

BOARD of SUPERVISORS



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MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection
Sonya Harris, Commission Secretary, Building Inspection Commission
Abigail Stewart-Kahn, Interim Director, Department of Homelessness and Supportive Housing

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

DATE: November 3, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on October 27, 2020:

File No. 201218

Ordinance amending the Planning Code and Administrative Code to allow certain hotels and motels to be used for Permanent Supportive Housing purposes without thereby abandoning or discontinuing the hotel use; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

If you have comments or reports to be included with the file, 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.

cc: Patty Lee, Department of Building Inspection
John Murray, Department of Building Inspection
Peter Gallotta, Department of the Environment
Dylan Schneider, Department of Homelessness and Supportive Housing
Emily Cohen, Department of Homelessness and Supportive Housing

1 [Planning, Administrative Codes - Temporary Use of Hotels and Motels for Permanent Supportive Housing]

2

3 **Ordinance amending the Planning Code and Administrative Code to allow certain**
4 **hotels and motels to be used for Permanent Supportive Housing purposes without**
5 **thereby abandoning or discontinuing the hotel use; affirming the Planning**
6 **Department’s determination under the California Environmental Quality Act; making**
7 **findings of consistency with the General Plan, and the eight priority policies of**
8 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**
9 **and welfare under Planning Code, Section 302.**

10

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

15

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

17

18 Section 1. Environmental and Land Use Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) On _____ 2020, the Planning Commission, in Resolution No. _____, adopted
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
3 Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
5 amendments will serve the public necessity, convenience, and welfare for the reasons set
6 forth in Planning Commission Resolution No._____ and the Board incorporates such reasons
7 herein by reference. A copy of Planning Commission Resolution No._____ is on file with the
8 Clerk of the Board of Supervisors in File No._____.

9
10 Section 2. General Findings.

11 (a) The tourism and hospitality sector of the San Francisco economy plays a vital role
12 in drawing visitors to the City in record numbers. Due to the COVID-19 crisis, approximately
13 70 hotels in the City have been forced to close, furloughing hundreds of employees in the
14 process. In addition, SFGate reports that as of September 2020, approximately 15,000 hotel
15 rooms were still off the market, with occupancy rates for open hotels as low as 5%.

16 (b) While the tourist hotel industry recovers from this crisis and evolves, the public
17 interest would be served if tourist hotels were repurposed to provide needed Permanent
18 Supportive Housing. The City could allow tourist hotels to partner with the City or other non-
19 profit providers to house, for temporary periods, individuals in need of Permanent Supportive
20 Housing, while allowing these hotels to revert to their tourist uses at the conclusion of these
21 partnerships if needed. Such a program could provide positive incentives for these hotels to
22 be used for Permanent Supportive Housing in the near-term.

23 (c) In July 2020, Mayor Breed announced the Homelessness Recovery Plan, which
24 proposes to expand the Homelessness Response System to ensure those sheltering in place
25 during the COVID-19 crisis do not return to the streets, and which includes the largest

1 expansion of Permanent Supportive Housing in 20 years along with an expansion of the full
2 array of services needed, such as Rapid Rehousing for adults, problem solving, time-limited
3 rental subsidies, and connections to health care, employment, and other resources to end
4 homelessness for people with a variety of housing needs.

5 (d) Part of the Mayor’s Homelessness Recovery Plan is the goal of opening 1500 new
6 units of Permanent Supportive Housing. In July 2020, the Department of Homelessness and
7 Supportive Housing (“HSH”) released a Request for Information seeking suitable properties in
8 the City for Permanent Supportive Housing and received approximately 80 submissions,
9 including many from tourist hotels in the City.

10 (e) As of July 2020, San Francisco had approximately 8,000 units of Permanent
11 Supportive Housing that provided permanent homes and services to approximately 10,000
12 San Franciscans. Permanent Supportive Housing is the most effective evidence-based
13 solution to ending chronic homelessness, and the availability of such housing also prevents
14 new incidents of homelessness among highly vulnerable people with long experiences of
15 homelessness. The properties can also provide critical services to residents.

16 (f) As of August 31, 2020, the City had opened 24 Shelter in Place (SIP) Hotels,
17 housing people with high vulnerability to COVID-19, providing rooms for more than 2,000
18 people. Once this program ends, clients housed in the SIP Hotels will need to be transitioned
19 to a permanent supportive housing option. Tourist hotels could provide a very strong
20 opportunity for providing this permanent supportive housing.

21 (g) Before the COVID-19 pandemic, homelessness in San Francisco was already on
22 the rise, increasing 18% from 2015-2019. The advent of COVID-19 heightened the need to
23 devote City resources to ensuring that people experiencing homelessness, and particularly
24 those with high vulnerability to illness, are safely sheltered, receive critical health and service
25 supports, and are moved to permanent housing as quickly and equitably as possible.

1
2 Section 3. The Planning Code is hereby amended by adding Section 205.6 and
3 revising Section 317, to read as follows:
4

5 **SEC. 205.6. USE OF HOTELS AND MOTELS FOR TEMPORARY RESIDENTIAL**
6 **PURPOSES.**

7 **(a) Residential Use Authorized.**

8 (1) Any Hotel or Motel use may be used for Permanent Supportive Housing, as defined
9 in Administrative Code Section 20.54.2, as may be amended from time to time, for up to 20 continuous
10 years without losing its land use designation as a Hotel or Motel use under the Planning Code,
11 irrespective of whether such existing Hotel or Motel use is a principally permitted, conditionally
12 permitted, or nonconforming use.

13 (2) Any Hotel or Motel use in a building that is subject to the terms of Administrative
14 Code Chapter 41 may use all or any portion of such Hotel or Motel for Permanent Supportive Housing,
15 as defined in Administrative Code Section 20.54.2, as may be amended from time to time, without
16 losing its land use designation under the Planning Code as a Hotel or Motel at any time.

17 **(b) Application.** The property owner or the property owner’s authorized agent (in either case,
18 “Applicant”) shall submit an application for this Permanent Supportive Housing use to the Planning
19 Department, on a form prepared by the Planning Department. The application shall include any
20 applicable fees pursuant to Planning Code Section 350, and an affidavit signed by the Applicant and
21 property owner, acknowledging the proposed Permanent Supportive Housing use of the property.

22 **(c) No Conversion, Change, Discontinuance, or Abandonment of Use.** The approval or
23 commencement of the Permanent Supportive Housing use as a temporary use as authorized under this
24 Section 205.6 shall not be considered a conversion, discontinuance, abandonment, or change of use for
25 purposes of this Code, notwithstanding Sections 178 and 183 of this Code. Any Hotel or Motel use in a

1 building that is not subject to Administrative Code Chapter 41, for which a Permanent Supportive
2 Housing use is authorized, shall retain its authorized land use(s) under the Planning Code for a period
3 of up to twenty years following approval of such temporary use. Any Hotel or Motel that is subject to
4 Administrative Code Chapter 41 shall retain its authorized land use(s) under the Planning Code for as
5 long as such property is used for Permanent Supportive Housing. Such authorized land uses, including
6 any nonconforming uses, shall become operative upon the expiration, termination, or abandonment of
7 this temporary Permanent Supportive Housing use authorization.

8 **(d) Application of Other Development Controls and Requirements.** The Permanent
9 Supportive Housing use that is authorized pursuant to this Section 205.6 shall not be required to
10 comply with development standards applicable to new residential uses, including but not limited to
11 density, rear yard, open space, exposure, and other requirements set forth in Articles 1.2, 1.5, or 2 of
12 the Planning Code. The Permanent Supportive Housing project will not be subject to any development
13 impact fees set forth in Article 4 of the Planning Code as a prerequisite to obtaining temporary use
14 authorization pursuant to this Section 205.6.

15 **(e) Termination of a Permanent Supportive Housing Use.** Prior to the termination of the
16 Permanent Supportive Housing use authorized under this Section 205.6, the Department of
17 Homelessness and Supportive Housing (“HSH”) shall work with the Permanent Supportive Housing
18 service provider, if any, to relocate existing occupants of the supportive housing who do not wish to
19 become direct tenants of the property owner or landlord when the Permanent Supportive Housing use
20 terminates. No less than one year prior to expiration of any agreement or temporary use authorization
21 under this Section 205.6 to provide Permanent Supportive Housing, a property owner, program
22 manager, or landlord shall provide notice to the Planning Department and HSH of any intent not to
23 renew any agreement with the City or seek any extensions of this temporary use authorization, in order
24 to allow HSH and the service provider to assist in relocating existing occupants of the Permanent
25 Supportive Housing.

1 (f) **Information to the Public.** The Department shall make available to the public on its
2 website a list of all properties approved for Permanent Supportive Housing use under this Section
3 205.6, along with applicable time frames for each property, and may in its discretion make available on
4 its website additional information pertaining to the temporary residential use.

5 (g) **Extension of Initial Temporary Authorization.** The Planning Director may grant one or
6 more extensions to this temporary authorization. However, each extension may be for a period of no
7 more than two years, and the primary purpose of any such extension must be to ensure alternative
8 housing accommodations for tenants of the temporary residential use. No extensions of time shall be
9 required for Hotel and Motel uses in buildings that are subject to the provisions of Administrative Code
10 Chapter 41.

11
12 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**
13 **DEMOLITION, MERGER AND CONVERSION.**

14 * * * *

15 **(c) Applicability; Exemptions.**

16 * * * *

17 (6) If a Hotel or Motel is lawfully used for Permanent Supportive Housing purposes in
18 accordance with Planning Code Section 205.6, and such housing use ceases, the space may return to
19 its pre-existing lawful Hotel or Motel use without complying with this Section 317, and such return to a
20 non-residential use shall not be considered a Residential Conversion.

21 * * * *

22
23 Section 4. Chapter 41 of the Administrative Code is hereby amended by revising
24 Section 41.19, to read as follows:
25

1 **SEC. 41.19. TEMPORARY CHANGE OF OCCUPANCY.**

2 (a) Temporary Change of Occupancy.

3 * * * *

4 (4) A tourist unit may be used for Permanent Supportive Housing, as defined in
5 Administrative Code Section 20.54.2, as may be amended from time to time, without changing the legal
6 status of that unit as a tourist unit under this Chapter 41, until lawful termination of such Permanent
7 Supportive Housing use in accordance with the provisions of Planning Code Section 205.6(e). The
8 hotel owner or operator shall provide written notice to the Department of Building Inspection that all
9 or a portion of its hotel is being used for Permanent Supportive Housing no less than 10 days prior to
10 such occupancy, and shall provide written notice to the Department of Building Inspection when such
11 use has terminated within 10 days of such termination.

12
13 Section 5. 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.

17
18 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

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23 //
24 //
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LEGISLATIVE DIGEST

[Planning, Administrative Codes - Temporary Use of Hotels and Motels for Permanent Supportive Housing]

Ordinance amending the Planning Code and Administrative Code to allow certain hotels and motels to be used for Permanent Supportive Housing purposes without thereby abandoning or discontinuing the hotel use; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

In hotels subject to regulation under Administrative Code Chapter 41, certain units designated as tourist units within a residential hotel may be used for residential purposes without losing their designation under Chapter 41 as tourist units.

Under the Planning Code, a use that has been discontinued for a certain period of time – usually around three years – could lose the ability to continue that use if the current zoning would not allow the use or would require conditional use authorization. Thus, if a tourist hotel, or a portion of a tourist hotel, were used for residential purposes for three or more years, the tourist hotel could lose its ability to return to that tourist use after a certain number of years if the zoning would no longer allow the tourist use or would require special authorization for the tourist use, such as a conditional use permit.

New uses could be subject to development standards set forth in the Planning Code, and could be required to pay certain impact fees as required by Planning Code Article 4. Finally, conversion of a residential use to a non-residential use would require conditional use authorization under the terms of Planning Code Section 317.

Amendments to Current Law

The Legislation would allow any Hotel or Motel use to be used for Permanent Supportive Housing, as defined in Administrative Code Section 20.54.2, for up to twenty continuous years without losing its land use designation as a Hotel or Motel use under the Planning Code, irrespective of whether such existing Hotel or Motel use is a principally permitted, conditionally permitted, or nonconforming use. The Legislation would also allow any Hotel or Motel use in a building that is subject to the terms of Administrative Code Chapter 41 to use all or any portion of such Hotel or Motel for Permanent Supportive Housing, as defined in San Francisco Administrative Code Section 20.54.2, without losing its land use designation under the Planning Code as a Hotel or Motel at any time. The approval of the

Permanent Supportive Housing use as a temporary use would not be considered a conversion, discontinuance, abandonment, or change of use under the Planning Code.

The Legislation provides that the Permanent Supportive Housing would not be required to comply with development standards applicable to new residential uses, including but not limited to density, rear yard, open space, exposure, and other requirements set forth in Articles 1.2, 1.5, or 2 of the Planning Code, and would not be subject to any development impact fees set forth in Article 4 of the Planning Code.

The Legislation would allow a Hotel or Motel that is lawfully used for Permanent Supportive Housing purposes to return to its pre-existing lawful Hotel or Motel use without complying with Planning Code Section 317, and such return to a non-residential use would not be considered a Residential Conversion.

The Legislation would allow a temporary change of occupancy under Administrative Code Chapter 41 for Permanent Supportive Housing without changing the legal status of that unit as a tourist unit under Chapter 41, until lawful termination of such Permanent Supportive Housing use.

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