist and transit use,**  
 5 **comparable unit, conversion, and low-income household; revising procedures for**  
 6 **permits to convert residential units; harmonizing fees and penalty provisions with the**  
 7 **Building Code; eliminating seasonal short-term rentals for residential hotels that have**  
 8 **violated provisions of the Hotel Conversion Ordinance in the previous year; authorizing**  
 9 **the Department of Building Inspection to issue administrative subpoenas; and**  
 10 **affirming the Planning Department’s determination under the California Environmental**  
 11 **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. The Administrative Code is hereby amended by revising Sections 41.4,  
2 41.9, 41.10, 41.11, 41.12, 41.13, 41.14, 41.19, and 41.20, to read as follows:

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4 **SEC. 41.4. DEFINITIONS.**

5 (a) **Certificate of Use.** Following the initial unit usage and annual unit usage  
6 determination pursuant to the provisions of Sections 41.6 and 41.10 below, every hotel shall  
7 be issued a certificate of use specifying the number of residential and tourist units herein.

8 (b) **Comparable Unit.** A unit which is similar in size, services, rental amount, and  
9 facilities, and ~~which~~ is located within the existing neighborhood or within a neighborhood with  
10 similar physical and socioeconomic conditions that is similarly affordable for low income, elderly,  
11 and disabled persons.

12 (c) **Conversion.** The change or attempted change of the use of a residential unit ~~as~~  
13 ~~defined in subsection (q) below~~ to a Tourist or Transient ~~tourist~~ use, or the elimination of a  
14 residential unit, or the voluntary demolition of a residential hotel. However, a change in the  
15 use of a residential hotel unit into a non-commercial use which serves only the needs of the  
16 permanent residents, such as a resident's lounge, ~~storeroom~~ community kitchen, or common  
17 area, shall not constitute a conversion within the meaning of this Chapter 41, provided that the  
18 residential hotel owner establishes that eliminating or re-designating an existing tourist unit instead of  
19 a residential unit would be infeasible.

20 (d) **Disabled Person.** A recipient of disability benefits.

21 (e) **Elderly Person.** A person 62 years of age or older.

22 (f) **Emergency Housing.** A project which provides housing and supportive services  
23 to elderly or low-income persons upon leaving a health facility and which has its primary  
24 purpose ~~of~~ facilitating the return of such individuals to independent living. The emergency  
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1 housing shall provide services and living quarters pursuant to Section 41.13 herein and may  
2 be provided as part of a "transitional housing" project.

3 ~~(g)~~ **Hotel.** Any building containing six or more guest rooms intended or designed to  
4 be used, or which are used, rented, or hired out to be occupied or which are occupied for  
5 sleeping purposes and dwelling purposes by guests, whether rent is paid in money, goods, or  
6 services. It includes motels, as defined in Section 401 Chapter XII, Part II of the ~~San Francisco~~  
7 ~~Municipal Code~~ (Housing Code), but does not include any jail, health facilities as defined ~~by in~~  
8 Section 1250 of the California Health and Safety Code, asylum, sanitarium, orphanage,  
9 prison, convent, rectory, residential care facility for the elderly as defined in Section 1569.2 of  
10 the Health and Safety Code, residential facilities as defined in Section 1502 of the Health and  
11 Safety Code or other institution in which human beings are housed or detained under legal  
12 restraint, or any private club and nonprofit organization in existence on September 23, 1979;  
13 provided, however, that nonprofit organizations which operated a residential hotel on  
14 September 23, 1979, shall comply with the provisions of Section 41.8 herein.

15 ~~—(h)~~ **Interested Party.** A permanent resident of a hotel, or his or her authorized  
16 representative, or a former tenant of a hotel who vacated a residential unit within the past 90  
17 days preceding the filing of a complaint or court proceeding to enforce the provisions of this  
18 Chapter 41. Interested party shall also mean any nonprofit organization, as defined in this  
19 Section 41.4~~(k)~~, which has the preservation or improvement of housing as a stated purpose in  
20 its articles of incorporation and/or bylaws.

21 ~~(i)~~ **Low-Income Household.** A household whose income does not exceed 60%  
22 ~~percent~~ of the Area Median Income as set forth in Charter Section 16.110 for the San Francisco  
23 Standard Metropolitan Statistical Area as published by the United States Department of Housing and  
24 Urban Development and Housing and Community Development Act of 1974.

1            ~~(j)~~ **Low-Income Housing.** Residential units whose rent may not exceed 30% ~~percent~~  
2 of the gross monthly income of a ~~Low-income~~ ~~Household~~ as defined ~~in subsection (i)~~ above.

3            ~~(k)~~ **Nonprofit Organization.** An entity exempt from taxation pursuant to Title 26,  
4 Section 501 of the United States Code.

5            ~~(l)~~ **Operator.** An ~~Operator~~ includes the lessee or any person or legal entity whether  
6 or not the owner, who is responsible for the day-to-day operation of a residential hotel and to  
7 whom a hotel license is issued for a ~~Residential~~ ~~Hotel~~.

8            ~~(m)~~ **Owner.** Owner includes any person or legal entity holding any ownership  
9 interest in a ~~Residential~~ ~~Hotel~~.

10           ~~(n)~~ **Permanent Resident.** A person who occupies a guest room for at least 32  
11 consecutive days.

12           ~~(o)~~ **Posting or Post.** Where posting is required by this Chapter 41, material shall be  
13 posted in a conspicuous location at the front desk in the lobby of the hotel, or if there is no  
14 lobby, in the public entranceway. No material posted may be removed by any person except  
15 as otherwise provided in this Chapter.

16           ~~(p)~~ **Residential Hotel.** Any building or structure which contains a ~~Residential~~ ~~Unit~~  
17 as defined ~~in (q)~~ below unless exempted pursuant to the provisions of Sections 41.5 or 41.7  
18 below.

19           ~~(q)~~ **Residential Unit.** Any guest room as defined in Section 401203.7 of Chapter XII,  
20 Part II of the San Francisco ~~Municipal Code~~ ~~(Housing Code)~~ which had been occupied by a  
21 permanent resident on September 23, 1979. Any guest room constructed subsequent to  
22 September 23, 1979 or not occupied by a permanent resident on September 23, 1979, shall  
23 not be subject to the provisions of this Chapter 41; provided however, if designated as a  
24 residential unit pursuant to Section 41.6 of this Chapter or constructed as a replacement unit,  
25 such residential units shall be subject to the provisions of this Chapter.

1           ~~(r)~~ **Tourist Hotel.** Any building containing six or more guest rooms intended or  
2 designated to be used for commercial tourist use by providing accommodation to transient  
3 guests on a nightly basis or longer. A tourist hotel shall be considered a commercial use  
4 pursuant to ~~City~~ Planning Code Section ~~790.46216(b)~~ and shall not be defined as group  
5 housing permitted in a residential area under ~~City~~ Planning Code Section 209.12.

6           *Tourist or Transient Use. Any use of a guest room for less than a 32-day term of tenancy by*  
7 *a party other than a Permanent Resident or prospective Permanent Resident.*

8           ~~—(s)~~ **Tourist Unit.** A guest room which was not occupied on September 23, 1979, by  
9 a permanent resident or is certified as ~~a~~T~~ourist~~ ~~u~~n~~it~~ pursuant to Sections 41.6, 41.7 or 41.8  
10 below. Designation as a tourist unit under this Chapter shall not supersede any limitations on  
11 use pursuant to the Planning Code.

12           ~~(t)~~ **Transitional Housing.** A project which provides housing and supportive services  
13 to homeless persons and families or ~~l~~Low-i~~n~~come ~~h~~H~~ouseholds~~ at risk of becoming homeless  
14 which has as its purpose facilitating the movement of homeless individuals or at-risk ~~l~~Low-i  
15 I~~n~~come ~~h~~H~~ouseholds~~ to independent living within a reasonable amount of time. The  
16 transitional housing shall provide services and living quarters as approved by the Planning  
17 Commission that are similar to the residential unit being replaced pursuant to Section 41.13  
18 herein and shall comply with all relevant provisions of City ordinances and regulations.

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20           **SEC. 41.9. RECORDS OF USE.**

21           (a) **Daily Log.** Each residential hotel shall maintain a daily log containing the status  
22 of each room, whether it is occupied or vacant, whether it is used as a residential unit or  
23 tourist unit, the name under which each adult occupant is registered, and the amount of rent  
24 charged. Each hotel shall also provide receipts to each adult occupant, and maintain copies of  
25 the receipts, showing: the room number; the name of each adult occupant; the rental amount

1 and period paid for; and any associated charges imposed and paid, including but not limited to  
2 security deposits and any tax. The daily log and copies of rent receipts shall be available for  
3 inspection pursuant to ~~the provision of~~ Section 41.11(c) of this Chapter 41 upon demand by the  
4 Director of the Department of Building Inspection or the Director's designee or the City  
5 Attorney's Office between the hours of 9 a.m. and 5 p.m., Monday through Friday, unless the  
6 Director of the Department of Building Inspection or the City Attorney's Office reasonably  
7 believe that further enforcement efforts are necessary for specified residential hotels, in which  
8 case the Department of Building Inspection or the City Attorney's Office shall notify the hotel  
9 owner or operator that the daily logs and copies of rent receipts shall be available for  
10 inspection between the hours of 9 a.m. and 7 p.m. Each hotel shall maintain the daily logs and  
11 copies of rent receipts for a period of no less than 24 months. Should an owner or operator  
12 object to providing records for inspection, the Director of the Department of Building Inspection shall  
13 have the authority to issue administrative subpoenas to investigate and enforce this Chapter's  
14 provisions.

15 In addition to the investigative powers and enforcement mechanisms prescribed in  
16 this Chapter, the City Attorney's Office shall have the authority to take further investigative  
17 action and bring additional enforcement proceedings including ~~the immediate~~ proceedings under  
18 California Civil Code Section 1940.1.

19 \* \* \* \*

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21 **SEC. 41.10. ANNUAL UNIT USAGE REPORT.**

22 (a) **Filing.** On November 1~~st~~ of each year, every hotel owner or operator subject to  
23 this Chapter 41 shall file with the Department of Building Inspection, either through an online  
24 form on the Department's website or a paper copy delivered to the Department, an Annual Unit  
25 Usage Report containing the following information:

- 1 (1) The total number of units in the hotel as of October 15~~th~~ of the year of filing;
- 2 (2) The number of residential and tourist units as of October 15~~th~~ of the year of
- 3 filing;
- 4 (3) The number of vacant residential units as of October 15~~th~~ of the year of
- 5 filing; if more than 50% ~~percent~~ of the units are vacant, explain why;
- 6 (4) The average rent for the residential hotel units as of October 15~~th~~ of the
- 7 year of filing;
- 8 (5) The number of residential units rented by week or month as of October 15~~th~~
- 9 of the year of filing; and
- 10 (6) The designation by room number and location of the residential units and
- 11 tourist units as of October 15~~th~~ of the year of filing. ~~The Owner~~ or operator shall maintain
- 12 such designated units as tourist or residential units for the following year unless ~~the~~ owner or
- 13 operator notifies in writing the Department of Building Inspection of a redesignation of units;
- 14 ~~the~~ owner or operator may redesignate units throughout the year, provided they notify the
- 15 Department of Building Inspection in writing by the next business day following such
- 16 redesignation and maintain the proper number of residential and tourist units at all times. The
- 17 purpose of this provision is to simplify enforcement efforts while providing ~~the~~ owner or
- 18 operator with reasonable and sufficient flexibility in designation and renting of rooms;
- 19 (7) The nature of services provided to the permanent residents and whether
- 20 there has been an increase or decrease in the services so provided;
- 21 (8) A copy of the Daily Log, showing the number of units which are residential,
- 22 tourist, or vacant on the first Friday of each month ~~October 1st, February 1st, May 1st and August 1st~~
- 23 of the year of filing.
- 24 (b) **Notice of Annual Unit Usage Report.** On the day of filing, the owner or
- 25 operator shall post a notice that a copy of the Annual Unit Usage Report submitted to the

1 Department of Building Inspection is available for inspection between the hours of 9:00 a.m.  
2 and 5:00 p.m. Monday through Friday, which notice shall remain posted for 30 days. The  
3 Department shall maintain a list of those properties that have filed or failed to submit annual reports  
4 on its website.

5 (c) **Extension of Time for Filing.** Upon application by an owner or operator and  
6 upon showing good cause therefor, the Director of the Department of Building Inspection may  
7 grant one extension of time not to exceed 30 days for said filing.

8 (d) **Certificate of Annual Unit Usage Report.** After receipt of a completed Annual  
9 Unit Usage Report, the Department of Building Inspection shall issue a certified  
10 acknowledgment of receipt.

11 (e) **Renewal of Hotel License and Issuance of New Certificate of Use.** As of the  
12 effective date of this Chapter 41, no hotel license may be issued to any owner or operator of a  
13 hotel unless the owner or operator presents with his/her license application a certified  
14 acknowledgment of receipt from the Department of Building Inspection of the Annual Unit  
15 Usage Report for the upcoming year.

16 (f) **Insufficient Filing; Penalties.** The Director of the Department of Building  
17 Inspection is authorized to assess a penalty as set forth below for insufficient filing, with  
18 interest on the penalty accruing at the rate of 1.5%~~one and one-half percent~~ per full month,  
19 compounded monthly from the date the penalty is due as stated in the Director's written  
20 notification below.

21 If the Director or the Director's designee determines that additional information is  
22 needed to make a determination, ~~he~~ the Director or designee shall send both the owner and  
23 operator a written request to furnish such information within 15 calendar days of the mailing of  
24 the written request. The letter shall state that if the requested information, or a response  
25 explaining why the requested information will not be provided, is not furnished in the time required,



1 the residential and tourist units shall be presumed to be unchanged from the previous year  
2 and that the Director shall impose a \$500 penalty for failure to furnish the additional  
3 information within the 15-day period, and a \$500 penalty for each day after the 15-day period for  
4 which the owner or operator fails to furnish the requested information or explanation. If the Director  
5 does not timely receive the information, the Director shall notify both the owner and operator,  
6 by mail or electronic mail, that the Director is imposing a \$500 per day penalty and that the  
7 accumulated penalty ~~which~~ must be paid within 30 days of the mailing of the notification, and  
8 that interest on the penalty shall accrue from the expiration of the 30 days at the rate of  
9 1.5% ~~one and one-half percent~~ per full month, compounded monthly. The written notification shall  
10 state that if the penalty is not paid, a lien to secure the amount of the penalty, plus the  
11 accrued interest, will be recorded against the real property pursuant to the provisions of  
12 Section 41.20(d) of this Chapter 41, and that the Residential Hotel will be not be eligible for any  
13 temporary tourist rentals as provided in Section 41.19 for 12 months.

14 (g) **Failure to File Annual Unit Usage Report; Penalties.** The Director of the  
15 Department of Building Inspection is authorized to assess penalties as set forth below for  
16 failure to file an Annual Unit Usage Report, with interest on penalties accruing at the rate of  
17 1.5% ~~one and one-half percent~~ per full month, compounded monthly from the date the penalty is  
18 due as stated in the Director's notification below.

19 If the owner or operator fails to file an Annual Unit Usage Report, the Director or the  
20 Director's designee shall notify the owner and operator by registered or certified mail and shall  
21 post a notice informing the owner and operator that unless submission of the Annual Unit  
22 Usage Report and application for renewal of the hotel license is made within 15 calendar days  
23 of the mailing of the letter, the residential and tourist units shall be presumed to be unchanged  
24 from the previous year, and the Director shall impose a penalty of ~~\$500~~ 1,000 per month ~~effor~~  
25 each month the annual report is not filed and the Residential Hotel will be not be eligible for any

1 temporary tourist rentals as provided in Section 41.19 for the next 12 months. If the Director does  
2 not receive the report, the Director shall notify both the owner and operator, by mail that the  
3 Director is imposing the appropriate penalty, as prorated, which must be paid within 30 days  
4 of the mailing of the notification and that interest on the penalty shall accrue from the  
5 expiration of the 30 days at the rate of 1.5%~~one and one-half percent~~ per full month,  
6 compounded monthly. The written notification shall state that if the penalty is not paid, a lien  
7 to secure the amount of the penalty, plus the accrued interest, will be recorded against the  
8 real property pursuant to the provisions of Section 41.20(d) of this Chapter 41.

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11 **SEC. 41.11. ADMINISTRATION.**

12 (a) **Fees.** The owner or operator shall pay the following filing fees to the Department  
13 of Building Inspection to cover its costs of investigating and reporting on eligibility. See  
14 Section 110A333.2, Hotel Conversion Ordinance Fee Schedule, Table 1A-Q, Part II, Chapter 1 of  
15 the ~~San Francisco Municipal Code~~ (Building Code) for the applicable fees. The party that brings  
16 an unsuccessful challenge to a report pursuant to this Chapter 41 Article shall be liable for the  
17 ~~change~~charge in Section 110A333.2, Hotel Conversion Ordinance Fee Schedule, ~~Unsuccessful~~  
18 Challenge, Table 1A-Q, Part II, Chapter 1 of the ~~San Francisco Municipal Code~~ (Building Code).  
19 Fees shall be waived for an individual who files an affidavit under penalty of perjury stating  
20 that he or she is an indigent person who cannot pay the filing fee without using money needed  
21 for the necessities of life.

22  
23 ~~SEE SAN FRANCISCO MUNICIPAL CODE~~  
24 ~~(BUILDING CODE) SECTION 333.2110A, TABLE 1A-Q~~  
25 ~~HOTEL CONVERSION ORDINANCE FEE SCHEDULE~~

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(b) **Hearing.**

(1) **Notice of Hearing.** Whenever a hearing is required or requested in this Chapter 41, the Director of the Department of Building Inspection shall, within 45 calendar days, notify the owner or operator of the date, time, place, and nature of the hearing by registered or certified mail. The Director of the Department of Building Inspection shall appoint a hearing officer. Notice of such a hearing shall be posted by the Department of Building Inspection. The owner or operator shall state under oath at the hearing that the notice remained posted for at least 10 calendar days prior to the hearing. Said notice shall state that all permanent residents residing in the hotel may appear and testify at the public hearing, provided that the Department of Building Inspection is notified of such an intent 72 hours prior to the hearing date.

(2) **Pre-hearing Submission.** No less than three working days prior to any hearing, parties to the hearing shall submit written information to the Department of Building Inspection including, but not limited to, the following: the request or complaint, the statement of issues to be determined by the Hearing Officer; and a statement of the evidence upon which the request or complaint is based.

(3) **Hearing Procedure.** If more than one hearing for the same hotel is required, the Director of the Department of Building Inspection shall consolidate all of the appeals and challenges into one hearing; however, if a civil action has been filed pursuant to ~~the provisions of~~ Section 41.20(e) of ~~the~~ Chapter 41, all hearings on administrative complaints of unlawful conversions involving the same hotel shall be abated until such time as final judgment has been entered in the civil action; an interested party may file a complaint in intervention. The hearing shall be tape recorded. Any party to the appeal may, at his/her own expense, cause the hearing to be recorded by a certified court reporter. The hearing officer is

1 empowered to issue subpoenas upon application of the parties seven calendar days prior to  
2 the date of the hearing. During the hearing, evidence and testimony may be presented to the  
3 hearing officer. Parties to the hearing may be represented by counsel and have the right to  
4 cross-examine witnesses. All testimony shall be given under oath. Written decision and  
5 findings shall be rendered by the hearing officer within ~~twenty~~ 20 working days of the hearing.  
6 Copies of the findings and decision shall be served upon the parties to the hearing by  
7 registered or certified mail. A notice that a copy of the findings and decisions is available for  
8 inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be  
9 posted by the owner or operator.

10 (4) **Administrative Review.** Unless otherwise expressly provided in this  
11 Chapter 41, any decision of the hearing officer shall be final unless a valid written appeal is  
12 filed with the Board of ~~Permit~~ Appeals within 15 days following the date of the hearing officer's  
13 written determination. Such an appeal may be taken by any interested party as defined by  
14 Section 41.4(~~g~~) herein.

15 (c) **Inspection.** The Director of the Department of Building Inspection shall have the  
16 authority to issue administrative subpoenas as necessary or appropriate to conduct inspections  
17 pursuant to this Chapter 41. The Director of the Department of Building Inspection shall  
18 conduct, from time to time, on-site inspections of the daily logs, other supporting documents,  
19 and units listed as vacant in the daily logs, to determine if the owner or operator has complied  
20 with the provisions of this Chapter. In addition, the Director of the Department of Building  
21 Inspection or the Director's designee shall conduct such an inspection as soon as practicable  
22 upon the request of a current or former occupant of the hotel. If, upon such an inspection, the  
23 Director or Director's designee determines that an apparent violation of the provisions of this  
24 Chapter has occurred, ~~he/she~~ the Director or designee shall post a notice of apparent violation  
25 informing the permanent residents of the hotel thereof, or shall take action as set forth in

1 Section 41.11(d) and (e) below. This notice shall remain posted until the Director of the  
2 Department of Building Inspection, or the Director's designee, determines that the hotel is no  
3 longer in violation of the provisions of this Chapter.

4 (d) **Criminal Penalties for Violations.** Any person or entity wilfully failing to  
5 maintain daily logs or provide and maintain receipts as provided in Sections 41.9(a) and (b) of  
6 this Chapter 41, or failing to post materials as provided in Sections 41.6(a), (c), and (f),  
7 41.9(b), 41.10(b), (g), and (h), 41.11(b) (3), 41.12(b)(10), and 41.18(b) and (c) of this Chapter  
8 or wilfully providing false information in the daily logs, shall be guilty of an infraction for the  
9 first such violation or a misdemeanor for any subsequent violation, and the complaint charging  
10 such violation shall specify whether the violation charged is a misdemeanor or an infraction.

11 If charged as an infraction, the penalty upon conviction therefor shall be not less than  
12 \$100 or more than \$500.

13 If charged as a misdemeanor, the penalty upon conviction therefor shall be a fine of  
14 not less than \$500 or more than \$1,000 or imprisonment in the county jail, not exceeding six  
15 months, or both fine and imprisonment.

16 Every day such violation shall continue shall be considered as a new offense.

17 For purposes of Sections 41.11(d) and (e), violation shall include, but not limited to,  
18 intentional disobedience, omission, failure or refusal to comply with any requirement imposed  
19 by the aforementioned Sections or with any notice or order of the Director of the Department  
20 of Building Inspection or the Director of Public Works regarding a violation of this Chapter.

21 (e) **False Information Misdemeanor.** It shall be unlawful for an owner or operator  
22 to wilfully provide false information to the Director of the Department of Building Inspection or  
23 the Director's designees. Any owner or operator who files false information shall be guilty of a  
24 misdemeanor. Conviction of a misdemeanor hereunder shall be punishable by a fine of not  
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1 more than \$500 or by imprisonment in the County Jail for a period not to exceed six months,  
2 or by both.

3 (f) The Director of the Department of Building Inspection may impose a penalty of  
4 ~~\$250~~500 per violation for failure to maintain daily logs or for failure to provide receipts to  
5 occupants as required under Section 41.9 above and for failure to post materials as required  
6 under Sections 41.6(a), (c), and (f), 41.9(b), 41.10(b), (g), and (h), 41.11(b) (3), 41.12(b)(10),  
7 and 41.18(b) and (c). In order to impose such penalties, the Director shall notify both the  
8 owner and operator by certified mail that the Director is imposing the penalty or penalties,  
9 which must be paid within 30 days of the mailing of the notification. The written notification  
10 shall state that if the penalty is not paid, a lien to secure the amount of the penalty will be  
11 recorded against the real property pursuant to ~~the provisions of~~ Section 41.20(d) of this Chapter  
12 41.

13 (g) **Costs of Enforcement.** *The Department of Building Inspection shall be entitled to*  
14 *recover costs for enforcement as provided in Building Code Section 102A.7(d). ~~The proceeds from the~~*  
15 *filing fees and civil fines assessed shall be used exclusively to cover the costs of investigation and*  
16 *enforcement of this ordinance by the City and County of San Francisco. ~~The Director of the~~*  
17 *Department of Building Inspection shall annually report these costs to the Board of Supervisors and*  
18 *recommend adjustments thereof.*

19 (h) **Inspection of Records.** The Department of Building Inspection shall maintain a  
20 file for each residential hotel which shall contain copies of all applications, exemptions,  
21 permits, reports, and decisions filed pursuant to the provisions of this Chapter 41. All  
22 documents maintained in said files, except for all tax returns and documents specifically  
23 exempted from the California Public Record~~s~~ Act, shall be made available for public inspection  
24 and copying.

1 (i) **Promulgation of Rules and Regulations.** The Director of the Department of  
2 Building Inspection shall propose rules and regulations governing the appointment of an  
3 administrative officer and the administration and enforcement of this Chapter 41. After  
4 reasonable notice and opportunity to submit written comment are given, final rules and  
5 regulations shall be promulgated.

6  
7 **SEC. 41.12. PERMIT TO CONVERT.**

8 (a) Any owner or operator, or his/her authorized agent, of a residential hotel may  
9 apply for a permit to convert one or more residential units by submitting an application and the  
10 required fee to the Central Permit Bureau.

11 (b) The permit application shall contain the following information:

12 (1) The name and address of the building in which the conversions are  
13 proposed and of the building where replacement housing will be located; and

14 (2) The names and addresses of all owners or operators of said building; and

15 (3) A description of the proposed conversion including the specific method under  
16 Section 41.13(a) that the owner or operator selects as the nature of the conversion, the total  
17 number of units in the building, and their current uses; and

18 (4) The room numbers and locations of the units to be converted; and

19 (5) Preliminary drawings showing the existing floor plans and proposed floor  
20 plans; and

21 (6) A description of the improvements or changes proposed to be constructed  
22 or installed and the tentative schedule for start of construction; and

23 (7) The current rental rates for each residential unit to be converted or, if  
24 currently unoccupied, the most recent rental rate when last occupied; and

1 (8) The length of tenancy of the permanent residents affected by the proposed  
2 conversion; and

3 (9) A statement regarding how one-for-one replacement of the units to be  
4 converted will be accomplished, citing the specific provision(s) of Section 41.13(a) the application  
5 has selected for replacement, and including sufficiently detailed financial information, such as letters  
6 of intent and contracts, establishing how the owner or operator is constructing or causing to construct  
7 ~~the proposed location of~~ replacement housing if replacement is to be provided off-site; and

8 (10) A declaration under penalty of perjury from the owner or operator stating  
9 that he/she has complied with the provisions of Section 41.14(b) below and his/her filing of a  
10 permit to convert. On the same date of the filing of the application, a notice that an application  
11 to convert has been filed shall be posted until a decision is made on the application to convert.

12 (c) Upon receipt of a completed application to convert or demolish, the Department  
13 of Building Inspection shall send the application to the Planning Department ~~of City Planning~~ for  
14 review and shall mail notice of such application to interested community organizations and  
15 such other persons or organizations who have previously requested such notice in writing.  
16 The notice shall identify the hotel requesting the permit, the nature of the permit, the proposal  
17 to fulfill the replacement requirements of Section 41.13 herein, and the procedures for  
18 requesting a public hearing. ~~The Owner~~ or operator shall post a notice informing permanent  
19 residents of such information.

20 (d) Any interested party may submit a written request within 15 days of the date  
21 notice is posted pursuant to subsection (c) above to the ~~City~~ Planning Commission to  
22 schedule and conduct a public hearing on the proposed conversion in order to solicit public  
23 opinion on whether to approve or deny a permit to convert or demolish residential units and to  
24 determine whether proposed replacement units are "comparable units" as defined in Section  
25 41.4~~(b)~~ herein.



1  
2           **SEC. 41.13. ONE-FOR-ONE REPLACEMENT.**

3           (a) Prior to the issuance of a permit to convert, the owner or operator shall provide  
4 one-for-one replacement of the units to be converted by one of the following methods:

5                   (1) Construct or cause to be constructed a comparable unit to be made  
6 available at comparable rent to replace each of the units to be converted; or

7                   (2) Cause to be brought back into the housing market a comparable unit from  
8 any building which was not subject to the provisions of this Chapter 41; or

9                   (3) Construct or cause to be constructed or rehabilitated apartment units for  
10 elderly, disabled, or low-income persons or households which may be provided at a ratio of  
11 less than one-to-one; or construct or cause to be constructed transitional housing which may  
12 include emergency housing. The construction of any replacement housing under this  
13 subsection shall be subject to restrictions recorded against title to the real property and be  
14 evaluated by the ~~City~~ Planning Commission in accordance with the provisions of Section 303  
15 of the ~~City~~ Planning Code. A notice of said ~~City~~ Planning Commission hearing shall be posted  
16 by the owner or operator 10 calendar days before the hearing; or

17                   (4) Pay to the City and County of San Francisco an amount equal to 80%  
18 ~~percent~~ of the cost of construction of an equal number of comparable units plus site acquisition  
19 cost. All such payments shall go into a San Francisco Residential Hotel Preservation Fund  
20 Account. The Department of Real Estate shall determine this amount based upon two  
21 independent appraisals; or

22                   (5) Contribute to a public entity or nonprofit organization, ~~whowhich~~ will use the  
23 funds to construct comparable units, an amount at least equal to 80% percent of the cost of  
24 construction of an equal number of comparable units plus site acquisition cost. The  
25 Department of Real Estate shall determine this amount based upon two independent

1 appraisals. In addition to compliance with all relevant City ordinances and regulations, the  
2 public entity or nonprofit organization and the housing development proposal of such public  
3 entity or nonprofit organization shall be subject to approval by the Mayor's Office of Housing  
4 and Community Development.

5 \* \* \* \*

6  
7 **SEC. 41.14. MANDATORY DENIAL OF PERMIT TO CONVERT.**

8 A permit to convert shall be denied by Director of the Department of Building  
9 Inspection if:

- 10 (a) The requirements of Sections 41.12 or 41.13, above, have not been fully  
11 complied with;
- 12 (b) The application is incomplete or contains incorrect information;
- 13 (c) An applicant has committed unlawful action as defined in this Chapter 41 within  
14 12 months previous to the ~~issuance~~filing of ~~for~~ a permit to convert application; ~~or~~
- 15 (d) The proposed conversion or the use to which the unit would be converted is not  
16 permitted by the ~~City~~ Planning Code.

17 \* \* \* \*

18  
19 **SEC. 41.19. TEMPORARY CHANGE OF OCCUPANCY.**

20 (a) **Temporary Change of Occupancy.**

21 (1) A tourist unit may be rented to a permanent resident, until voluntary  
22 vacation of that unit by the permanent resident or upon eviction for cause, without changing  
23 the legal status of that unit as a tourist unit.

24 (2) A permanent resident may be relocated for up to 21 days to another unit in  
25 the residential hotel for purposes of complying with the Building Code requirements imposed

1 by the UMB Seismic Retrofit Ordinance, Ordinance No. 219-92, without changing the  
2 designation of the unit.

3 (3) A residential unit which is vacant at any time during the period commencing  
4 on May 1~~st~~ and ending on September 30~~th~~ annually may be rented as a tourist unit, provided  
5 that (A~~i~~) the residential unit was vacant due to voluntary vacation of a permanent resident or  
6 ~~was vacant~~ due to lawful eviction for cause after the permanent resident was accorded all the  
7 rights guaranteed by State and local laws during his/her tenancy, (B~~ii~~) the daily log shows that  
8 the residential unit was legally occupied for at least 50% ~~percent~~ of the period commencing on  
9 October 1~~st~~ and ending on April 30~~th~~ of the previous year, unless owner or operator can  
10 produce evidence to the Department of Building Inspection explaining such vacancy to the  
11 satisfaction of the Department ~~of Building Inspection~~, including but not limited to such factors as  
12 repair or rehabilitation work performed in the unit or good-faith efforts to rent the unit at fair  
13 market value; ~~and~~ (C~~iii~~) the residential unit shall immediately revert to residential use upon  
14 application of a prospective permanent resident; and (D) the owner or operator has not committed  
15 unlawful action as defined in this Chapter 41 within 12 months prior to this request.

16 **25-percent Limit.**

17 However, at no time during the period commencing on May 1~~st~~ and ending on  
18 September 30~~th~~ may an owner or operator rent for nonresidential use or tourist use more than  
19 25% ~~percent~~ of the hotel's total residential units unless the owner or operator can demonstrate  
20 that (A~~i~~) the requirements of Section 41.19(a)(3) above are met, and (B~~ii~~) good-faith efforts  
21 were made to rent such units to prospective permanent residents at fair market value for  
22 comparable units and that such efforts failed ~~and (iii) the owner or operator has not committed~~  
23 ~~unlawful action as defined in this Chapter within 12 months prior to this request.~~ Owners or  
24 operators who seek to exceed this limit must request a hearing pursuant to Section 41.11(b)

1 above and the decision whether to permit owners or operators to exceed this limit is within the  
2 discretion of the hearing officer.

3 (b) Special Requirements for Hearings on Tourist Season Rental of Residential  
4 Units. Where an owner or operator seeks a hearing in order to exceed the limit on tourist  
5 season rental of vacant residential units pursuant to Section 41.19(a)(3), the requirements of  
6 Section 41.11(b)(1), (b)(2), and (b)(3) above shall be applicable except as specifically modified  
7 or enlarged herein:

8 \* \* \* \*

9 (5) Determination of the Hearing Officer. Based upon the evidence presented  
10 at the hearing, conducted in accordance with Section 41.11(b)(3) above, the hearing officer  
11 shall make findings as to (i) whether the residential unit was vacant due to voluntary vacation  
12 of a permanent resident or was vacant due to lawful eviction, (ii) whether the residential unit  
13 was occupied for at least 50% percent of the period commencing on October 1 and ending on  
14 April 30~~th~~ of the previous year, (iii) whether the owner or operator has committed unlawful  
15 action under this Chapter 41 within 12 months prior to this request, and (iv) whether the owner  
16 or operator made good-faith efforts to rent vacant residential units to prospective permanent  
17 residents at no more than fair market value for a comparable unit during the tourist season  
18 and yet was unable to secure such rentals. Good-faith efforts shall include, but not be limited  
19 to, advertising the availability of the residential units to the public. In determining fair market  
20 value of the residential units, the hearing officer shall consider any data on rental of  
21 comparable units, as defined in Section 41.4~~(b)~~ herein.

22 \* \* \* \*

23  
24 **SEC. 41.20. UNLAWFUL CONVERSION; REMEDIES; FINES.**

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

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

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

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

8 (b) **Hearing for Complaints of Unlawful Conversions.** Upon the filing of a  
9 complaint by an interested party that an unlawful conversion has occurred and payment of the  
10 required fee, the Director of the Department of Building Inspection shall schedule a hearing  
11 pursuant to ~~the provisions of~~ Section 41.11(b). The complainant shall bear the burden of  
12 proving that a unit has been unlawfully converted. The hearing officer shall consider, among  
13 others, the following factors in determining whether a conversion has occurred:

14 (1) Shortening of the term of an existing tenancy without the prior approval of  
15 the permanent resident;

16 (2) Reduction of the basic services provided to a residential unit intended to  
17 lead to conversion. For the purpose of this subsection (b)(2), basic services are defined as  
18 access to common areas and facilities, food service, housekeeping services, and security;

19 (3) Repeated failure to comply with orders of the Department of Building  
20 Inspection or the Department of Public Health to correct code violations with intent to cause  
21 the permanent residents to voluntarily vacate the premises;

22 (4) Repeated citations by the Director of the Department of Building Inspection  
23 or the Department of Public Health for Code violations;

24 (5) Offer of the residential units for nonresidential use or tourist use except as  
25 permitted in this Chapter 41;

1 (6) Eviction or attempts to evict a permanent resident from a residential hotel  
2 on grounds other than those specified in Sections 37.9(a)(1) through 37.9(a)(8) of the ~~San~~  
3 ~~Francisco~~ Administrative Code except where a permit to convert has been issued; and

4 (7) Repeated posting by the Director of the Department of Building Inspection  
5 of notices of apparent violations of this Chapter 41 pursuant to Section 41.11(c) above.

6 (c) **Civil Penalties.** Where the hearing officer finds that an unlawful conversion has  
7 occurred, the Director of the Department of Building Inspection shall impose a civil penalty of  
8 ~~three times the daily rate up to \$500~~ per day for each unlawfully converted unit from the day the  
9 complaint is filed until such time as the unit reverts to its authorized use, for the first unlawful  
10 conversion at a Residential Hotel within a calendar year. For the second and any subsequent unlawful  
11 conversions at the same Residential Hotel within the same calendar year, the Director of the  
12 Department of Building Inspection shall impose a civil penalty of up to \$750 per day for each  
13 unlawfully converted unit from the day the complaint is filed until such time as the unit reverts to its  
14 authorized use. The daily rate shall be the rate unlawfully charged by the hotel owner or operator to  
15 the occupants of the unlawfully converted unit. The Director may also impose penalties upon the  
16 owner or operator of the hotel to reimburse the City or the complainant for the costs, including  
17 reasonable attorneys' fees, of enforcement, ~~including reasonable attorneys' fees,~~ of this Chapter.  
18 The hearing officer's decision shall notify the parties of this penalty provision and shall state  
19 that the Director of the Department of Building Inspection is authorized to impose the  
20 appropriate penalty by written notification to both the owner and operator, requesting payment  
21 within 30 days. If the penalty imposed is not paid, a lien to secure the amount of the penalty  
22 will be recorded against the real property pursuant to the provisions of Section 41.20(d) of this  
23 Chapter 41.

24 \* \* \* \*

1 Section 3. This ordinance has revised Administrative Code Section 41.4 by removing  
2 letter designations for defined terms. The Municipal Code is hereby amended to revise any cross-  
3 references to Section 41.4, including in Administrative Code Sections 41D.1 and 41E.1 and Police  
4 Code Section 919.1, and, at the direction of the City Attorney, anywhere else in the Municipal Code, to  
5 reflect the removal of the letter designations in Section 41.4.

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

18  
19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22 By: \_\_\_\_\_  
23 ROBB KAPLA  
24 Deputy City Attorney

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