

[Requiring Residential Hotel Receipts to Adult Occupants.]

**Ordinance amending Administrative Code Chapter 41 "Residential Hotel Unit Conversion and Demolition" by amending Sections 41.9 and 41.11 to require that hotels provide each adult occupant with a receipt showing each amount and time period paid, and also showing any associated charges, and providing for enforcement; and, updating terminology in Sections 41.9 through 41.16 and 41.19 through 41.21 to reflect prior Charter changes establishing a Director and Department of Building Inspection in place of the former Superintendent and Bureau of Building Inspection.**

Note: Additions are *italic; Times New Roman*; deletions are ~~strikethrough italic; Times New Roman~~.  
Board amendment additions are double underlined normal.  
Board amendment deletions are ~~strikethrough normal~~.

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

**Section 1.** Chapter 41 of the San Francisco Administrative Code is hereby amended by substantively amending Sections 41.9 and 41.11, and by updating terminology in Sections 41.6 through 41.16 and 41.19 through 41.21, to read as follows:

**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

1 evidence. However, upon application by an owner or operator and upon showing a good  
2 cause therefor, the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection may  
3 grant an extension of time not to exceed 30 days for filing. Owner or operator shall post a  
4 notice on the day of filing that a copy of the initial status determination document filed with the  
5 ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection is available for  
6 inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

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

9 (1) The number of residential and tourist units in the hotel as of September 23,  
10 1979;

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

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

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

24 (d) Certification of Units. The ~~Superintendent~~ Director of the ~~Bureau~~ Department of  
25 Building Inspection shall review the information and accompanying supporting data. A certified

1 copy of hotel tax returns for the calendar year 1979 may be used to establish the number of  
2 tourist units and the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection or  
3 the ~~Superintendent's~~ Director's designee may personally inspect units to establish the number of  
4 tourist units. If, in the opinion of the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
5 Inspection, the initial unit usage report is supported by adequate supporting evidence, the  
6 ~~Superintendent~~ Director shall certify the number of residential and tourist units within 90  
7 calendar days of its submission. The owner or operator shall have the burden of proving the  
8 number of tourist units claimed by a preponderance of evidence.

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

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

21 (e) Failure to File Statement of Exemption, Claim of Exemption or Initial Unit Usage  
22 Report. If no initial unit usage report, or statement of exemption, or a claim of exemption  
23 based on partially completed conversion, or a claim of exemption based on low-income  
24 housing for all of the guest rooms, is filed for a hotel within the time set forth in Section  
25 41.6(a), the ~~Superintendent~~ Director of ~~Bureau~~ Department of Building Inspection shall mail a

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

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

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

22 (h) Reporting Forms for Initial Unit Usage Report. Compliance by any party or by  
23 the City of San Francisco with notice, filing, challenge, designation of unit and certification  
24 requirements of Ordinance 330-81 regarding the initial status of units shall satisfy similar  
25

1 requirements set forth in this Chapter and all such notices, filings, challenges, designations or  
2 certificates shall have the same force and effect as if made pursuant to this subsection.

3  
4 **SEC. 41.7. STATEMENTS OF EXEMPTION; APPLICABILITY OF THIS CHAPTER.**

5 (a) Statement of Exemption Based on Inapplicability of This Chapter. Any hotel  
6 claiming that this Chapter does not apply, under the provisions of Sections 41.5(a) through  
7 41.5(d), shall file a statement of exemption specifying the basis for the exemption. Any hotel  
8 claiming exemption under the provisions of Sections 41.5(b) through 41.5(d) shall also state  
9 the total number of guest rooms and the number of residential hotel units with monthly rent  
10 over \$1,000 per month.

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

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

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

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

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

24 (5) In those circumstances where it is necessary to relocate a permanent resident  
25 off site, the permanent resident shall receive the actual moving expenses and the difference

1 between the rent at the time of relocation and the rent of the temporary housing during the  
2 period of rehabilitation.

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

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

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

13 (2) The owner or operator has commenced work on extensive Capital  
14 Improvements and Rehabilitation Work prior to November 23, 1979, as defined in Section  
15 37.2 of the San Francisco Administrative Code (the San Francisco Rent Stabilization and  
16 Arbitration Ordinance) and has completed such work on at least 35 percent of the units  
17 intended to be converted or has expended 40 percent of the total sum budgeted for said work;

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

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

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

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

1 (D) Whether a building permit has been issued.

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

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

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

15  
16 **SEC. 41.8. REQUIREMENTS FOR NONPROFIT ORGANIZATIONS.**

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

21 (b) Annual Unit Usage Report. All nonprofit organizations operating hotels with  
22 residential units shall comply with the provisions of Section 41.10 herein in the event that the  
23 status of the units in the hotel changes from the designation contained in the Initial Unit Usage  
24 Report.

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

5 (d) Applicability of this Chapter. This chapter shall not apply to a hotel which has a  
6 certificate of use for all residential units but contained no permanent residents on September  
7 23, 1979, provided that the hotel is owned, leased or operated by a nonprofit organization at  
8 the time this exemption is sought. The owner, operator or lessee of such a hotel must file with  
9 the ~~Superintendent~~ Director of the Department of Building Inspection evidence to support such  
10 exemption. If the exemption is approved, the ~~Superintendent~~ Director shall issue a certificate of  
11 use designating all the hotel's units as tourist units; provided, however, that the certificate  
12 shall not be issued until the hotel owner, operator or lessee has paid any penalties imposed  
13 under Section 41.6(e) or Section 41.10(f) or (g), or released any liens imposed under Section  
14 41.20(d).

#### 15 16 **SEC. 41.9. RECORDS OF USE.**

17 (a) Daily Log. ~~Following the effective date of this Chapter~~ Each residential hotel shall  
18 maintain a daily log containing the status of each room, whether it is occupied or vacant,  
19 whether it is used as a residential unit or tourist unit, and the name under which ~~the each adult~~  
20 occupant is registered. Each hotel shall also ~~provide receipts to each adult occupant, and~~  
21 maintain copies of ~~rent~~ the receipts, showing; ~~the room number; the name of each adult occupant;~~  
22 ~~the rental amount and period paid for; and any associated charges imposed and paid, including but~~  
23 ~~not limited to security deposits.~~ The daily log shall be available for inspection pursuant to the  
24 provision of Section 41.11(c) of this Chapter upon demand by the ~~Superintendent~~ Director of  
25 the ~~Bureau~~ Department of Building Inspection or the ~~Superintendent's~~ Director's designee



1 between the hours of 9 a.m. and 5 p.m., Monday through Friday unless the *Superintendent*  
2 *Director* of the *Bureau* Department of Building Inspection and the City Attorney reasonably  
3 believe that further enforcement efforts are necessary for specified residential hotels, in which  
4 case the *Bureau* Department of Building Inspection shall notify the hotel owner or operator that  
5 the daily logs shall be available for inspection between the hours of 9 a.m. and 7 p.m.

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

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

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

#### 16 17 **SEC. 41.10. ANNUAL UNIT USAGE REPORT.**

18 (a) Filing. On November 1st of each year every hotel owner or operator subject to  
19 this Chapter shall file with the *Bureau* Department of Building Inspection an Annual Unit Usage  
20 Report containing the following information:

21 (1) The total number of units in the hotel as of October 15th of the year of filing;

22 (2) The number of residential and tourist units as of October 15th of the year of  
23 filing;

24 (3) The number of vacant residential units as of October 15th of the year of filing; if  
25 more than 50 percent of the units are vacant, explain why;

1 (4) The average rent for the residential hotel units as of October 15th of the year of  
2 filing;

3 (5) The number of residential units rented by week or month as of October 15th of  
4 the year of filing; and

5 (6) The designation by room number and location of the residential units and tourist  
6 units as of October 15th of the year of filing. Owner or operator shall maintain such  
7 designated units as tourist or residential units for the following year unless owner or operator  
8 notifies in writing the ~~Bureau~~ Department of Building Inspection of a redesignation of units;  
9 owner or operator may redesignate units throughout the year provided they notify the ~~Bureau~~  
10 Department of Building Inspection in writing by the next business day following such  
11 redesignation and maintain the proper number of residential and tourist units at all times. The  
12 purpose of this provision is to simplify enforcement efforts while providing owner or operator  
13 with reasonable and sufficient flexibility in designation and renting of rooms;

14 (7) The nature of services provided to the permanent residents and whether there  
15 has been an increase or decrease in the services so provided;

16 (8) A copy of the Daily Log, showing the number of units which are residential,  
17 tourist or vacant on October 1st, February 1st, May 1st and August 1st of the year of filing.

18 (b) Notice of Annual Unit Usage Report. On the day of filing, the owner or operator  
19 shall post a notice that a copy of the Annual Unit Usage Report submitted to the ~~Bureau~~  
20 Department of Building Inspection is available for inspection between the hours of 9:00 a.m.  
21 and 5:00 p.m. Monday through Friday, which notice shall remain posted for 30 days.

22 (c) Extension of Time for Filing. Upon application by an owner or operator and upon  
23 showing good cause therefor, the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
24 Inspection may grant one extension of time not to exceed 30 days for said filing.  
25

1 (d) Certificate of Annual Unit Usage Report. After receipt of a completed Annual  
2 Unit Usage Report, the ~~Bureau~~ Department of Building Inspection shall issue a certified  
3 acknowledgment of receipt.

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

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

14 If the ~~Superintendent~~ Director or the ~~Superintendent's~~ Director's designee determines that  
15 additional information is needed to make a determination, he shall send both the owner and  
16 operator a written request to furnish such information within 15 calendar days of the mailing of  
17 the written request. The letter shall state that if the requested information is not furnished in  
18 the time required, the residential and tourist units shall be presumed to be unchanged from  
19 the previous year and that the ~~Superintendent~~ Director shall impose a \$500 penalty for failure to  
20 furnish the additional information within the 15-day period. If the ~~Superintendent~~ Director does  
21 not timely receive the information, the ~~Superintendent~~ Director shall notify both the owner and  
22 operator, by mail, that the ~~Superintendent~~ Director is imposing a \$500 penalty which must be  
23 paid within 30 days of the mailing of the notification, and that interest on the penalty shall  
24 accrue from the expiration of the 30 days at the rate of one and one-half percent per full  
25 month, compounded monthly. The written notification shall state that if the penalty is not paid,

1 a lien to secure the amount of the penalty, plus the accrued interest, will be recorded against  
2 the real property pursuant to the provisions of Section 41.20(d) of this Chapter.

3 (g) Failure to File Annual Unit Usage Report; Penalties. The ~~Superintendent~~ Director  
4 of the ~~Bureau~~ Department of Building Inspection is authorized to assess penalties as set forth  
5 below for failure to file an Annual Unit Usage Report, with interest on penalties accruing at the  
6 rate of one and one-half percent per full month, compounded monthly from the date the  
7 penalty is due as stated in the ~~Superintendent's~~ Director's notification below.

8 If the owner or operator fails to file an Annual Unit Usage Report, the ~~Superintendent~~  
9 Director or the ~~Superintendent's~~ Director's designee shall notify the owner and operator by  
10 registered or certified mail and shall post a notice informing the owner and operator that  
11 unless submission of the Annual Unit Usage Report and application for renewal of the hotel  
12 license is made within 15 calendar days of the mailing of the letter, the residential and tourist  
13 units shall be presumed to be unchanged from the previous year, and the ~~Superintendent~~  
14 Director shall impose a penalty of \$300 per month of each month the annual report is not filed.  
15 If the ~~Superintendent~~ Director does not receive the report the ~~Superintendent~~ Director shall notify  
16 both the owner and operator, by mail that the ~~Superintendent~~ Director is imposing the  
17 appropriate penalty, as prorated, which must be paid within 30 days of the mailing of the  
18 notification and that interest on the penalty shall accrue from the expiration of the 30 days at  
19 the rate of one and one-half percent per full month, compounded monthly. The written  
20 notification shall state that if the penalty is not paid, a lien to secure the amount of the penalty,  
21 plus the accrued interest, will be recorded against the real property pursuant to the provisions  
22 of Section 41.20(d) of this Chapter.

23 (h) Appeal of Annual Usage Determination. An owner or operator may appeal the  
24 annual unit usage determination by the ~~Superintendent~~ Director of the ~~Bureau~~ Department of  
25 Building Inspection provided that there was no challenge pursuant to the provisions of

1 subsection (i) below, and further provided that an appeal is filed within 20 calendar days from  
2 the date of annual unit usage determination. If an appeal is filed, a copy of the notice of  
3 appeal shall be posted by the owner or operator and a hearing pursuant to the provisions of  
4 Section 41.11(b) shall be scheduled.

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

#### 12 13 **SEC. 41.11. ADMINISTRATION.**

14 (a) Fees. The owner or operator shall pay the following filing fees to the ~~Bureau~~  
15 Department of Building Inspection to cover its costs of investigating and reporting on eligibility.  
16 See Section 333.2, Hotel Conversion Fee Schedule, Part II, Chapter 1 of the San Francisco  
17 Municipal Code (Building Code) for the applicable fees. The party that brings an unsuccessful  
18 challenge to a report pursuant to this Article shall be liable for the change in Section 333.2,  
19 Hotel Conversion Fee Schedule. Unsuccessful Challenge, Part II, Chapter 1 of the San  
20 Francisco Municipal Code (Building Code). Fees shall be waived for an individual who files an  
21 affidavit under penalty of perjury stating that he or she is an indigent person who cannot pay  
22 the filing fee without using money needed for the necessities of life.

23  
24 SEE SAN FRANCISCO MUNICIPAL CODE (BUILDING CODE) SECTION 333.2  
25 HOTEL CONVERSION FEE SCHEDULE

1  
2 (b) Hearing.

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

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

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

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

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

15 (c) Inspection. The ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
16 Inspection shall conduct, from time to time, on-site inspections of the daily logs, other  
17 supporting documents and units listed as vacant in the daily logs to determine if owner or  
18 operator has complied with the provisions of this Chapter. In addition, the ~~Superintendent~~  
19 ~~Director~~ of the ~~Bureau~~ Department of Building Inspection or the ~~Superintendent's~~ Director's  
20 designee shall conduct such an inspection as soon as practicable upon the request of a  
21 ~~permanent resident~~ current or former occupant of the hotel. If upon such an inspection, the  
22 ~~Superintendent~~ Director or the ~~Superintendent's~~ Director's designee determines that an apparent  
23 violation of the provisions of this Chapter has occurred, he/she shall post a notice of apparent  
24 violation informing the permanent residents of the hotel thereof or shall take action as set forth  
25 in Section 41.11(d) and (e) below. This notice shall remain posted until the ~~Superintendent~~

1 Director of the ~~Bureau~~ Department of Building Inspection, or the ~~Superintendent's~~ Director's  
2 designee, determines that the hotel is no longer in violation of the provisions of this Chapter.

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

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

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

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

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

21 (e) False Information Misdemeanor. It shall be unlawful for an owner or operator to  
22 wilfully provide false information to the ~~Superintendent~~ Director of the ~~Bureau~~ Department of  
23 Building Inspection or the ~~Superintendent's~~ Director's designees. Any owner or operator who  
24 files false information shall be guilty of a misdemeanor. Conviction of a misdemeanor  
25



1 hereunder shall be punishable by a fine of not more than \$500 or by imprisonment in the  
2 County Jail for a period not to exceed six months, or by both.

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

13 (g) Costs of Enforcement. The proceeds from the filing fees and civil fines assessed  
14 shall be used exclusively to cover the costs of investigation and enforcement of this ordinance  
15 by the City and County of San Francisco. The *Superintendent Director* of the *Bureau Department*  
16 of Building Inspection shall annually report these costs to the Board of Supervisors and  
17 recommend adjustments thereof.

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

24 (i) Promulgation of Rules and Regulations. The *Superintendent Director* of the  
25 *Bureau Department* of Building Inspection shall propose rules and regulations governing the

1 appointment of an administrative officer and the administration and enforcement of this  
2 Chapter. After reasonable notice and opportunity to submit written comment are given, final  
3 rules and regulations shall be promulgated.

4  
5 **SEC. 41.12. PERMIT TO CONVERT.**

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

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

10 (1) The name and address of the building in which the conversions are proposed;  
11 and

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

13 (3) A description of the proposed conversion including the nature of the conversion,  
14 the total number of units in the building, their current uses; and

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

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

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

20 (7) The current rental rates for each residential unit to be converted; and

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

23 (9) A statement regarding how one-for-one replacement of the units to be converted  
24 will be accomplished, including the proposed location of replacement housing if replacement  
25 is to be provided off- site; and

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

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

13 (d) Any interested party may submit a written request within 15 days of the date  
14 notice is posted pursuant to subsection (c) above to the City Planning Commission to  
15 schedule and conduct a public hearing on the proposed conversion in order to solicit public  
16 opinion on whether to approve or deny a permit to convert or demolish residential units and to  
17 determine whether proposed replacement units are "comparable units" as defined in Section  
18 41.4(b) herein.

19  
20 **SEC. 41.13. ONE-FOR-ONE REPLACEMENT.**

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

23 (1) Construct or cause to be constructed a comparable unit to be made available at  
24 comparable rent to replace each of the units to be converted; or  
25

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

3           (3)     Construct or cause to be constructed or rehabilitated apartment units for elderly,  
4 disabled or low- income persons or households which may be provided at a ratio of less than  
5 one-to-one; or construct or cause to be constructed transitional housing which may include  
6 emergency housing. The construction of any replacement housing under this subsection shall  
7 be evaluated by the City Planning Commission in accordance with the provisions of Section  
8 303 of the City Planning Code. A notice of said City Planning Commission hearing shall be  
9 posted by the owner or operator 10 calendar days before the hearing; or

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

15          (5)     Contribute to a public entity or nonprofit organization, who will use the funds to  
16 construct comparable units, an amount at least equal to 80 percent of the cost of construction  
17 of an equal number of comparable units plus site acquisition cost. The Department of Real  
18 Estate shall determine this amount based upon two independent appraisals. In addition to  
19 compliance with all relevant City ordinances and regulations, the public entity or nonprofit  
20 organization and the housing development proposal of such public entity or nonprofit  
21 organization shall be subject to approval by the Mayor's Office of Housing.

22          (A)     Such contribution shall be paid to the approved public entity or nonprofit  
23 organization in installments from an escrow account supervised by the Mayor's Office of  
24 Housing, upon application by such public entity or nonprofit organization to the Mayor's Office  
25 of Housing, for specified expenditures, including but not limited to site acquisition costs,

1 architect's fees, and construction costs; such payment shall be approved by the Mayor's  
2 Office of Housing prior to release of funds.

3 (B) The permit to convert shall be issued by the City when owner or operator  
4 deposits the full amount of funds in an escrow account described in subsection 41.13(a)(5)(A)  
5 above, or provides other form of non-refundable security acceptable to the City Attorney and  
6 the Mayor's Office of Housing.

7 (C) In the event that the public entity or nonprofit organization is unable to complete  
8 construction of the replacement housing, any unpaid amounts shall be released to the City. All  
9 such funds shall go into a San Francisco Residential Hotel Preservation Fund Account.

10 (b) Any displaced permanent resident relocated to replacement units provided  
11 under Subdivision (a) above shall be deemed to have continued his occupancy in the  
12 converted unit for the purpose of administering Subsection (k) of Section 37.2, San Francisco  
13 Administrative Code (San Francisco Rent Stabilization and Arbitration Ordinance).

14 (c) Any replacement units shall continue to be subject to the provisions of this  
15 Chapter.

16 (d) In the event that a completed application for a permit to convert is filed by a  
17 hotel owner or operator no later than the effective date of this amended Chapter, and such  
18 hotel owner or operator elects to provide one-for-one replacement of the residential units  
19 pursuant to Section 41.13(a) (4) or Section 41.13(a) (5) herein, the hotel owner or operator  
20 shall be obligated to pay to the City and County of San Francisco an amount equal to 40  
21 percent of the cost of construction of an equal number of comparable units plus site  
22 acquisition cost, provided that such hotel owner or operator shall pay such amount to the City  
23 or provide to the City security for such payment in a form satisfactory to the Mayor's Office of  
24 Housing and the City Attorney within 90 days following the date that the ~~Bureau~~ Department of  
25 Building Inspection determines that the application for a permit to convert is complete, or, if

1 necessary, 10 days following final action, including any appeals, by the Planning Commission  
2 or appellate body, or 10 days following the Department of Real Estate's determination of such  
3 amount, whichever occurs latest. In the event that a hotel owner or operator elects to provide  
4 one-for-one replacement pursuant to Section 41.13(a)(2) or (a)(5) herein and the Mayor's  
5 Office of Housing has not approved a proposal or organization thereunder prior to the  
6 effective date of this amended Chapter, the ~~Bureau~~ Department of Building Inspection shall not  
7 reject such application as incomplete for such lack of information. If a hotel owner or operator  
8 applies for a permit to convert using the one-for-one replacement option described in  
9 41.13(a)(2) or (a)(5) and the Mayor's Office of Housing does not approve a housing  
10 development proposal or a nonprofit organization, or such project fails to progress through no  
11 fault of the owner or operator, such applicant shall be permitted to provide one-for-one  
12 replacement pursuant to Section 41.13(a)(4) at 40 percent of the cost of construction of an  
13 equal number of comparable units plus site acquisition costs, provided that such applicant  
14 files the application under Section 41.13(a)(2) or (a)(5) no later than the effective date of this  
15 amended Chapter. The hotel owner or operator shall identify such housing proposal or  
16 nonprofit organization within 180 days of the effective date of this amended Chapter. In the  
17 event that the Mayor's Office of Housing finds that the permit applicant has acted in good faith  
18 in seeking a project, the Mayor's Office of Housing may exercise its reasonable discretion to  
19 extend the provisions of this subsection for an additional 180 days. In the event that a project  
20 approved by the Mayor's Office of Housing fails to move forward through no fault of the permit  
21 applicant, the applicant may substitute another project within six months of being notified by  
22 the Mayor's Office of Housing of a failure of the prior project to move forward. The Mayor's  
23 Office of Housing may extend this period for an additional 180 days to identify such new  
24 proposal. The City shall issue a permit to convert under this subsection 41.13(d) only if the  
25 hotel owner or operator has either paid the 40-percent in lieu fee to the City pursuant to

1 Section 41.13(a)(4) herein or complied with the requirements of Sections 41.13(a)(2) or (a)(5)  
2 as applicable. In the event that a hotel owner or operator has not complied with any of these  
3 requirements and the City has not issued a permit to convert or if the Mayor's Office of  
4 Housing has not found the hotel owner or operator has acted in good faith in seeking a project  
5 pursuant to subsections 41.13(a)(2) or (a)(5) or this subsection, no later than 180 days  
6 following the effective date of this amended Chapter, or such later date as herein provided,  
7 this Subsection 41.13(d) shall no longer be applicable, City shall refund any amounts  
8 deposited as security pursuant to the terms herein, and such hotel owner or operator shall  
9 comply with all applicable terms of this Chapter.

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

#### 15 **SEC. 41.14. MANDATORY DENIAL OF PERMIT TO CONVERT.**

16 A permit to convert shall be denied by ~~Superintendent~~ the Director of the ~~Bureau~~  
17 ~~Department of~~ Building Inspection if:

18 (a) The requirements of Sections 41.12 or 41.13, above, have not been fully  
19 complied with;

20 (b) The application is incomplete or contains incorrect information;

21 (c) An applicant has committed unlawful action as defined in this Chapter within 12  
22 months previous to the issuance for a permit to convert;

23 (d) The proposed conversion or the use to which the unit would be converted is not  
24 permitted by the City Planning Code.

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

2             The ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection shall issue a  
3 permit to convert, provided that:

4             (a)     The requirements of Section 41.12 have been met;

5             (b)     Evidence of compliance with the requirements of Section 41.13 has been  
6 submitted. Satisfactory evidence of compliance may be:

7             (1)     A certification of final completion or permit of occupancy on the replacement  
8 housing; or

9             (2)     A receipt from the City Treasurer that the in-lieu payment determined by the  
10 Department of Real Estate has been received; and

11            (3)     Evidence of compliance with the requirements of Section 41.17 herein.

12            (c)     The proposed conversion or the use to which the unit would be converted is  
13 permitted by the City Planning Code.

14            (d)     Concurrent with the issuance of a permit to convert, the ~~Superintendent~~ Director  
15 of the ~~Bureau~~ Department of Building Inspection shall issue a new certificate of use which shall  
16 state the newly certified number of residential units and tourist units.

17  
18     **SEC. 41.16. APPEAL OF DENIAL OR APPROVAL OF PERMIT TO CONVERT.**

19            (a)     Denial or approval of a permit application may be appealed to the Board of  
20 Permit Appeals, pursuant to Sections 8 et seq. Part III of the San Francisco Municipal Code.

21            (b)     The owner or operator shall submit a statement under the penalty of perjury that  
22 he has notified all the affected permanent residents of his appeal and of the date, time and  
23 place of the hearing before the Board of Permit Appeals, seven calendar days prior to the  
24 scheduled hearing.



1 (c) The appellant shall have the burden of proving that the determination of the  
2 ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection is invalid.  
3

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

5 (a) Temporary Change of Occupancy.

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

9 (2) A permanent resident may be relocated for up to 21 days to another unit in the  
10 residential hotel for purposes of complying with the Building Code requirements imposed by  
11 the UMB Seismic Retrofit Ordinance, Ordinance No. 219-92, without changing the designation  
12 of the unit.

13 (3) A residential unit which is vacant at any time during the period commencing on  
14 May 1st and ending on September 30th annually may be rented as a tourist unit, provided that  
15 (i) the residential unit was vacant due to voluntary vacation of a permanent resident or was  
16 vacant due to lawful eviction for cause after the permanent resident was accorded all the  
17 rights guaranteed by State and local laws during his/her tenancy, (ii) the daily log shows that  
18 the residential unit was legally occupied for at least 50 percent of the period commencing on  
19 October 1st and ending on April 30th of the previous year, unless owner or operator can  
20 produce evidence to the ~~Bureau~~ Department of Building Inspection explaining such vacancy to  
21 the satisfaction of the ~~Bureau~~ Department of Building Inspection, including but not limited to  
22 such factors as repair or rehabilitation work performed in the unit or good-faith efforts to rent  
23 the unit at fair market value; and (iii) the residential unit shall immediately revert to residential  
24 use upon application of a prospective permanent resident.

25 25-percent Limit.

1           However, at no time during the period commencing on May 1st and ending on  
2           September 30th may an owner or operator rent for nonresidential use or tourist use more than  
3           25 percent of the hotel's total residential units unless the owner or operator can demonstrate  
4           that (i) the requirements of 41.19(a)(3) above are met, (ii) good-faith efforts were made to rent  
5           such units to prospective permanent residents at fair market value for comparable units and  
6           that such efforts failed and (iii) the owner or operator has not committed unlawful action as  
7           defined in this Chapter within 12 months prior to this request. Owners or operators who seek  
8           to exceed this limit must request a hearing pursuant to Section 41.11(b) above and the  
9           decision whether to permit owners or operators to exceed this limit is within the discretion of  
10          the hearing officer.

11           (b)     Special Requirements for Hearings on Tourist Season Rental of Residential  
12          Units. Where an owner or operator seeks a hearing in order to exceed the limit on tourist  
13          season rental of vacant residential units pursuant to Section 41.19(a)(3), the requirements of  
14          41.11(b)(1), (b)(2) and (b)(3) above shall be applicable except as specifically modified or  
15          enlarged herein:

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

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

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

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

1           (5)     Determination of the Hearing Officer. Based upon the evidence presented at the  
2 hearing, conducted in accordance with Section 41.11(b)(3) above, the hearing officer shall  
3 make findings as to (i) whether the residential unit was vacant due to voluntary vacation of a  
4 permanent resident or was vacant due to lawful eviction, (ii) whether the residential unit was  
5 occupied for at least 50 percent of the period commencing on October 1st and ending on April  
6 30th of the previous year, (iii) whether the owner or operator has committed unlawful action  
7 under this Chapter within 12 months prior to this request, and (iv) whether the owner or  
8 operator made good-faith efforts to rent vacant residential units to prospective permanent  
9 residents at no more than fair market value for a comparable unit during the tourist season  
10 and yet was unable to secure such rentals. Good-faith efforts shall include, but not be limited  
11 to, advertising the availability of the residential units to the public. In determining fair market  
12 value of the residential units, the hearing officer shall consider any data on rental of  
13 comparable units, as defined in Section 41.4(b) herein.

14           (6)     Decision. The hearing officer shall render a written decision and findings within  
15 10 working days of the hearing.

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

21           (8)     Construction. The purpose of this Section 41.19(b) is to supplement or modify  
22 provisions of Section 41.11(b) (1) through (b)(3). Unless otherwise specifically modified, all  
23 provisions of Sections 41.11(b)(1) through (b)(3) are deemed applicable to hearings  
24 concerning the tourist season limitation on rental of vacant residential units.  
25

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

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

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

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

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

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

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

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

24 //

25 //

1     **SEC. 41.20. UNLAWFUL CONVERSION; REMEDIES; FINES.**

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

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

6                 (2)     Rent any residential unit for a term of tenancy less than seven days except as  
7     permitted by Section 41.19 of this Chapter;

8                 (3)     Offer for rent for nonresidential use or tourist use a residential unit except as  
9     permitted by this Chapter.

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

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

19                 (2)     Reduction of the basic services provided to a residential unit intended to lead to  
20     conversion. For the purpose of this section, basic services are defined as access to common  
21     areas and facilities, food service, housekeeping services and security;

22                 (3)     Repeated failure to comply with order of the ~~Bureau~~ Department of Building  
23     Inspection or the Department of Public Health to correct code violations with intent to cause  
24     the permanent residents to voluntarily vacate the premises;

1 (4) Repeated citations by the ~~Superintendent~~ Director of the ~~Bureau~~ Department of  
2 Building Inspection or the Department of Public Health of code violations;

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

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

8 (7) Repeated posting by the ~~Superintendent~~ Director of the ~~Bureau~~ Department of  
9 Building Inspection of notices of apparent violations of this Chapter pursuant to Section  
10 41.11(c) above.

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

24 (d) Lien Proceedings.  
25

1           (1) Preparation of Delinquency Report. If any penalty imposed pursuant to Sections  
2 41.10(d), 41.10(f), 41.11(f) or 41.20(c) is not received within the required time period, the  
3 ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection shall initiate  
4 proceedings to make the penalty, plus accrued interest, a special assessment lien against the  
5 red property regulated under this Chapter. The ~~Superintendent~~ Director shall prepare a  
6 delinquency report for the Board of Supervisors. For each delinquent account, the report shall  
7 contain the owner's name, the amount due, including interest, and a description of the real  
8 property. The report shall also indicate which of the delinquent accounts should be exempted  
9 from the lien procedure because of the small amounts involved, or because another debt  
10 collection procedure is more appropriate. The descriptions of the parcels shall be those used  
11 for the same parcels on the Assessor's map books for the current year.

12           (2) Notice. Five days prior to forwarding the delinquency report to the Board of  
13 Supervisors, the ~~Superintendent~~ Director of the Department of Building Inspection shall mail a copy  
14 of the report to any affected owner and shall post the report at the affected properties. Upon  
15 receipt of the report, the Board of Supervisors shall fix a time, date and place for hearing the  
16 report and any protest or objections thereto, and shall mail notice of the hearing to each  
17 owner of real property described in the report not less than 10 days prior to the date of  
18 hearing.

19           (3) Hearing and Confirmation. The Board of Supervisors shall hear the report with  
20 opportunity for any protests or objections of the owners of the real property liable to be  
21 assessed for delinquent accounts. The Board may make such revisions, corrections or  
22 modifications of the report as it may deem just, after which, by motion or resolution, it shall be  
23 confirmed. The Board's decision on the report on all protests or objections thereto shall be  
24 final and conclusive; provided, however, that any delinquent account may be removed from  
25 the report by payment in full at any time prior to confirmation of the report. The Clerk of the

1 Board shall cause the confirmed report to be verified in form sufficient to meet recording  
2 requirements.

3 (4) Collection of Assessment. Upon confirmation of the report by the Board, the  
4 delinquent charges contained herein shall constitute a special assessment against the  
5 property listed in the report. Each such assessment shall be subordinate to all existing special  
6 liens previously imposed upon such property and paramount to all other liens except those for  
7 state, county and municipal taxes with which it shall be in parity. The lien shall continue until  
8 the assessment and all interest due and payable thereon are paid. All laws applicable to the  
9 levy, collection and enforcement of municipal taxes shall be applicable to said special  
10 assessment.

11 (5) Recordation; Charges. The Clerk of the Board shall cause the confirmed and  
12 verified report to be recorded in the County Recorder's Office within 10 days of its  
13 confirmation. The special assessment lien on each parcel of property described in said report  
14 shall carry additional charges for administrative expenses of \$100 or 10 percent of the amount  
15 of the unpaid balance, including interest, whichever is higher.

16 (6) Filing with Controller and Tax Collector: Distribution of Proceeds. After the report  
17 is recorded, the Clerk of the Board shall file a certified copy with the Controller and Tax  
18 Collector, whereupon it shall be the duty of said officers to add the amount of said  
19 assessment to the next regular bill for taxes levied against said parcel or parcels of land for  
20 municipal purposes, and thereafter said amount shall be collected at the same time and in the  
21 same manner as ordinary City and County taxes are collected, and shall be subject to the  
22 same penalties and the same procedure under foreclosure and sale in case of delinquency as  
23 provided for property taxes of the City and County of San Francisco. Except for the release of  
24 lien recording fee authorized in Subsection (7) below, all sums collected by the Tax Collector  
25



1 pursuant to this section shall be held in trust by the Treasurer and distributed as provided in  
2 Section 41.8(e) of this Chapter.

3 (7) Release of Lien; Recording Fee. Upon payment to the Tax Collector of the  
4 special assessment, the Tax Collector shall cause a Release Lien to be recorded with the  
5 County Recorder, and from the sum collected pursuant to Subsection (6) above, shall pay to  
6 the County Recorder a recording fee of \$6.00.

7 (e) Civil Action An interested party may institute a civil proceeding for injunctive  
8 relief and damages. The ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
9 Inspection may institute a civil proceeding for injunctive relief. Counsel for the interested party  
10 shall notify the City Attorney's office of the City and County of San Francisco of any action  
11 filed pursuant to this section. In determining whether an unlawful conversion has occurred, the  
12 court may consider, among other factors, those enumerated in Section 41.20(b) of this  
13 Chapter. The interested party instituting a civil proceeding, or the City suing to enforce this  
14 Chapter, if prevailing parties, shall be entitled to the costs of enforcing this Chapter, including  
15 reasonable attorney's fees, pursuant to an order of the Court.

#### 17 **SEC. 41.21. ANNUAL REVIEW OF RESIDENTIAL HOTEL STATUS.**

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

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

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

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

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

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

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

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

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

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

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

- 17 - 3 members nominated by the San Francisco Hotel Association (for-profit operators);  
18 - 3 members nominated by the Golden Gate Hotel Association (for-profit operators);  
19 - 2 members nominated by the Council of Community Housing Organizations  
20 (nonprofit hotel operators);  
21 - Deputy Mayor for Housing.

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

24 (1) Proposed revisions to this ordinance;  
25

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

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

5 (4) Any new City, State or Federal programs the City shall encourage that would  
6 provide financial or technical support or assistance to San Francisco Residential Hotel  
7 Operators.  
8  
9  
10

11 APPROVED AS TO FORM:  
12 LOUISE H. RENNE, City Attorney

13  
14 By:

  
15 MARIE CORLETT BLITS  
16 Deputy City Attorney  
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# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 001926

**Date Passed:**

Ordinance amending Administrative Code Chapter 41 "Residential Hotel Unit Conversion and Demolition" by amending Sections 41.9 and 41.11 to require that hotels provide each adult occupant with a receipt showing each amount and time period paid, and also showing any associated charges, and providing for enforcement; and, updating terminology in Sections 41.9 through 41.16 and 41.19 through 41.21 to reflect prior Charter changes establishing a Director and Department of Building Inspection in place of the former Superintendent and Bureau of Building Inspection.

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June 18, 2001 Board of Supervisors — PASSED ON FIRST READING

Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, Newsom, Peskin, Yee

Absent: 2 - McGoldrick, Sandoval

June 25, 2001 Board of Supervisors — FINALLY PASSED

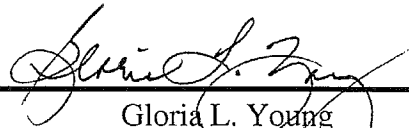
Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,  
Newsom, Peskin, Sandoval, Yee

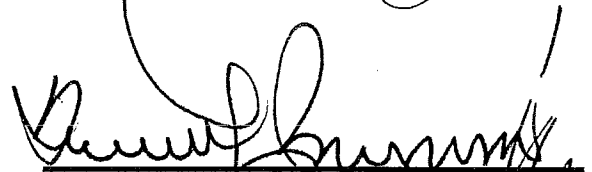
File No. 001926

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on June 25, 2001 by  
the Board of Supervisors of the City and  
County of San Francisco.

JUL 06 2001

\_\_\_\_\_  
Date Approved

  
\_\_\_\_\_  
Gloria L. Young  
Clerk of the Board

  
\_\_\_\_\_  
Mayor Willie L. Brown Jr.