

Appendix A

FILE NO. 160423

AMENDED IN BOARD
6/7/2016

ORDINANCE NO.

1 [Administrative Code - Short-Term Residential Rentals]

2
3 **Ordinance amending the Administrative Code to revise the Residential Unit Conversion**
4 **Ordinance to require Hosting Platforms verify that a Residential Unit is on the City**
5 **Registry prior to listing; require Hosting Platforms respond to notices and requests for**
6 **information; and provide for civil, administrative, and criminal penalties against**
7 **Hosting Platforms for violations of the Residential Unit Conversion Ordinance; and**
8 **affirming the Planning Department’s determination under the California Environmental**
9 **Quality Act.**

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

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

18 Section 1. Environmental Findings. The Planning Department has determined that the
19 actions contemplated in this ordinance comply with the California Environmental Quality Act
20 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
21 the Clerk of the Board of Supervisors in File No. 160423 and is incorporated herein by
22 reference. The Board affirms this determination.

23 Section 2. The Administrative Code is hereby amended by revising Sections 41A.4,
24 41A.5, 41A.6, and 41A.7, to read as follows:

25 **SEC. 41A.4. DEFINITIONS.**

1 Whenever used in this Chapter 41A, the following words and phrases shall have the
2 definitions provided in this Section:

3 * * * *

4 **Hosting Platform.** A person or entity that participates in short-term rental business by
5 providing a means through which an Owner may offer a Residential Unit for Tourist or
6 Transient Use. This business service is usually, though not necessarily, provided through an
7 online platform and generally that allows an Owner to advertise the Residential Unit through a
8 website provided by the Hosting Platform and provides a means for potential tourist or
9 transient users to arrange Tourist or Transient Use and payment, whether the tourist or
10 transient pays rent directly to the Owner or to the Hosting Platform.

11 * * * *

12 **Short-Term Residential Rental Registry or Registry.** A database of information
13 maintained by the Department that includes a unique registration number for each Short-Term
14 Residential Rental and information regarding Permanent Residents who are permitted to offer
15 Residential Units for Short-Term Residential Rental. Only one Permanent Resident per
16 Residential Unit may be included on the Registry at any given time. The Registry shall be
17 available for public review to the extent required by law, except that, to the extent permitted by
18 law, the Department shall redact any Permanent Resident names and street and unit numbers
19 from the records available for public review.

20 * * * *

21 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

22 * * * *

23 **(d) Civil Action.**

24 * * * *

5

1 **(3) Civil Penalties.** If the City is the prevailing party in any civil action under this
2 subsection (d): an Owner, Hosting Platform, or Business Entity in violation of this Chapter 41A
3 ~~or a Hosting Platform in violation of subsection (g)(4)(A)~~ may be liable for civil penalties of not
4 more than \$1,000 per day for the period of the unlawful activity. Interested Parties other than
5 the City may not seek or obtain civil penalties.

6 * * * *

7 **(e) Criminal Penalties.** Any Owner or Business Entity who rents a Residential Unit for
8 Tourist or Transient Use in violation of this Chapter 41A, or any Hosting Platform that provides a
9 listing for a Residential Unit for Tourist or Transient Use in violation of this Chapter 41A, without
10 correcting or remedying the violation as provided for in subsection 41A.6(c)(6), shall be guilty
11 of a misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by
12 a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more
13 than six months, or by both. Each Residential Unit rented for Tourist or Transient Use shall
14 constitute a separate offense.

15 * * * *

16 **(g) Exception for Short-Term Residential Rental.**

17 * * * *

18 **(4) Requirements for Hosting Platforms.**

19 **(A) Notice to Users of Hosting Platform.** All Hosting Platforms shall
20 provide the following information in a notice to any user listing a Residential Unit located
21 within the City and County of San Francisco through the Hosting Platform's service. The
22 notice shall be provided prior to the user listing the Residential Unit and shall include the
23 following information: that Administrative Code Chapters 37 and 41A regulate Short-Term
24 Rental of Residential Units; the requirements for Permanent Residency and registration of the
25 unit with the Department; and the transient occupancy tax obligations to the City.

1 (B) A Hosting Platform shall comply with the requirements of the
2 Business and Tax Regulations Code by, among any other applicable requirements, collecting
3 and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a
4 Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's
5 failure to comply with the requirements of the Business and Tax Regulations Code. A Hosting
6 Platform shall maintain a record demonstrating that the taxes have been remitted to the Tax
7 Collector and shall make this record available to the Tax Collector upon request.

8 (C) Prior to providing reservation and payment services for a listing of a
9 Residential Unit within the City to be rented for Tourist or Transient Use, a Hosting Platform shall
10 verify with the Office of Short-Term Residential Rental Administration and Enforcement that the
11 Residential Unit is listed on the Registry and has a valid registration number. For each listing active
12 on the effective date of the ordinance in Board File No.160423 and thereafter, Hosting
13 Platforms shall comply with this subsection (g)(4)(C) by:

14 (i) Providing the verified registration number on each listing in the area
15 of the listing dedicated to information verified or compiled by the Hosting Platform about the host, such
16 as host response rate, host ratings, ~~time~~, and date of joining the platform; or

17 (ii) Ensuring that the host has included a Hosting Platform-verified
18 registration number within the listing and that the number is visible to all users of the Hosting
19 Platform; or

20 (iii) Sending the verified registration number, Residential Unit street
21 address (including any unit number), and host name to the Office of Short-Term Residential Rental
22 Administration and Enforcement by electronic mail prior to posting the listing on the platform.

23 Consistent with protections for Registry information, the Office of Short-Term Residential
24 Rental Administration and Enforcement, to the extent permitted by law, shall redact registered

1 Permanent Resident names and street and unit numbers from the records available for public
2 review.

3 (~~C-D~~) Any violation of a Hosting Platform's responsibilities under
4 subsections (g)(4)(A), (B), or (C), or 41A.7(b) shall subject the Hosting Platform to the
5 administrative penalties and enforcement provisions of this Chapter 41A, including but not
6 limited to payment of civil penalties of up to \$1,000 per day for the period of the failure to
7 comply, with the exception that any violation related to failure to comply with the requirements
8 of the Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector
9 under that Code.

10 (5) The exception set forth in this subsection (g) provides an exception only to
11 the requirements of this Chapter 41A. It does not confer a right to lease, sublease, or
12 otherwise offer a residential unit for Short-Term Residential Use where such use is not
13 otherwise allowed by law, a homeowners association agreement or requirements, any
14 applicable covenant, condition, and restriction, a rental agreement, or any other restriction,
15 requirement, or enforceable agreement. All Owners and residents are required to comply with
16 the requirements of Administrative Code Chapter 37, the Residential Rent Stabilization and
17 Arbitration Ordinance, including but not limited to the requirements of Section 37.3(c).

18 (6) **Department Contact Person.** The Department shall designate a contact
19 person for members of the public who wish to file Complaints under this Chapter 41A or who
20 otherwise seek information regarding this Chapter or Short-Term Residential Rentals. This
21 contact person shall also provide information to the public upon request regarding quality of
22 life issues, including, for example, noise violations, vandalism, or illegal dumping, and shall
23 direct the member of the public and/or forward any such Complaints to the appropriate City
24 department.

1 (7) Notwithstanding any other provision of this Chapter 41A, nothing in this
 2 Chapter shall relieve an individual, Business Entity, or Hosting Platform of the obligations
 3 imposed by any and all applicable provisions of state law and the ~~San Francisco~~ Municipal
 4 Code including but not limited to those obligations imposed by the Business and Tax
 5 Regulations Code. Further, nothing in this Chapter shall be construed to limit any remedies
 6 available under any and all applicable provisions of state law and the ~~San Francisco~~ Municipal
 7 Code including but not limited to the Business and Tax Regulations Code.

8 ~~(8) Annual Department Reporting Requirement. Within one year of the effective date of~~
 9 ~~this ordinance and annually thereafter, the Department shall provide a report to the Board of~~
 10 ~~Supervisors regarding the Department's administration and enforcement of the Short-Term Residential~~
 11 ~~Rental program. The study shall make recommendations regarding proposed amendments to this~~
 12 ~~Chapter 41A necessary to reduce any adverse effects of the Short-Term Residential Rental program.~~

13
 14 **SEC. 41A.6. ADMINISTRATIVE ENFORCEMENT PROCEDURES.**

15 * * * *

16 (d) **Administrative Penalties for Violations and Enforcement Costs.**

17 (1) **Administrative Penalties.** Administrative penalties shall be assessed as
 18 follows:

19 (A) For the initial violation, not more than four times the standard hourly
 20 administrative rate of \$121.00 for each unlawfully converted unit, or for each identified failure
 21 of a Hosting Platform to comply with the requirements of subsections 41A.5(g)(4)(A), ~~(B), (C),~~
 22 ~~or 41A.7(b)~~, per day from the notice of violation until such time as the unlawful activity
 23 terminates;

24 (B) For the second violation by the same Owner(s), Business Entity, or
 5 Hosting Platform, not more than eight times the standard hourly administrative rate of \$121.00

1 for each unlawfully converted unit, or for each identified failure of a Hosting Platform to comply
 2 with the requirements of subsections 41A.5(g)(4)(A), ~~(B), (C), or 41A.7(b)~~, per day from the day
 3 the unlawful activity commenced until such time as the unlawful activity terminates; and

4 (C) For the third and any subsequent violation by the same Owner(s),
 5 Business Entity, or Hosting Platform, not more than 12 ~~twelve~~ times the standard hourly
 6 administrative rate of \$121.00 for each unlawfully converted unit or for each identified failure of
 7 a Hosting Platform to comply with the requirements of subsections 41A.5(g)(4)(A), ~~(B), (C), or~~
 8 41A.7(b), per day from the day the unlawful activity commenced until such time as the unlawful
 9 activity terminates.

10 (2) **Prohibition on Registration and Listing Unit(s) on Any Housing**

11 **Platform.** In the event of multiple violations, the Department shall remove the Residential
 12 Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained
 13 by the Department of Residential Units that may not be listed on any Hosting Platform until
 14 compliance. Any Owner, ~~or Business Entity~~ or Hosting Platform who continues to list a
 15 Residential Unit in violation of this Section 41A.6 shall be liable for additional administrative
 16 penalties and civil penalties of up to \$1,000 per day of unlawful inclusion.

17 (e) **Notice of Violation and Imposition of Penalties.** The Director shall notify the
 18 Owner or Hosting Platform by certified mail of the violation and that administrative penalties
 19 shall be imposed pursuant to this Chapter 41A. The notice shall state the time of the existence
 20 of the violation and the resulting imposition of penalties. Payment of the administrative
 21 penalties and enforcement costs shall be made within 30 days of the certified mailed notice to
 22 the Owner or Hosting Platform. If the administrative penalties and enforcement costs are not
 23 paid, the Director shall refer the matter to the Treasurer/Tax Collector and/or initiate lien
 24 procedures to secure the amount of the penalties and costs against the real property that is
 25 subject to this Chapter, under Article XX of Chapter 10 of the Administrative Code to make the

1 penalty, plus accrued interest, a lien against the real property regulated under this Chapter.
2 Except for the release of the lien recording fee authorized by Administrative Code Section
3 10.237, all sums collected by the Tax Collector pursuant to this ordinance shall be deposited
4 as set forth in subsection (f) below.

5 (f) **Deposit of Penalties.** Any fees and penalties collected pursuant to this Chapter
6 41A shall be deposited in the Housing Trust Fund for use by the Small Sites Program~~Department~~,
7 which shall reimburse City departments and agencies, including the Department and the City
8 Attorney's Office, for all costs and fees incurred in the enforcement of this Chapter 41A.

9 * * * *

10 **SEC. 41A.7. OFFICE OF SHORT-TERM RESIDENTIAL RENTAL ADMINISTRATION**
11 **AND ENFORCEMENT.**

12 (a) The Mayor shall establish an Office of Short-Term Residential Rental
13 Administration and Enforcement, which shall provide a single location to receive and process
14 applications for the Registry and Complaints regarding violations of this Chapter 41A. This
15 office shall be staffed by the Department and other departments as appropriate, with
16 participation from the Department of Building Inspection, the Treasurer/Tax Collector's Office,
17 and other departments as needed, to process applications for the Registry and enforce the
18 requirements of this Chapter 41A in a timely and efficient manner. It is the intent of this Board
19 of Supervisors in directing the establishment of this office to streamline both the process of
20 administering the Registry and enforcing the requirements of this Chapter 41A to protect
21 residential housing from unlawful conversion to Tourist or Transient Use. The Office of Short-
22 Term Residential Rental Administration and Enforcement shall promulgate rules and
23 regulations to simplify and streamline the application process and to minimize the time
24 between the filing of applications and their final approval.

1 **(b) Monitor Hosting Platforms.** In addition to the administrative enforcement duties
2 outlined in Section 41A.6, the Office of Short-Term Residential Rental Administration and Enforcement
3 shall actively monitor Hosting Platform listings to ensure that Hosting Platforms are only listing
4 Residential Units that are listed on the Registry. Within 15 business days of the Effective Date
5 effective date of the ordinance in Board File No.160423, the Office of Short-Term Residential
6 Rental Administration and Enforcement shall complete a comprehensive review of active Hosting
7 Platform listings and produce an inventory of potentially non-compliant listings discovered during the
8 review. Subsequent reviews of Hosting Platform listings shall be performed on at least a monthly
9 basis.

10 (1) The Office of Short-Term Residential Rental Administration and Enforcement shall,
11 upon completion of a Hosting Platform review or discovery of a potentially non-compliant listing,
12 immediately provide notice to Hosting Platforms by electronic mail of all listings that do not have valid
13 registration numbers or are otherwise not in compliance with this Chapter 41A. These notices shall be
14 provided to the City Attorney's Office.

15 (2) Hosting Platforms shall respond to each notice sent pursuant to subsection (b)(1) by
16 confirming, for each listing identified in the notice, that the listing has a valid registration number and
17 providing that number and any other requested information relevant to determining whether the listing
18 complies with the provisions of this Chapter 41A (including unit address and host information) to the
19 Office of Short-Term Residential Rental Administration and Enforcement. Consistent with
20 protections for Registry information, the Office of Short-Term Residential Rental
21 Administration and Enforcement, to the extent permitted by law, shall redact registered
22 Permanent Resident names and street and unit numbers from the records available for public
23 review.

24 (3) For each listing that a Hosting Platform fails to provide the requested information
25 within one City business day of the notice being sent by the Office of Short-Term Residential Rental

1 Administration and Enforcement, the Hosting Platform shall be subject to the administrative penalties
 2 and enforcement provisions of this Chapter 41A, including but not limited to payment of civil penalties
 3 of up to \$1,000 per day until the Hosting Platform complies with subsection (b)(2).

4 (c) Reporting to Board of Supervisors.

5 (1) Annual Reports. The Office of Short-Term Residential Rental Administration and
 6 Enforcement shall provide a report to the Board of Supervisors regarding the administration and
 7 enforcement of the Short-Term Residential Rental program on an annual basis. The report shall make
 8 recommendations regarding proposed amendments to this Chapter 41A necessary to reduce any
 9 adverse effects of the Short-Term Residential Rental program.

10 (2) Quarterly Reports. The Office of Short-Term Residential Rental Administration and
 11 Enforcement shall provide quarterly reports to the Board of Supervisors summarizing the Host
 12 Platform monitoring activities during the preceding quarter. The periods covered by the quarterly
 13 reports shall commence on January 1, April 1, July 1, and October 1, respectively. At a minimum, each
 14 report shall include the number of notices sent to Hosting Platforms, the total number of listings
 15 included in those notices, the number of listings that were confirmed as non-compliant or otherwise
 16 removed or modified by the Hosting Platforms in response to the notices, and the number and amount
 17 of penalties imposed on Hosting Platforms for failing to respond to notices. Each report shall break
 18 down information by zip code, supervisorial district, and any other criteria as may be requested by the
 19 Board of Supervisors.

20
 21 * * * *

22 Section 3. Report by Office of Short-Term Rentals. The intent of this Ordinance is not
 23 to punish short-term rental hosts who are trying to lawfully comply with San Francisco's short-
 24 term rental laws. As the Ordinance amends Chapter 41A with the goal of bringing more short-
 5 term rentals into compliance, the Board of Supervisors recognizes the need for the City to

1 create a more efficient and reasonable registration process that allows short-term rental hosts
2 to come into compliance. Within 45 days of the effective date of this Ordinance, the Office of
3 Short-Term Rentals shall submit a report to the Board of Supervisors making
4 recommendations to the Board of Supervisors for legislation that would simplify the
5 application process and minimize the time between the filing of an application and its final
6 approval.

7
8 Section 43. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 54. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

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

22 By: 
23 ROBB KAPLA
24 Deputy City Attorney

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