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San Francisco Administrative Code

CHAPTER 41: RESIDENTIAL HOTEL UNIT CONVERSION AND DEMOLITION

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SEC. 41.1. TITLE.

This Chapter shall be known as the Residential Hotel Unit Conversion and Demolition Ordinance.

(Added by Ord. 121-90, App. 4/12/90)

SEC. 41.2. PURPOSE.

It is the purpose of this ordinance 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. This is to be accomplished by establishing

the status of residential hotel units, by regulating the demolition and conversion of residential hotel units to other uses, and by appropriate administrative and judicial remedies.

(Added by Ord. 121-90, App. 4/12/90)

SEC. 41.3. FINDINGS.

The Board of Supervisors finds that:

- (a) There is a severe shortage of decent, safe, sanitary and affordable rental housing in the City and County of San Francisco and this shortage affects most severely the elderly, the disabled and low-income persons.
- (b) The people of the City and County of San Francisco, cognizant of the housing shortage of San Francisco, on November 4, 1980, adopted a declaration of policy to increase the city's housing supply by 20,000 units.
- (c) Many of the elderly, disabled and low-income persons and households reside in residential hotel units.
- (d) A study prepared by the Department of City Planning estimated that there were only 26,884 residential hotel units in the City in December of 1979, a decrease of 6,098 such units from 1975. Since enactment of this Chapter, residential hotel units have continued to decrease, at a slower rate: in 1981, there were 20,466 residential hotel units as defined by this Chapter; in 1988, there were 18,723 residential hotel units, a decrease of 1,743 over a period of 7 years. The decrease is caused by vacation, conversion or demolition of residential hotel units. Continued vacation, conversion or demolition of residential hotel units will aggravate the existing shortage of affordable, safe and sanitary housing in the City and County of San Francisco.
- (e) As a result of the removal of residential hotel units from the rental housing market, a housing emergency exists within the City and County of San Francisco for its elderly, disabled and low-income households.
- (f) Residential hotel units are endangered housing resources and must be protected.
- (g) The Board of Supervisors and the Mayor of the City and County of San Francisco recognized this housing emergency and enacted an ordinance which established a moratorium on the demolition or conversion of residential hotel units to any other use. The moratorium ordinance became effective on November 21, 1979.
- (h) The conversion of residential hotel units affects those persons who are least able to cope with displacement in San Francisco's housing market.
- (i) It is in the public interest that conversion of residential hotel units be regulated and that remedies be provided where unlawful conversion has occurred, in order to protect the resident tenants and to conserve the limited housing resources.
- (j) The tourist industry is one of the major industries of the City and County of San Francisco. Tourism is essential for the economic well being of San Francisco. Therefore, it is in the public interest that a certain number of moderately priced tourist hotel units be maintained especially during the annual tourist season between May 1st and September 30th.
- (k) Tourist activity has increased steadily in San Francisco since 1983. There are currently approximately 23,000 tourist hotel units in the City and over 3,000 additional such units will be added by 1988 through new construction. However, there are presently only 18,723 residential hotel units and this number is not increasing. In addition, rents for residential hotel units have risen an average of 23 percent annually since 1980, making such units less and less affordable as a housing resource for the elderly, disabled and low-income persons. Since the adoption of this ordinance, hotel owners have begun to leave

residential units vacant during the non-tourist season (October 1st - April 30th) in order to rent these units to tourists at high daily rental rates during the tourist season (May 1st - September 30th). This activity, which further reduces the available supply of low and moderate income housing in San Francisco, is not presently prohibited under this Chapter. In order to assure that residential hotel owners do not continue to withhold these available residential units from prospective permanent residents during the non-tourist season, it is necessary to restrict the tourist season rental of vacant residential hotel units. Such a restriction will not interfere with San Francisco's tourism, which remains essential to the economic well-being of the City.

(l) Since enactment of this Chapter, it has become apparent that portions of this Chapter were difficult and extremely costly to interpret and enforce, resulting in an inability to fulfill the essential intent of this Chapter and to prevent illegal conversions.

(m) Certain uses provide both living accommodation and services, such as health care, personal care and counseling, to residents of the City. Examples of such uses are hospital, skilled nursing facility, AIDS hospice, intermediate care facility, asylum, sanitarium, orphanage, prison, convent, rectory, residential care facility for the elderly, and community care facility. Such facilities are often operated in building owned or leased by non-profit organizations and provide needed services to the City's residents. To subject such facilities to the provisions of this Chapter may deter future development of such facilities. It is desirable that such facilities exist and the City should encourage construction and operation of such facilities.

(n) In addition, a form of housing facilities called "transitional housing" provides housing and supportive services to homeless persons and families and is intended to facilitate the movement of homeless individuals and families to independent living or longer term supportive residences in a reasonable amount of time. Transitional housing has individual living quarters with physical characteristics often similar to a residential hotel (i.e. accommodations which provide privacy to residents) and provides a source of interim housing for homeless individuals and families seeking to live independently.

(o) The City's public, quasi-public and private social agencies serving the elderly and needy persons often find it difficult to immediately locate suitable housing units for such persons returning to independent living after hospitalization or upon leaving skilled-nursing or intermediate care facilities within a short time after their discharge from a health facility. Such persons often will require minimum supervision and other interim social service support. The provision of a stable number of housing units for such emergency needs until permanent housing can be secured and supportive services arranged are necessary and desirable for the City. Emergency housing will have physical characteristics similar to "transitional housing" and is often intended to be occupied for a period of less than one month.

(p) The City also wishes to provide positive incentive to encourage residential hotel owners and operators to comply with the terms of this Chapter. Hotel owners have expressed a need to rent certain residential units on a short term basis during the winter months. In an effort to address this need and to encourage compliance with this Chapter, the City wishes to provide an opportunity to hotel owners who have complied with the terms of this Chapter to rent a limited number of residential units to tourists during the winter months.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.4. DEFINITIONS.

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

Comparable Unit. A unit which is similar in size, services, rental amount, and facilities, and is designated the same category of housing as the existing unit, and is located within the existing neighborhood or within a neighborhood with similar physical and socioeconomic conditions, and is similarly affordable for low income, elderly, and disabled persons.

Conversion. The change or attempted change of the use of a residential unit to a Tourist or Transient use, or the elimination of a residential unit, or the voluntary demolition of a residential hotel. However, a change in the use of a residential hotel unit into a non-commercial use which serves only the needs of the permanent residents, such as a resident's lounge, community kitchen, or common area, shall not constitute a conversion within the meaning of this Chapter 41, provided that the residential hotel owner establishes that eliminating or re-designating an existing tourist unit instead of a residential unit would be infeasible.

Disabled Person. A recipient of disability benefits.

Elderly Person. A person 62 years of age or older.

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

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

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

Low-Income Household. A household whose income does not exceed 60% of the Area Median Income as set forth in Charter Section 16.110.

Low-Income Housing. Residential units whose rent may not exceed 30% of the gross monthly income of a Low-Income Household as defined above.

Nonprofit Organization. An entity exempt from taxation pursuant to Title 26, Section 501 of the United States Code.

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

Owner. Owner includes any person or legal entity holding any ownership interest in a Residential Hotel.

Permanent Resident. A person who occupies a guest room for at least 32 consecutive days.

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

Residential Hotel. Any building or structure which contains a Residential Unit as defined below unless exempted pursuant to the provisions of Sections 41.5 or 41.7 below.

Residential Unit. Any guest room as defined in Section 401 of the Housing Code which had been occupied by a permanent resident on September 23, 1979. Any guest room constructed subsequent to

September 23, 1979 or not occupied by a permanent resident on September 23, 1979, shall not be subject to the provisions of this Chapter 41; provided however, if designated as a residential unit pursuant to Section 41.6 of this Chapter or constructed as a replacement unit, such residential units shall be subject to the provisions of this Chapter.

Tourist Hotel. Any building containing six or more guest rooms intended or designated to be used for commercial tourist use by providing accommodation to transient guests on a nightly basis or longer. A tourist hotel shall be considered a commercial use pursuant to Planning Code Section 790.46 and shall not be defined as group housing permitted in a residential area under Planning Code Section 209.1.

Tourist or Transient Use. Any use of a guest room for less than a 30-day term of tenancy by a party other than a Permanent Resident.

Tourist Unit. A guest room which was not occupied on September 23, 1979, by a permanent resident or is certified as a Tourist Unit pursuant to Sections 41.6, 41.7 or 41.8 below. Designation as a tourist unit under this Chapter shall not supersede any limitations on use pursuant to the Planning Code.

Transitional Housing. A project which provides housing and supportive services to homeless persons and families or Low-Income Households at risk of becoming homeless which has as its purpose facilitating the movement of homeless individuals or at-risk Low-Income Households to independent living within a reasonable amount of time. The transitional housing shall provide services and living quarters as approved by the Planning Commission that are similar to the residential unit being replaced pursuant to Section 41.13 herein and shall comply with all relevant provisions of City ordinances and regulations.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017; Ord. [102-19](#), File No. 190049, App. 5/31/2019, Eff. 7/1/2019)

SEC. 41.5. APPLICABILITY OF THIS CHAPTER.

The provisions of this Chapter shall not apply to:

- (a) The change in use of a residential unit where the unit has been found to be unfit for human habitation prior to November 23, 1979 and ordered to be vacated by the Department of Public Health; or
- (b) A hotel wherein 95 percent of the guest rooms were tourist units on September 23, 1979; or
- (c) A unit which rented for over \$1,000 per month on September 23, 1979; or
- (d) A hotel in which 95 percent of the total number of guest rooms rented for more than \$1,000 per month on September 23, 1979; or
- (e) A building which was unlawfully converted to a rooming house or hotel in violation of the provisions of the City Planning Code; or
- (f) A building which meets the requirements of Section 41.7(c) below for a claim of exemption for partially-completed conversions; or
- (g) A building which meets the requirements of Section 41.7(b) below for a claim of exemption for low-income housing; or
- (h) A building which is lawfully approved by the City after September 23, 1979, and is not a replacement unit pursuant to Section 41.13 herein, so long as it is operated by a public entity or a nonprofit organization as a jail, health facilities as defined by Section 1250 of the Health and Safety Code, asylum, sanitarium, orphanage, prison, convent, rectory, residential care facility for the elderly as defined in Section 1569.2 of the Health and Safety Code, residential facilities as defined in Section 1502 of Health and Safety Code, or other institution in which human beings are housed or detained under legal restraint.

(Added by Ord. 121-90, App. 4/12/90)

SEC. 41.6. INITIAL STATUS DETERMINATION.

(a) **Filing of Initial Status Determination; Time Limit.** Within 30 calendar days of the mailing date of the summary of the ordinance and the prescribed reporting forms, the owner or operator of each hotel shall file either a statement of exemption, a claim of exemption based on low-income housing, a claim of exemption based on partially completed conversion, or an initial unit usage report as specified below. All filing shall be accompanied by supporting evidence. However, upon application by an owner or operator and upon showing a good cause therefor, the Director of the Department of Building Inspection may grant an extension of time not to exceed 30 days for filing. Owner or operator shall post a notice on the day of filing that a copy of the initial status determination document filed with the Director of the Department of Building Inspection is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

(b) **Filing of Initial Unit Usage Report.** All hotels not covered by the exemptions in Sections 41.5, 41.7 or 41.8 must file an initial unit usage report containing the following:

(1) The number of residential and tourist units in the hotel as of September 23, 1979;

(2) The designation by room number and location of the residential units and tourist units as of seven calendar days prior to the date of filing the report;

(3) The total number of residential and tourist rooms in the hotel as of seven calendar days prior to date of filing the report.

(c) **Insufficient Filing.** If the Director of the Department of Building Inspection or his designee determines that additional information is needed to make a determination, the Director shall request the additional information in writing. The owner or operator shall furnish the requested information within 15 calendar days upon receipt of the written request. Owner or operator shall immediately post a notice that a copy of the requested information is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday at the Department of Building Inspection. If the requested information is not furnished, all the guest rooms not supported by evidence shall be deemed to be residential units.

(d) **Certification of Units.** The Director of the Department of Building Inspection shall review the information and accompanying supporting data. A certified copy of hotel tax returns for the calendar year 1979 may be used to establish the number of tourist units and the Director of the Department of Building Inspection or the Director's designee may personally inspect units to establish the number of tourist units. If, in the opinion of the Director of the Department of Building Inspection, the initial unit usage report is supported by adequate supporting evidence, the Director shall certify the number of residential and tourist units within 90 calendar days of its submission. The owner or operator shall have the burden of proving the number of tourist units claimed by a preponderance of evidence.

Notwithstanding any other provisions in this Chapter, if an owner or operator took possession of the hotel operation after September 23, 1979 and before June 15, 1981, and if the owner or operator can demonstrate that good cause exists why he/she cannot obtain supporting evidence from the previous owner or operator to file the initial report, the owner or operator shall base his/her filing on information available to him/her two weeks after he/she took possession of the hotel; any units which are vacant on that date shall be allocated equally between tourist and residential uses; provided that a permanent resident may rebut this presumption by clear and convincing evidence.

After the Director of the Department of Building Inspection certifies the number of residential and tourist units, the Director shall issue a certificate of use. The Certificate of Use shall be posted permanently in the lobby or entranceway of the hotel.

(e) **Failure to File Statement of Exemption, Claim of Exemption or Initial Unit Usage Report.** If no initial unit usage report, or statement of exemption, or a claim of exemption based on partially completed conversion, or a claim of exemption based on low-income housing for all of the guest rooms, is filed for a hotel within the time set forth in Section 41.6(a), the Director of Department of Building Inspection shall

mail a notice to the owner or operator of record by registered or certified mail stating that all the rooms in the hotel shall be deemed residential units unless the owner or operator files unit usage report within 10 calendar days of the mailing date of said notice and that a late filing fee of \$50 will be assessed in addition to the fee set forth in Section 41.11 of this Chapter. If the owner or operator fails to submit a unit usage report within 10 calendar days after notification by the Department of Building Inspection, a certificate of use for residential units only shall be issued.

(f) **Appeal of Initial Determination.** An owner or operator may appeal the initial unit status determination by the Director of the Department of Building Inspection provided that there was no challenge pursuant to the provisions of subsection (g) below, and further provided that an appeal is filed within 10 calendar days of the mailing of the certification. If an appeal is filed, a copy of the notice of appeal shall be posted by the owner or operator and a hearing pursuant to the provisions of Section 41.8(b) shall be scheduled.

(g) **Challenge; Standing; Statute of Limitation.** Challenges to the information contained in the initial status determination report filed by the owner or operator may be filed by an interested party in writing provided that it is submitted within 15 calendar days from the date the report to the Department of Building Inspection is filed. Upon receipt of a challenge, a hearing shall be held by the Director of the Department of Building Inspection or his designee pursuant to the provisions of Section 41.11(b). The owner or operator shall have the burden of proving by a preponderance of evidence that the information filed is correct.

(h) **Reporting Forms for Initial Unit Usage Report.** Compliance by any party or by the City of San Francisco with notice, filing, challenge, designation of unit and certification requirements of Ordinance 330-81 regarding the initial status of units shall satisfy similar requirements set forth in this Chapter and all such notices, filings, challenges, designations or certificates shall have the same force and effect as if made pursuant to this subsection.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001)

SEC. 41.7. STATEMENTS OF EXEMPTION; APPLICABILITY OF THIS CHAPTER.

(a) **Statement of Exemption Based on Inapplicability of This Chapter.** Any hotel claiming that this Chapter does not apply, under the provisions of Sections 41.5(a) through 41.5(d), shall file a statement of exemption specifying the basis for the exemption. Any hotel claiming exemption under the provisions of Sections 41.5(b) through 41.5(d) shall also state the total number of guest rooms and the number of residential hotel units with monthly rent over \$1,000 per month.

(b) **Claim of Exemption Based on Low-Income Housing.** To qualify for a claim of exemption based on low-income housing, the units to be rehabilitated meet the following requirements:

(1) A claim for this exemption has been filed and the requisite fees paid to the Department of Building Inspection no later than 60 calendar days after the effective date of this ordinance;

(2) With the exception of ground floor commercial space, the entire building must be completely occupied as low-income housing;

(3) The Director of the Department of Building Inspection finds that the proposed elimination of a unit is necessary to comply with Building Code and Housing Code requirements; and

(4) Alternate guest rooms are made available within the building to the displaced permanent residents;
or

(5) In those circumstances where it is necessary to relocate a permanent resident off site, the permanent resident shall receive the actual moving expenses and the difference between the rent at the time of relocation and the rent of the temporary housing during the period of rehabilitation.

(6) The owner or operator and successors in interest shall continue to maintain all units in the rehabilitated hotel as low-income housing for 25 years. A deed restriction on such use shall be submitted to the City Attorney's Office for approval. An approved copy of the deed restriction shall be forwarded to the Director of the Department of Building Inspection and the original shall be filed with the Recorder by the owner or operator.

(c) **Claim of Exemption Based on Partially Completed Conversion.** A claim of exemption based on partially completed conversion shall not be approved until and unless owner or operator shows that all of the following requirements are met:

(1) An application for partially completed conversion was filed no later than 60 calendar days after the effective date of this ordinance;

(2) The owner or operator has commenced work on extensive Capital Improvements and Rehabilitation Work prior to November 23, 1979, as defined in Section 37.2 of the San Francisco Administrative Code (the San Francisco Rent Stabilization and Arbitration Ordinance) and has completed such work on at least 35 percent of the units intended to be converted or has expended 40 percent of the total sum budgeted for said work;

(3) The owner or operator or previous owner or operator shall have clearly demonstrated his/her intention to convert all of the residential units in the subject building to tourist units as of November 23, 1979. Satisfactory evidence of intention to convert may be demonstrated by the following factors, including but not limited to:

(A) Whether an architect has been engaged to prepare plans and specifications; or

(B) Whether applications for construction work have been received; or

(C) Whether applications for the necessary permits have been submitted to all relevant city departments; or

(D) Whether a building permit has been issued.

(4) Each permanent resident displaced by the conversion is offered relocation assistance as set forth in Section 41.17(b) below; and

(5) For each vacant residential unit converted, but not occupied by a permanent resident, a sum of \$250 per unit not to exceed a total of \$10,000 shall be deposited in the San Francisco Residential Hotel Preservation Account of the Repair and Demolition Fund established pursuant to Section 203.1 of the San Francisco Building Code (being Chapter 1, Article 2, Part II of the San Francisco Municipal Code) to be used exclusively for the repair, purchase and rehabilitation of residential hotel units by agencies of the City and County of San Francisco and to be administered by the Department of Public Works.

(d) Consistent with Planning Code Section 183, any unit deemed to be a tourist unit which has remained continuously vacant for three years following the zoning change in a zoning district not allowing tourist hotels shall lose its nonconforming status, and may be opened only for residential hotel or group housing uses.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001)

SEC. 41.8. REQUIREMENTS FOR NONPROFIT ORGANIZATIONS.

(a) **Initial Unit Usage Report.** Within 90 days of the adoption of this amended Chapter, the Department of Building Inspection shall notify all nonprofit organizations operating hotels that the nonprofit organization must comply with the Initial Status Determination provisions of Section 41.6 herein.

(b) **Annual Unit Usage Report.** All nonprofit organizations operating hotels with residential units shall comply with the provisions of Section 41.10 herein in the event that the status of the units in the hotel

changes from the designation contained in the Initial Unit Usage Report.

(c) **One-for-One Replacement.** If a nonprofit organization seeks to demolish residential units or remove residential units from housing use, or sells or otherwise transfers the building containing residential use, it shall comply with the provisions of Section 41.13 of this Chapter.

(d) **Applicability of this Chapter.** This chapter shall not apply to a hotel which has a certificate of use for all residential units but contained no permanent residents on September 23, 1979, provided that the hotel is owned, leased or operated by a nonprofit organization at the time this exemption is sought. The owner, operator or lessee of such a hotel must file with the Director of the Department of Building Inspection evidence to support such exemption. If the exemption is approved, the Director shall issue a certificate of use designating all the hotel's units as tourist units; provided, however, that the certificate shall not be issued until the hotel owner, operator or lessee has paid any penalties imposed under Section 41.6(e) or Section 41.10(f) or (g), or released any liens imposed under Section 41.20(d).

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001)

SEC. 41.9. RECORDS OF USE.

(a) **Daily Log.** Each residential hotel shall maintain a daily log containing the status of each room, whether it is occupied or vacant, whether it is used as a residential unit or tourist unit, the name under which each adult occupant is registered, and the amount of rent charged. Each hotel shall also provide receipts to each adult occupant, and maintain copies of the receipts, showing: the room number; the name of each adult occupant; the rental amount and period paid for; and any associated charges imposed and paid, including but not limited to security deposits and any tax. The daily log and copies of rent receipts shall be available for inspection pursuant to Section 41.11(c) of this Chapter 41 upon demand by the Director of the Department of Building Inspection or the Director's designee or the City Attorney's Office between the hours of 9 a.m. and 5 p.m., Monday through Friday unless the Director of the Department of Building Inspection or the City Attorney's Office reasonably believe that further enforcement efforts are necessary for specified residential hotels, in which case the Department of Building Inspection or the City Attorney's Office shall notify the hotel owner or operator that the daily logs and copies of rent receipts shall be available for inspection between the hours of 9 a.m. and 7 p.m. Each hotel shall maintain the daily logs and copies of rent receipts for a period of no less than 24 months. Should an owner or operator object to providing records for inspection, the Director of the Department of Building Inspection shall have the authority to issue administrative subpoenas to investigate and enforce this Chapter's provisions.

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

(b) **Weekly Report.** Following the initial determination, an owner or operator of residential units shall post on each Monday before 12 noon the following information:

(1) The number of tourist units to which the owner or operator is currently entitled and the date the certificate of use was last issued;

(2) The number of guest rooms which were used as tourist units each day of the preceding week. Evidence of compliance with requirements imposed hereunder shall be preserved by the owner or operator for a period of not less than two years after each posting is required to be made. The owner or operator shall permit the Director of the Department of Building Inspection or his designee to inspect the hotel records and other supporting evidence to determine the accuracy of the information posted.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. 195-05, File No. 051031, App. 7/29/2005; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.10. ANNUAL UNIT USAGE REPORT.

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

- (1) The total number of units in the hotel as of October 15 of the year of filing;
- (2) The number of residential and tourist units as of October 15 of the year of filing;
- (3) The number of vacant residential units as of October 15 of the year of filing; if more than 50% of the units are vacant, explain why;
- (4) The average rent for the residential hotel units as of October 15 of the year of filing;
- (5) The number of residential units rented by week or month as of October 15 of the year of filing; and
- (6) The designation by room number and location of the residential units and tourist units as of October 15 of the year of filing, along with a graphic floorplan reflecting room designations for each floor. The owner or operator shall maintain such designated units as tourist or residential units for the following year unless the owner or operator notifies in writing the Department of Building Inspection of a redesignation of units; the owner or operator may redesignate units throughout the year, provided they notify the Department of Building Inspection in writing by the next business day following such redesignation, and update the graphic floorplan on file with the Department of Building Inspection and maintain the proper number of residential and tourist units at all times. The purpose of this provision is to simplify enforcement efforts while providing the owner or operator with reasonable and sufficient flexibility in designation and renting of rooms;
- (7) The nature of services provided to the permanent residents and whether there has been an increase or decrease in the services so provided;
- (8) A copy of the Daily Log, showing the number of units which are residential, tourist, or vacant on the first Friday of each month of the year of filing.

(b) **Notice of Annual Unit Usage Report.** On the day of filing, the owner or operator shall post a notice that a copy of the Annual Unit Usage Report submitted to the Department of Building Inspection is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, which notice shall remain posted for 30 days. The Department shall maintain a list of those properties that have filed or failed to submit annual reports on its website.

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

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

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

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

If the Director or the Director's designee determines that additional information is needed to make a determination, the Director or designee shall send both the owner and operator a written request to furnish such information within 15 calendar days of the mailing of the written request. The letter shall state that if

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

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

If the owner or operator fails to file an Annual Unit Usage Report, the Director or the Director's designee shall notify the owner and operator by registered or certified mail and shall post a notice informing the owner and operator that unless submission of the Annual Unit Usage Report and application for renewal of the hotel license is made within 15 calendar days of the mailing of the letter, the residential and tourist units shall be presumed to be unchanged from the previous year, and the Director shall impose a penalty of \$1,000 per month for each month the annual report is not filed and the Residential Hotel will be not be eligible for any temporary tourist rentals as provided in Section 41.19 for the next 12 months. If the Director does not receive the report, the Director shall notify both the owner and operator by mail that the Director is imposing the appropriate penalty, as prorated, which must be paid within 30 days of the mailing of the notification and that interest on the penalty shall accrue from the expiration of the 30 days at the rate of 1.5% per full month, compounded monthly. The written notification shall state that if the penalty is not paid, a lien to secure the amount of the penalty, plus the accrued interest, will be recorded against the real property pursuant to the provisions of Section 41.20(d) of this Chapter 41.

(h) Appeal of Annual Usage Determination. An owner or operator may appeal the annual unit usage determination by the Director of the Department of Building Inspection provided that there was no challenge pursuant to the provisions of subsection (i) below, and further provided that an appeal is filed within 20 calendar days from the date of annual unit usage determination. If an appeal is filed, a copy of the notice of appeal shall be posted by the owner or operator and a hearing pursuant to the provisions of Section 41.11(b) shall be scheduled.

(i) Challenge; Standing; Statute of Limitation. Any interested party may file a challenge to the information contained in the annual unit usage report filed by the owner or operator provided that such a challenge is in writing and is submitted within 30 calendar days from the date the report to the Department of Building Inspection is filed. Upon receipt of a challenge, a hearing pursuant to the provisions of Section 41.11(b) shall be scheduled. The owner or operator shall have the burden of proving by a preponderance of evidence that the information filed is correct.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.11. ADMINISTRATION.

(a) Fees. The owner or operator shall pay the following filing fees to the Department of Building Inspection to cover its costs of investigating and reporting on eligibility. See Section 110A, Hotel Conversion Ordinance Fee Schedule, Table 1A-Q, of the Building Code for the applicable fees. The party that brings an unsuccessful challenge to a report pursuant to this Chapter 41 shall be liable for the charge in

Section 110A, Hotel Conversion Ordinance Fee Schedule, Unsuccessful Challenge, Table 1A-Q of the Building Code. Fees shall be waived for an individual who files an affidavit under penalty of perjury stating that he or she is an indigent person who cannot pay the filing fee without using money needed for the necessities of life.

(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 Section 41.20(e) of 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 empowered to issue subpoenas upon application of the parties seven calendar days prior to the date of the hearing. During the hearing, evidence and testimony may be presented to the hearing officer. Parties to the hearing may be represented by counsel and have the right to cross-examine witnesses. All testimony shall be given under oath. Written decision and findings shall be rendered by the hearing officer within 20 working days of the hearing. Copies of the findings and decision shall be served upon the parties to the hearing by registered or certified mail. A notice that a copy of the findings and decisions is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be posted by the owner or operator.

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

(c) **Inspection.** The Director of the Department of Building Inspection shall have the authority to issue administrative subpoenas as necessary or appropriate to conduct inspections pursuant to this Chapter 41. The Director of the Department of Building Inspection shall conduct, from time to time, on-site inspections of the daily logs, other supporting documents, including the graphic floorplan and units listed as vacant in the daily logs, to determine if the owner or operator has complied with the provisions of this Chapter. In addition, the Director of the Department of Building Inspection or the Director's designee shall conduct such an inspection as soon as practicable upon the request of a current or former occupant of the hotel. If, upon such an inspection, the Director or Director's designee determines that an apparent violation of the provisions of this Chapter has occurred, the Director or designee shall post a notice of apparent violation informing the permanent residents of the hotel thereof, or shall take action as set forth in Section 41.11(d) and (e) below. This notice shall remain posted until the Director of the Department of Building Inspection, or the Director's designee, determines that the hotel is no longer in violation of the provisions of this Chapter.

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

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

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

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

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

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

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

(g) **Costs of Enforcement.** The Department of Building Inspection shall be entitled to recover costs for enforcement as provided in Building Code Section 102A.7(d).

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

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

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.12. PERMIT TO CONVERT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.13. ONE-FOR-ONE REPLACEMENT.

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

- (1) Construct or cause to be constructed a comparable unit to be made available at comparable rent to replace each of the units to be converted; or
- (2) Cause to be brought back into the housing market a comparable unit from any building which was not subject to the provisions of this Chapter 41; or
- (3) Construct or cause to be constructed or rehabilitated apartment units for elderly, disabled, or low-income persons or households which may be provided at a ratio of less than one-to-one; or construct or cause to be constructed transitional housing which may include emergency housing. The construction of any replacement housing under this subsection shall be subject to restrictions recorded against title to the real property and be evaluated by the Planning Commission in accordance with the provisions of Section 303 of the Planning Code. A notice of said Planning Commission hearing shall be posted by the owner or operator 10 calendar days before the hearing; or
- (4) Pay to the City and County of San Francisco an amount equal to 80% of the cost of construction of an equal number of comparable units plus site acquisition cost. All such payments shall go into a San Francisco Residential Hotel Preservation Fund Account. The Department of Real Estate shall determine this amount based upon two independent appraisals; or
- (5) Contribute to a public entity or nonprofit organization, which will use the funds to construct comparable units, an amount at least equal to 80% of the cost of construction of an equal number of comparable units plus site acquisition cost. The Department of Real Estate shall determine this amount based upon two independent appraisals. In addition to compliance with all relevant City ordinances and regulations, the public entity or nonprofit organization and the housing development proposal of such public entity or nonprofit organization shall be subject to approval by the Mayor's Office of Housing and Community Development.
 - (A) Such contribution shall be paid to the approved public entity or nonprofit organization in installments from an escrow account supervised by the Mayor's Office of Housing, upon application by such public entity or nonprofit organization to the Mayor's Office of Housing, for specified expenditures, including but not limited to site acquisition costs, architect's fees, and construction costs; such payment shall be approved by the Mayor's Office of Housing prior to release of funds.
 - (B) The permit to convert shall be issued by the City when owner or operator deposits the full amount of funds in an escrow account described in subsection 41.13(a)(5)(A) above, or provides other form of nonrefundable security acceptable to the City Attorney and the Mayor's Office of Housing.
 - (C) In the event that the public entity or nonprofit organization is unable to complete construction of the replacement housing, any unpaid amounts shall be released to the City. All such funds shall go into a San Francisco Residential Hotel Preservation Fund Account.
 - (b) Any displaced permanent resident relocated to replacement units provided under Subdivision (a) above shall be deemed to have continued his occupancy in the converted unit for the purpose of administering Subsection (k) of Section 37.2, San Francisco Administrative Code (San Francisco Rent Stabilization and Arbitration Ordinance).
 - (c) Any replacement units shall continue to be subject to the provisions of this Chapter.
 - (d) In the event that a completed application for a permit to convert is filed by a hotel owner or operator no later than the effective date of this amended Chapter, and such hotel owner or operator elects to provide one-for-one replacement of the residential units pursuant to Section 41.13(a) (4) or Section 41.13(a) (5) herein, the hotel owner or operator shall be obligated to pay to the City and County of San Francisco an amount equal to 40 percent of the cost of construction of an equal number of comparable units plus site acquisition cost, provided that such hotel owner or operator shall pay such amount to the City or provide to the City security for such payment in a form satisfactory to the Mayor's Office of Housing and the City Attorney within 90 days following the date that the Department of Building Inspection determines that the application for a permit to convert is complete, or, if necessary, 10 days following final action, including

any appeals, by the Planning Commission or appellate body, or 10 days following the Department of Real Estate's determination of such amount, whichever occurs latest. In the event that a hotel owner or operator elects to provide one-for-one replacement pursuant to Section 41.13(a)(2) or (a)(5) herein and the Mayor's Office of Housing has not approved a proposal or organization thereunder prior to the effective date of this amended Chapter, the Department of Building Inspection shall not reject such application as incomplete for such lack of information. If a hotel owner or operator applies for a permit to convert using the one-for-one replacement option described in 41.13(a)(2) or (a)(5) and the Mayor's Office of Housing does not approve a housing development proposal or a nonprofit organization, or such project fails to progress through no fault of the owner or operator, such applicant shall be permitted to provide one-for-one replacement pursuant to Section 41.13 (a)(4) at 40 percent of the cost of construction of an equal number of comparable units plus site acquisition costs, provided that such applicant files the application under Section 41.13(a)(2) or (a)(5) no later than the effective date of this amended Chapter. The hotel owner or operator shall identify such housing proposal or nonprofit organization within 180 days of the effective date of this amended Chapter. In the event that the Mayor's Office of Housing finds that the permit applicant has acted in good faith in seeking a project, the Mayor's Office of Housing may exercise its reasonable discretion to extend the provisions of this subsection for an additional 180 days. In the event that a project approved by the Mayor's Office of Housing fails to move forward through no fault of the permit applicant, the applicant may substitute another project within six months of being notified by the Mayor's Office of Housing of a failure of the prior project to move forward. The Mayor's Office of Housing may extend this period for an additional 180 days to identify such new proposal. The City shall issue a permit to convert under this subsection 41.13(d) only if the hotel owner or operator has either paid the 40-percent in lieu fee to the City pursuant to Section 41.13(a)(4) herein or complied with the requirements of Sections 41.13(a)(2) or (a)(5) as applicable. In the event that a hotel owner or operator has not complied with any of these requirements and the City has not issued a permit to convert or if the Mayor's Office of Housing has not found the hotel owner or operator has acted in good faith in seeking a project pursuant to subsections 41.13(a)(2) or (a)(5) or this subsection, no later than 180 days following the effective date of this amended Chapter, or such later date as herein provided, this Subsection 41.13(d) shall no longer be applicable, City shall refund any amounts deposited as security pursuant to the terms herein, and such hotel owner or operator shall comply with all applicable terms of this Chapter.

(e) When a residential unit is approved for conversion to another use pursuant to the provisions of Subsection 41.13(a)(2), (a)(4) or (a)(5) above, such unit shall not be deemed to be reconverted into a residential unit regardless of any interim uses after payment as set forth in Subsections 41.13(a)(2), (a)(4) or (a)(5).

(f) The funds deposited in the Residential Hotel Preservation Fund may be used to (i) create new affordable rental housing to replace the affordable housing lost as a result of the conversion or demolition of residential hotel units subject to this Ordinance and (ii) defend the Ordinance against legal challenge, including the legal costs and attorney's fees incurred in the defense.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. 46-05, File No. 050133, App. 3/23/2005; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.14. MANDATORY DENIAL OF PERMIT TO CONVERT.

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

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

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.15. APPROVAL AND ISSUANCE OF PERMIT TO CONVERT.

The Director of the Department of Building Inspection shall issue a permit to convert, provided that:

- (a) The requirements of Section 41.12 have been met;
- (b) Evidence of compliance with the requirements of Section 41.13 has been submitted. Satisfactory evidence of compliance may be:
 - (1) A certification of final completion or permit of occupancy on the replacement housing; or
 - (2) A receipt from the City Treasurer that the in-lieu payment determined by the Department of Real Estate has been received; and
 - (3) Evidence of compliance with the requirements of Section 41.17 herein.
- (c) The proposed conversion or the use to which the unit would be converted is permitted by the City Planning Code.
- (d) Concurrent with the issuance of a permit to convert, the Director of the Department of Building Inspection shall issue a new certificate of use which shall state the newly certified number of residential units and tourist units.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001)

SEC. 41.16. APPEAL OF DENIAL OR APPROVAL OF PERMIT TO CONVERT.

- (a) Denial or approval of a permit application may be appealed to the Board of Permit Appeals, pursuant to Sections 8 et seq. Part III of the San Francisco Municipal Code.
- (b) The owner or operator shall submit a statement under the penalty of perjury that he has notified all the affected permanent residents of his appeal and of the date, time and place of the hearing before the Board of Permit Appeals, seven calendar days prior to the scheduled hearing.
- (c) The appellant shall have the burden of proving that the determination of the Director of the Department of Building Inspection is invalid.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001)

SEC. 41.17. RIGHTS OF PERMANENT RESIDENTS.

- (a) To apply for a permit to convert, an owner or operator of the hotel shall do the following:
 - (1) Any interested community organization and all permanent residents residing in said building at the time of an application for a permit to convert and thereafter shall be timely informed of all public hearings and administrative decisions concerning said conversion; said notice shall be posted by the owner or operator;
 - (2) A permanent resident has the right to occupy his/her residential unit for 60 calendar days from the issuance of the permit to convert;
 - (3) Owner or operator shall offer a permanent resident available comparable units in the building, or to any replacement housing provided pursuant to Subsection 41.13(a)(1) or (2);

(4) All displaced permanent residents are entitled to relocation assistance as provided for in subsection (b) below;

(5) Seven calendar days prior to the filing of an application for a permit to convert, the owner or operator shall notify, in writing, by personal service, or registered or certified mail, every permanent resident affected by the proposed conversion of his/her intent to convert designated units;

(6) The notification required by Subsection (5) above shall also inform the permanent residents of their rights under Subsections (1) through (4) above.

(b) Relocation Assistance.

(1) A permanent resident, who as a result of the conversion of his/her unit must relocate off site, shall be reimbursed the actual moving expenses not to exceed \$300 or may consent to be moved by the owner or operator.

(2) A displaced permanent resident shall have the right of first refusal for the rental or leasing of replacement units, if any, provided pursuant to the provisions of Sections 41.13(a)(1) or 41.13(a)(2).

(3) A permanent resident displaced by partially completed conversion under the provisions of Section 41.7(c) shall be entitled to a displacement allowance of \$1,000 per displaced person.

(Added by Ord. 121-90, App. 4/12/90)

SEC. 41.18. DEMOLITION.

(a) This section shall apply only to demolition of residential hotel buildings pursuant to an abatement order of the Director of Public Works or the Superior Court of the State of California, or demolition necessitated by major fires, natural causes or accidents where the cost of repair exceeds 50 percent of the replacement value of the building.

(b) Upon submission of an application for a demolition permit, the owner or operator shall post a copy of said application.

(c) Upon notification by the Central Permit Bureau that a demolition permit has been issued, the owner or operator shall post a notice explaining the procedure for challenging the issuance of the demolition permit to the Board of Permit Appeals.

(d) When issued a demolition permit, the owner or operator shall provide a written notice of the demolition within 10 calendar days of issuance of the permit to each residential permanent resident. Each permanent resident shall be notified in writing of his/her rights to relocation assistance and to occupy the same unit for a period of up to 60 days after issuance of the demolition permit.

(e) The subsequent issuance of a building permit for construction on the demolished site shall be conditioned on the owner or operator's agreement to replace, on a one-for-one basis, the demolished residential units as required by the provisions of Section 41.13. No building permit shall be issued until owner or operator complies with the provisions of Section 41.13.

(f) The conditions for issuance of a demolition permit set forth in subsection (e) above shall be recorded by the owner at the time of issuance of the demolition permit in order to provide notice of said conditions to all subsequent purchasers and interested parties.

(Added by Ord. 121-90, App. 4/12/90)

SEC. 41.19. TEMPORARY CHANGE OF OCCUPANCY.

(a) Temporary Change of Occupancy.

- (1) A tourist unit may be rented to a permanent resident, until voluntary vacation of that unit by the permanent resident or upon eviction for cause, without changing the legal status of that unit as a tourist unit.
- (2) A permanent resident may be relocated for up to 21 days to another unit in the residential hotel for purposes of complying with the Building Code requirements imposed by the UMB Seismic Retrofit Ordinance, Ordinance No. 219-92, without changing the designation of the unit.
- (3) A residential unit which is vacant at any time during the period commencing on May 1 and ending on September 30 annually may be rented as a tourist unit, provided that (A) the residential unit was vacant due to voluntary vacation of a permanent resident or due to lawful eviction for cause after the permanent resident was accorded all the rights guaranteed by State and local laws during his/her tenancy, (B) the daily log shows that the residential unit was legally occupied for at least 50% of the period commencing on October 1 and ending on April 30 of the previous year, unless owner or operator can produce evidence to the Department of Building Inspection explaining such vacancy to the satisfaction of the Department, including but not limited to such factors as repair or rehabilitation work performed in the unit or good-faith efforts to rent the unit at fair market value; (C) the residential unit shall immediately revert to residential use upon application of a prospective permanent resident; and (D) the owner or operator has not committed unlawful action as defined in this Chapter 41 within 12 months prior to this request.

25-percent Limit.

However, at no time during the period commencing on May 1 and ending on September 30 may an owner or operator rent for nonresidential use or tourist use more than 25% of the hotel's total residential units unless the owner or operator can demonstrate that (A) the requirements of Section 41.19(a)(3) above are met, and (B) good-faith efforts were made to rent such units to prospective permanent residents at fair market value for comparable units and that such efforts failed. Owners or operators who seek to exceed this limit must request a hearing pursuant to Section 41.11(b) above and the decision whether to permit owners or operators to exceed this limit is within the discretion of the hearing officer.

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

(1) **Notice of Hearing.** Notice of hearing as provided in Section 41.11(b)(1) above shall be given within 15 calendar days. The notice requirements for the owner or operator shall also be applicable to any interested party who has submitted a prior written request to the Director of the Department of Building Inspection to be notified of such hearings.

(2) **Time of Hearing.** The hearing shall be held within 30 days of the submission of the owner or operator's written request for hearing.

(3) **Burden of Proof.** Burden of proof is on the owner or operator.

(4) **Interested Party.** Any interested party shall be deemed a "party to the hearing" for purposes of Section 41.11(b)(1).

(5) **Determination of the Hearing Officer.** Based upon the evidence presented at the hearing, conducted in accordance with Section 41.11(b)(3) above, the hearing officer shall make findings as to (i) whether the residential unit was vacant due to voluntary vacation of a permanent resident or was vacant due to lawful eviction, (ii) whether the residential unit was occupied for at least 50% of the period commencing on October 1st and ending on April 30 of the previous year, (iii) whether the owner or operator has committed unlawful action under this Chapter 41 within 12 months prior to this request, and (iv) whether the owner or operator made good-faith efforts to rent vacant residential units to prospective permanent residents at no more than fair market value for a comparable unit during the tourist season and yet was unable to secure such rentals. Good-faith efforts shall include, but not be limited to, advertising the

availability of the residential units to the public. In determining fair market value of the residential units, the hearing officer shall consider any data on rental of comparable units, as defined in Section 41.4 herein.

(6) **Decision.** The hearing officer shall render a written decision and findings within 10 working days of the hearing.

(7) **Effect of Decision.** The hearing officer's decision shall remain in effect for the tourist season for which the owner or operator requested the hearing. If the owner or operator wishes to exceed the 25 percent limit during any subsequent tourist season, a new written request for hearing must be submitted to the Director of the Department of Building Inspection.

(8) **Construction.** The purpose of this Section 41.19(b) is to supplement or modify provisions of Section 41.11(b) (1) through (b)(3). Unless otherwise specifically modified, all provisions of Sections 41.11(b)(1) through (b)(3) are deemed applicable to hearings concerning the tourist season limitation on rental of vacant residential units.

(c) **Winter Rentals.** A residential unit which is vacant at any time during the period commencing on October 1st and ending on April 30th annually may be rented as a tourist unit, provided that:

(1) Such owner or operator has been permitted to rent residential units as tourist units in excess of 25 percent of the residential units pursuant to Section 41.19(a)(3) above;

(2) The owner or operator has not committed unlawful action as defined in this Chapter within 12 months prior to the time of this request;

(3) A residential hotel may not rent in excess of 33 percent of the total number of residential units or 20 residential units, whichever is less, pursuant to this subsection;

(4) Applicants to temporarily convert residential units pursuant to this subsection shall submit applications to the Department of Public Works, in accordance with rules and regulations promulgated by the Department of Public Works;

(5) A maximum of 60 residential units may be approved per year to be rented as tourist units or non-residential units pursuant to this Subsection 41.19(c). In the event that the number of such applications exceeds 60 residential units, the Department of Public Works shall establish a lottery system based on priority ranking where preference shall be accorded to residential hotel owner who have been eligible more frequently than other hotel owners for temporary conversion pursuant to Subsection 41.19(a)(3) above;

(6) Such nonresidential use is permitted by the zoning for such residential hotel; and

(7) No application for such temporary conversion shall be approved by the Department of Public Works to fill the unused portion of the 60 residential unit limitation for the previous year.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 219-92, App. 7/14/92; Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.20. UNLAWFUL CONVERSION; REMEDIES; FINES.

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

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

(2) Rent any residential unit for Tourist or Transient Use except as permitted by Section 41.19 of this Chapter;

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

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

- (1) Shortening of the term of an existing tenancy without the prior approval of the permanent resident;
- (2) Reduction of the basic services provided to a residential unit intended to lead to conversion. For the purpose of this subsection (b)(2), basic services are defined as access to common areas and facilities, food service, housekeeping services, and security;
- (3) Repeated failure to comply with orders of the Department of Building Inspection or the Department of Public Health to correct code violations with intent to cause the permanent residents to voluntarily vacate the premises;
- (4) Repeated citations by the Director of the Department of Building Inspection or the Department of Public Health for Code violations;
- (5) Offer of the residential units for nonresidential use or tourist use except as permitted in this Chapter 41;
- (6) Eviction or attempts to evict a permanent resident from a residential hotel on grounds other than those specified in Sections 37.9(a)(1) through 37.9(a)(8) of the Administrative Code except where a permit to convert has been issued; and
- (7) Repeated posting by the Director of the Department of Building Inspection of notices of apparent violations of this Chapter 41 pursuant to Section 41.11(c) above.

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

(d) **Lien Proceedings.** If any penalty imposed pursuant to Sections 41.10(d), 41.10(f), 41.11(f) or 41.20(c) is not received within the required time period, the Director of the Department of Building Inspection shall initiate proceedings under Article XX of Chapter 10 of the San Francisco Administrative Code to make the penalty, plus accrued interest, a lien against the real property regulated under this Chapter. Except for the release of lien recording fee authorized by Administrative Code Section 10.237, all sums collected by the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and distributed as provided in Section 41.8(e) of this Chapter.

(e) **Civil Action.** An interested party may institute a civil proceeding for injunctive relief and damages. The Director of the Department of Building Inspection may institute a civil proceeding for injunctive relief. Counsel for the interested party shall notify the City Attorney's office of the City and County of San Francisco of any action filed pursuant to this Section. In determining whether an unlawful conversion has occurred, the court may consider, among other factors, those enumerated in Section 41.20(b) of this

Chapter. The interested party instituting a civil proceeding, or the City suing to enforce this Chapter, if prevailing parties, shall be entitled to the costs of enforcing this Chapter, including reasonable attorney's fees, pursuant to an order of the Court.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 322-00, File No. 001917, App. 12/28/2000; Ord. 134-01, File No. 001926, App. 7/6/2001; Ord. [38-17](#), File No. 161291, App. 2/17/2017, Eff. 3/19/2017)

SEC. 41.21. ANNUAL REVIEW OF RESIDENTIAL HOTEL STATUS.

(a) The Department of Building Inspection shall prepare and submit to the Board of Supervisors an annual status report containing the following:

(1) Current data on the number of residential hotels and the number of residential units in each of the residential hotels in the City and County of San Francisco, including, to the extent feasible, information regarding rents, services provided, and violations of the City's Codes;

(2) Current data on the number of residential hotel units converted pursuant to a permit to convert;

(3) Current data on the number of hotel units demolished or eliminated due to code abatement proceedings and fire;

(4) Current data on the number of residential hotel units illegally converted;

(5) Current data on the number of replacement housing units rehabilitated or constructed;

(6) A summary of the enforcement efforts by all City agencies responsible for the administration of this Chapter; and

(7) An evaluation of the workability and effectiveness of the permitted temporary change of occupancy procedures and winter rentals in Section 41.19 herein; and

(8) A report on expenditures from the San Francisco Residential Hotel Preservation Fund Account.

(b) The Economic and Social Policy Committee of the Board of Supervisors shall conduct a hearing on the annual report submitted by the Department of Building Inspection and shall recommend appropriate actions to be taken by the Board of Supervisors.

(c) The Department of Building Inspection should establish a San Francisco Residential Hotel Operators Advisory Committee composed of:

- 3 members nominated by the San Francisco Hotel Association (for-profit operators);
- 3 members nominated by the Golden Gate Hotel Association (for-profit operators);
- 2 members nominated by the Council of Community Housing Organizations (nonprofit hotel operators);
- Deputy Mayor for Housing.

The committee shall meet no less than once every three months to advise the Mayor's Office of Housing on matters including, but not limited to:

(1) Proposed revisions to this ordinance;

(2) Programs that various City agencies (i.e. Mayor's Office of Housing, Department of Social Services, etc.) should develop to assist the City's residential hotel operators;

(3) Any state or federal laws the City should support, oppose or seek to revise that impact residential hotel operators;

(4) Any new City, State or Federal programs the City shall encourage that would provide financial or technical support or assistance to San Francisco Residential Hotel Operators.

(Added by Ord. 121-90, App. 4/12/90; amended by Ord. 134-01, File No. 001926, App. 7/6/2001)

SEC. 41.22. REPORT OF RESIDENTIAL HOTEL STATUS PRIOR TO SALE OR TRANSFER.

(a) **Report of Residential Hotel Status Form.** The Department of Building Inspection shall make available a Report of Residential Hotel Status Form. The form shall request information regarding the status of the Residential Hotel's compliance with this Chapter 41 and provisions of the Building or Housing Codes including:

(1) Residential Hotel Status:

(A) Total number of Residential Units and Tourist Units at the Residential Hotel;

(B) Unit numbers and locations of the Residential and Tourist Units;

C)¹ Identification of currently occupied Residential Units and their current rent rates;

(D) For vacant Residential Units, the last date when a Permanent Resident occupied the units and the rent rate when last occupied; and

(E) Date of last Annual Unit Usage Report.

(2) Property Status:

(A) Date of last inspection by the Department of Building Inspection;

(B) Notices of Violations, Abatement Orders, or any other Department of Building Inspection, Fire Department, or Department of Public Health enforcement actions within the last five years; and

(C) Disabled access features installed on the property.

(3) Such other information, if any, regarding compliance with this Chapter 41 and the Building or Housing Codes, as the Department of Building Inspection, in its discretion, decides to request on the form.

(b) **Process for Obtaining Report of Residential Hotel Status.** An owner or authorized agent seeking to sell or exchange a Residential Hotel shall complete and submit a Report of Residential Hotel Status Form to the Department of Building Inspection. The Department of Building Inspection shall evaluate the information in the form, verify information that corresponds with the Department's records, and identify and annotate any information on the form that is inconsistent with the Department's Records. The Department shall complete its review and issue the verified and annotated form as the Report of Residential Hotel Status within 10 business days of receiving the completed form. A Report of Residential Hotel Status shall be effective for a period of one year from the date of issuance, and shall contain therein the dates of issuance and expiration.

(c) **Disclosure of Report of Residential Hotel Status to Buyer or Transferee.** Starting 10 business days following the effective date of this Section 4.22, in addition to any applicable requirements in Chapter 3.5 of the Housing Code, prior to the sale or exchange of ownership for any Residential Hotel, the owner thereof, or their authorized agent, shall deliver a Department of Building Inspection-approved Report of Residential Hotel Status to the buyer or transferee of said Residential Hotel.

(d) **Receipt of Report of Residential Hotel Status.** Within 30 days of purchasing or otherwise receiving title to a Residential Hotel, the buyer or transferee shall file with the Department of Building Inspection, a receipt of Report of Residential Hotel Status, on a form furnished by said Department.

(Added by Ord. [99-19](#), File No. 170416, App. 5/24/2019, Eff. 6/24/2019)

(Former Sec. 41.22 added by Ord. 121-90, App. 4/12/90; redesignated as Sec. 41.23 by Ord. [99-19](#), File No. 170416, App. 5/24/2019, Eff. 6/24/2019)

CODIFICATION NOTE

1. So in Ord. [99-19](#).

SEC. 41.23. CONSTRUCTION.

(a) Nothing in this Chapter may be construed to supersede any other lawfully enacted ordinance of the City and County of San Francisco, except that definitions provided in this Chapter shall govern the enforcement of this Chapter.

(b) Clauses of this Chapter are declared to be severable and if any provision or clause of this Chapter or the application thereof is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of this Chapter.

(Added as Sec. 41.22 by Ord. 121-90, App. 4/12/90; redesignated by Ord. [99-19](#), File No. 170416, App. 5/24/2019, Eff. 6/24/2019)