FILE NO. ORDINANCE NO.

[Administrative, Planning Codes – Amending Regulation of Short-Term Residential Rentals and Establishing Fee]

Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Department of Building Inspection, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; and, making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

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

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

Section 1. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On _____, at a duly noticed public hearing, the Planning Commission in Resolution No. _____ found that the proposed Planning Code amendments contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b) and recommended that the Board of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by

reference. The Board finds that the proposed Planning Code amendments contained in this ordinance are on balance consistent with the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said Resolution.

(2) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. _____, which reasons are incorporated herein by reference as though fully set forth.

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

(c) General Findings.

(1) The widespread conversion of residential housing to short-term rentals, commonly referred to as hotelization, was prohibited by this Board because, when taken to extremes, these conversions could result in the loss of housing for permanent residents. But, with the advent of new technology, the rise of the sharing economy, and the economic and social benefits to residents of sharing resources, short-term rental activity continued to proliferate. This has not only led the City to strengthen enforcement of short-term rental laws, but also prompted an examination of parameters to regulate short-term rentals and create a pathway to legalize this activity. The goal of regulation is to ensure compliance with all requirements of the Municipal Code, including but not limited to the Business and Tax Regulations Code and the Residential Rent Stabilization and Arbitration Ordinance, and accountability for neighborhood quality of life.

(2) The exception created here for permanent residents would allow for reasonable flexibility in renting residential spaces on an occasional basis; however, this exception is only intended for residents who meet the definition of permanent resident so that these units remain truly residential in use. Thus, the exception is only for primary residences in which permanent residents are present for a significant majority of the calendar year.

(3) The hosting platforms, as part of a new but growing industry, would also benefit from regulation to ensure good business standards and practices. Such regulation includes required notification to users of local short-term rental laws and transient occupancy tax obligations to San Francisco.

(4) The Office of the Treasurer & Tax Collector retains all of its existing authority under the Business & Tax Regulations Code with regard to the subject matter of this ordinance.

Section 2. The Administrative Code is hereby amended by revising Sections 37.9(a), 41A.4, 41A.5, and 41A.6, to read as follows:

SEC. 37.9. EVICTIONS. Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

(a) A landlord shall not endeavor to recover possession of a rental unit unless:

(1) The tenant:

(A) Has failed to pay the rent to which the landlord is lawfully entitled under the oral or written agreement between the tenant and landlord:

(i) Except that a tenant's nonpayment of a charge prohibited by Section 919.1 of the Police Code shall not constitute a failure to pay rent; and

(ii) Except that, commencing August 10, 2001, to and including February 10, 2003, a landlord shall not endeavor to recover or recover possession of a rental unit for failure of a tenant to pay that portion of rent attributable to a capital improvement passthrough certified pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s) upon the tenant for such non-payment of capital improvements costs; or

(B) Habitually pays the rent late; or

(C) Gives checks which are frequently returned because there are insufficient funds in the checking account; or

(2) The tenant has violated a lawful obligation or covenant of tenancy other than the obligation to surrender possession upon proper notice or other than an obligation to pay a charge prohibited by Police Code Section 919.1, and failure to cure such violation after having received written notice thereof from the landlord.

(A) Provided that notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.

(B) Provided further that where a rental agreement or lease provision limits the number of occupants or limits or prohibits subletting or assignment, a landlord shall not endeavor to recover possession of a rental unit as a result of the addition to the unit of a tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic

partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of the addition of the spouse or domestic partner of a tenant, so long as the maximum number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord has unreasonably refused a written request by the tenant to add such occupant(s) to the unit. If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord. A landlord's reasonable refusal of the tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a unit exceeds (or with the proposed additional occupant(s) would exceed) the lesser of (i) or (ii):

(i) Two persons in a studio unit, three persons in a one-bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom unit; or

(ii) The maximum number permitted in the unit under state law and/or other local codes such as the Building, Fire, Housing and Planning Codes; or

(3) The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such nuisance, damage or interference is specifically stated by the landlord in writing as required by Section 37.9(c); or

(4) The tenant is using or permitting a rental unit to be used for any illegal purpose, *provided however that a landlord shall not endeavor to recover possession of a rental unit*

solely as a result of a first violation of Chapter 41A that has been cured within 30 days written notice to the tenant; or

(5) The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this Chapter; or

(6) The tenant has, after written notice to cease, refused the landlord access to the rental unit as required by State or local law; or

(7) The tenant holding at the end of the term of the oral or written agreement is a subtenant not approved by the landlord; or

(8) The landlord seeks to recover possession in good faith, without ulterior reasons and with honest intent:

(i) For the landlord's use or occupancy as his or her principal residence for a period of at least 36 continuous months;

(ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents, children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their principal place of residency for a period of at least 36 months, in the same building in which the landlord resides as his or her principal place of residency, or in a building in which the landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8.

(iii) For purposes of this Section 37.9(a)(8) only, as to landlords who become owners of record of the rental unit on or before February 21, 1991, the term "landlord"

shall be defined as an owner of record of at least 10 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become owners of record of the rental unit after February 21, 1991, the term "landlord" shall be defined as an owner of record of at least 25 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at least 25 percent.

(iv) A landlord may not recover possession under this Section 37.9(a)(8) if a comparable unit owned by the landlord is already vacant and is available, or if such a unit becomes vacant and available before the recovery of possession of the unit. If a comparable unit does become vacant and available before the recovery of possession, the landlord shall rescind the notice to vacate and dismiss any action filed to recover possession of the premises. Provided further, if a noncomparable unit becomes available before the recovery of possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the tenant is paying, with upward or downward adjustments allowed based upon the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good faith if a landlord times the service of the notice, or the filing of an action to recover possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a replacement unit.

(v) It shall be rebuttably presumed that the landlord has not acted in good faith if the landlord or relative for whom the tenant was evicted does not move into the

rental unit within three months and occupy said unit as that person's principal residence for a minimum of 36 continuous months.

(vi) Once a landlord has successfully recovered possession of a rental unit pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this Section that only one specific unit per building may be used for such occupancy under Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that disability or other similar hardship prevents him or her from occupying a unit which was previously occupied by the landlord.

(vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions, and clauses of this Chapter are held to be severable; or

(9) The landlord seeks to recover possession in good faith in order to sell the unit in accordance with a condominium conversion approved under the San Francisco subdivision ordinance and does so without ulterior reasons and with honest intent; or

(10) The landlord seeks to recover possession in good faith in order to demolish or to otherwise permanently remove the rental unit from housing use and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent; provided that a landlord who seeks to recover possession under this Section 37.9(a)(10) shall pay relocation expenses as provided in Section 37.9C except that a landlord who seeks to demolish an unreinforced masonry building pursuant to Building Code Chapters 16B and 16C must provide the tenant

with the relocation assistance specified in Section 37.9A(f) below prior to the tenant's vacating the premises; or

(11) The landlord seeks in good faith to remove temporarily the unit from housing use in order to be able to carry out capital improvements or rehabilitation work and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such circumstances shall have the right to reoccupy the unit at the prior rent adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit only for the minimum time required to do the work. On or before the date upon which notice to vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or capital improvement plans are on file with the Central Permit Bureau of the Department of Building Inspection and that arrangements for reviewing such plans can be made with the Central Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months; provided, however, that such time period may be extended by the Board or its Administrative Law Judges upon application by the landlord. The Board shall adopt rules and regulations to implement the application procedure. Any landlord who seeks to recover possession under this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C or

(12) The landlord seeks to recover possession in good faith in order to carry out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this

Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; Any landlord who seeks to recover possession under this Section 37.9(a)(12) shall pay relocation expenses as provided in Section 37.9C; or

(13) The landlord wishes to withdraw from rent or lease all rental units within any detached physical structure and, in addition, in the case of any detached physical structure containing three or fewer rental units, any other rental units on the same lot, and complies in full with Section 37.9A with respect to each such unit; provided, however, that guestrooms or efficiency units within a residential hotel, as defined in Section 50519 of the Health and Safety Code, may not be withdrawn from rent or lease if the residential hotel has a permit of occupancy issued prior to January 1, 1990, and if the residential hotel did not send a notice of intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f), Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1, 2004; or

(14) The landlord seeks in good faith to temporarily recover possession of the unit solely for the purpose of effecting lead remediation or abatement work, as required by San Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the minimum time required to do the work. The relocation rights and remedies, established by San Francisco Administrative Code Chapter 72, including but not limited to, the payment of financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

(15) The landlord seeks to recover possession in good faith in order to demolish or to otherwise permanently remove the rental unit from housing use in accordance with the terms of a development agreement entered into by the City under Chapter 56 of the San Francisco Administrative Code.

(16) The tenant's Good Samaritan Status (Section 37.2(a)(1)(D)) has expired, and the landlord exercises the right to recover possession by serving a notice of termination of

tenancy under this Section 37.9(a)(16) within 60 days after expiration of the Original and any Extended Good Samaritan Status Period.

* * * *

SEC. 41A.4. DEFINITIONS.

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

~~*(l)*~~ ***Business Entity.*** *A corporation, partnership, or other legal entity that is not a natural person that owns or leases one or more residential units.*

~~*(n)*~~ ***Complaint.*** *A complaint submitted to the Department by an interested party alleging a violation of this Chapter 41A and that includes the residential unit's address, including unit number, date(s) and nature of alleged violation(s), and any available contact information for the owner and/or resident of the residential unit at issue.*

~~*(e)*~~ **Conversion or Convert.** ~~*The*~~ *A* change of ~~*the*~~ use ~~*or to rent a residential unit*~~ from residential use to tourist or transient use*, including, but not limited to, renting a residential unit as a tourist or transient use*.

~~*(o)*~~ ***Department.*** *The Department of Building Inspection.*

~~*(h)*~~ **Director.** The Director of the Department of Building Inspection.

~~*(i)*~~ ***Hosting Platform.*** *A person or entity that provides a means through which an owner may offer a residential unit for tourist or transient use. This service is usually, though not necessarily, provided through an online platform and generally allows an owner to advertise the residential unit through a website provided by the hosting platform and provides a means for potential tourist or transient users to arrange tourist or transient use and payment, whether the tourist or transient pays rent directly to the owner or to the hosting platform.*

~~(g)~~ **Interested Party.** A permanent resident of the building in which the tourist or transient use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws.

~~(f)~~ **Owner.** Owner includes any person who is the owner of record of the real property. *As used in this Chapter 41A, the term* "Owner" includes a lessee where ~~*an interested party alleges that a*~~ *the* lessee is offering a residential unit for tourist or transient use.

~~(d)~~ **Permanent Resident.** A person who occupies a residential unit for at least 60 consecutive days with intent to establish that unit as his or her ~~*principal place of*~~ *primary* residence. *A permanent resident may be an owner or a lessee.*

~~(m)~~ ***Primary Residence.*** *The permanent resident's usual place of return for housing as documented by motor vehicle registration, driver's license, voter registration, home owner's tax exemption, or other such evidence.*

Residential Unit. Room or rooms, including a condominium or a room or dwelling unit that forms part of a tenancy-in-common arrangement, in any building *of two or more units*, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied *for residential use*~~*, or which is occupied as the home or residence of four or more households living independently of each other in dwelling units*~~ as defined in the San Francisco Housing Code~~, provided that the residential unit was occupied by a permanent resident on or after February 8, 1981. It is presumed that a residential unit was occupied by a permanent resident on or after February 8, 1981, and the owner has the burden of proof to show that a residential unit is not subject to this Chapter~~.

~~(b)~~ **Residential Use.** Any use for occupancy of a ~~*dwelling*~~ *residential* unit by a permanent resident.

~~(j)~~ ***Short-Term Residential Rental.*** *A tourist or transient use where all of the following conditions are met:*

(a) the residential unit is offered for tourist or transient use by the permanent resident of the residential unit;

(b) the permanent resident is a natural person; and,

(c) the permanent resident has registered the unit and maintains good standing on the Department's short-term residential rental registry.

~~(k)~~ ***Short-Term Residential Rental Registry.*** *A database of information maintained by the Department that includes information regarding permanent residents who are permitted to offer residential units for short-term residential rental. The registry shall be available for public review to the extent required by law, except that, to the extent permitted by law, the Department shall redact any permanent resident names from the records available for public review.*

~~(c)~~ **Tourist or Transient Use.** *Any* ~~U~~use of a residential unit for occupancy for less than a 30-day term of tenancy, or occupancy for less than 30 days of a residential unit leased or owned by a business entity, whether on a short-term or long-term basis, including any occupancy by employees *or guests of a business entity* for less than 30 days where payment for the residential unit is contracted for or paid by the business entity.

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

(a) **Unlawful Actions.** *Except as set forth in subsection 41A.5(g),* ~~i~~It shall be unlawful for

(1) any *O*~~o~~wner to offer a~~n apartment~~ *R*~~r~~esidential *U*~~u~~nit for rent for *T*~~t~~ourist or *T*~~t~~ransient *U*~~u~~se~~,~~*;*

(2) any *O*~~o~~wner to offer a *R*~~r~~esidential *U*~~u~~nit for rent to a *B*~~b~~usiness *E*~~e~~ntity that will allow the use of a *R*~~r~~esidential *U*~~u~~nit for *T*~~t~~ourist or *T*~~t~~ransient *U*~~u~~se~~,~~*;* or

(3) any *Bb*usiness *Ee*ntity to allow the use of a *Rr*esidential *Uu*nit for *Tt*ourist or *Tt*ransient *Uu*se.

(b) **Records Required.** The *Oo*wner and *Bb*usiness *Ee*ntity, *if any,* shall retain and make available to the Department ~~*or Building Inspection occupancy*~~ records to demonstrate compliance with this Chapter *41A upon written request as provided herein. Any Permanent Resident offering his or her Primary Residence as a Short-Term Residential Rental shall retain and make available to the Department records to demonstrate compliance with this Chapter 41A, including but not limited to records demonstrating Primary Residency and the number of days per calendar year he or she has occupied the Residential Unit.*

(c) **Determination of Violation**. Upon the filing of a *written Ce*omplaint that an *alleged* unlawful ~~*e*~~*Conversion* has occurred, the Director shall take reasonable steps necessary to determine the validity of the *Ce*omplaint. The Director may independently determine whether an *Oo*wner or *Bb*usiness *Ee*ntity may be renting a *Rr*esidential *Uu*nit for *Tt*ourist or *Tt*ransient *Uu*se ~~*as defined*~~ in *violation of* this Chapter *41A*. To determine if there is a violation of this Chapter *41A*, the Director may initiate an investigation of the subject property. This investigation may include, but is not limited to, an inspection of the subject property and a request for any pertinent information from the *Oo*wner *or Business Entity*, such as leases or other documents. The Director shall have discretion to determine whether there is a potential violation of this Chapter 41A and whether to conduct an administrative review hearing as set forth below.

(d) **Civil Action.** Following the filing of a *Ce*omplaint and the determination of a violation by the Director through an administrative review hearing as set forth in this Chapter 41A, *the City and County of San Francisco or* any interested party may institute *civil* proceedings for injunctive and monetary relief *against an Owner or Business Entity*. In addition, the *Oo*wner or *Bb*usiness *Ee*ntity may be liable for civil penalties of not more than $1,000 per day for the

period of the unlawful rental. If the City or the interested party is the prevailing party, the City or the interested party shall be entitled to the costs of enforcing this Chapter *41A*, including reasonable attorneys' fees, up to the amount of the monetary award, pursuant to an order of the Court. Any monetary award obtained by the City and County of San Francisco in such a civil action shall be deposited in the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs incurred by the City and County of San Francisco in pursuing the civil action.

(e) **Criminal Penalties.** Any *O*~~o~~wner or *B*~~b~~usiness *E*~~e~~ntity who rents a *R*~~r~~esidential *U*~~u~~nit for *T*~~t~~ourist or *T*~~t~~ransient *U*~~u~~se ~~*as defined*~~ in *violation of* this Chapter *41A without correcting or remedying the violation as provided for in subsection 41A.6(b)(7)* shall be guilty of a misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a fine of not more than $1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both. Each *R*~~r~~esidential *U*~~u~~nit rented for *T*~~t~~ourist or *T*~~t~~ransient *U*~~u~~se shall constitute a separate offense.

(f) **Method of Enforcement, Director.** The Director shall have the authority to enforce this Chapter against violations thereof by any or all of the means provided for in this Chapter 41A.

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

(1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent Resident may offer his or her Primary Residence as a Short-Term Residential Rental if he or she:

(A) occupies the Residential Unit for no less than 275 days out of the preceding calendar year or proportional share thereof if he or she has not rented or owned the Residential Unit for the full preceding calendar year;

(B) maintains records for two years demonstrating compliance with this Chapter, including but not limited to information demonstrating Primary Residency, the number of

days per calendar year he or she has occupied the Residential Unit, and compliance with the insurance requirement in Subsection (D). These records shall be made available to the Department upon request;

(C) complies with any and all applicable provisions of state law and the San Francisco Municipal Code, including but not limited to the requirements of the Business and Tax Regulations Code by, among any other applicable requirements, collecting and remitting all required transient occupancy taxes;

(D) maintains homeowner's or renter's property or casualty insurance in the aggregate of not less than $150,000 or conducts each Short-Term Residential Rental transaction through a Hosting Platform that provides a guarantee program relating to property damage in an amount not less than $150,000 to owners per incident;

(E) registers, and maintains registry of, the Residential Unit on the Short-Term Residential Rental Registry prior to offering the Residential Unit for use as a Short-Term Residential Rental. Offering a Residential Unit for Short-Term Residential Rental while not maintaining good standing on the registry shall constitute a violation of this Chapter 41A; and

(F) for units subject to the rent control provisions of Section 37.3, complies with the initial rent limitation for subtenants and charges no more rent than the rent the primary resident is paying to any landlord per month.

(2) Short-Term Residential Rental Registry Applications and Fee.

(A) Application. Registration shall be for a two-year term, which may be renewed by the Permanent Resident by filing a completed renewal application. Initial and renewal applications shall be in a form prescribed by the Department. The Department shall determine, in its sole discretion, the completeness of an application. Both the initial application and any renewal application shall contain information sufficient to show that the Residential Unit is the Primary Residence of the applicant and that the applicant is the unit's Permanent Resident. In addition to the information set forth here, the Department may require any other additional information necessary to

show the Permanent Resident's compliance with this Chapter 41A. Primary Residency may be established by showing the Residential Unit is listed as the applicant's residence on any motor vehicle registration, driver's license, or voter registration, or as the Primary Residence for home owner's tax exemption purposes, and/or any other information as required by the Department. A renewal application shall contain sufficient information to show that the applicant is the Permanent Resident and has occupied the unit for at least 275 days of each of the two preceding calendar years. Upon the Department's determination that an application is complete, the unit shall be entered into the Short-Term Residential Rental Registry.

(B) Fee. The fee for the initial application and for each renewal shall be $50, payable to the Director. The application fee shall be due at the time of application. Beginning with fiscal year 2014-2015, fees set forth in this Section may be adjusted each year, without further action by the Board of Supervisors, as set forth in this Section. Not later than April 1, the Director shall report to the Controller the revenues generated by the fees for the prior fiscal year and the prior fiscal year's costs of establishing and maintaining the registry, as well as any other information that the Controller determines appropriate to the performance of the duties set forth in this Chapter. Not later than May 15, the Controller shall determine whether the current fees have produced or are projected to produce revenues sufficient to support the costs of establishing and maintaining the registry and any other services set forth in this Chapter and that the fees will not produce revenue that is significantly more than the costs of providing such services. The Controller shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate to ensure that the program recovers the costs of operation without producing revenue that is significantly more than such costs. The adjusted rates shall become operative on July 1.

(4) Requirements for Hosting Platforms.

(A) Notice to Users of Hosting Platform. All Hosting Platforms shall provide the following information in a notice to any user listing a Residential Unit located within the City and

County of San Francisco through the Hosting Platform's service. The notice shall be provided prior to the user listing the Residential Unit and shall include the following information: that Administrative Code Chapters 37 and 41A regulate Short-Term Rental of Residential Units; the requirements for Permanent Residency and registration of the unit with the Department; and the transient occupancy tax obligations to the City.

(B) A Hosting Platform shall comply with the requirements of the Business and Tax Regulations Code by, among any other applicable requirements, collecting and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's failure to comply with the requirements of the Business and Tax Regulations Code. Additionally, a Hosting Platform's failure to provide the required notice to users under subsection 41A.5(g)(2)(A) shall be a violation of this Chapter. Any such violation shall subject the Hosting Platform to a fine payable to the Department of up to $1000 per day for the period of the failure to provide notice or the failure to provide the required information to the Department.

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

(6) Department Contact Person. The Department shall designate a contact person for members of the public who wish to file Complaints under this Chapter or who otherwise seek information regarding this Chapter or Short-Term Residential Rentals. This contact person shall also provide information to the public upon request regarding quality of life issues, including for example

noise violations, vandalism, or illegal dumping, and shall direct the member of the public and/or forward any such Complaints to the appropriate City department.

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

SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.

(a) **Notice of Complaint.** Within 15 days of the filing of a *C*~~c~~omplaint and upon the Director's independent finding that there may be a violation of this Chapter, the Director shall notify the *O*~~o~~wner by certified mail that the ~~O~~~~o~~wner's *R*~~r~~esidential *U*~~u~~nit is the subject of an investigation for an unlawful use and provide the date, time, and place of an administrative review hearing in which the owner can respond to the *C*~~c~~omplaint.

(b) **Administrative Review Hearings**. In the event the Director determines that an administrative review hearing shall be conducted, the Director's appointed hearing officer will hold an administrative review hearing within 60 days of the filing of the *C*~~c~~omplaint to review all information provided by the Interested Party, members of the public, City staff and the Owner for the investigation and the hearing officer shall thereafter make a determination whether the *O*~~o~~wner has violated this Chapter.

(1) Notice of the hearing shall be conspicuously posted on the building that is the subject of the hearing. The *O*~~o~~wner shall state under oath at the hearing that the notice

remained posted for at least *seven* calendar days prior the hearing. The Director shall appoint a hearing officer to conduct the hearing.

(2) Pre-hearing Submission. No less than ten working days prior to the administrative review hearing, parties to the hearing shall submit written information to the Director including, but not limited to, the issues to be determined by the hearing officer and the evidence to be offered at the hearing. Such information shall be forwarded to the hearing officer prior to the hearing along with any information compiled by the Director.

(3) Hearing Procedure. If more than one hearing is requested for *R*~~r~~esidential *U*~~u~~nits located in the same building at or about the same time, the Director shall consolidate all of the hearings into one hearing. The hearing shall be tape recorded. Any party to the hearing may at his or her own expense cause the hearing to be recorded by a certified court reporter. Parties may be represented by counsel and shall have the right to cross-examine witnesses. All testimony shall be given under oath. Written decisions and findings shall be rendered by the hearing officer within 20 working days of the hearing. Copies of the findings and decision shall be served upon the parties by certified mail. A notice that a copy of the findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be posted by the *O*~~o~~wner or the Director in the building in the same location in which the notice of the administrative review hearing was posted.

(4) Failure to Appear. In the event the *O*~~o~~wner or an interested party fails to appear at the hearing, the hearing officer may nevertheless make a determination based on the evidence in the record and files at the time of the hearing, and issue a written decision and findings.

(5) Finality of the Hearing Officer's Decision and Judicial Review. The decision of the hearing officer shall be final. Within 20 days after service of the hearing officer's decision, any party may seek judicial review of the hearing officer's decision.

(6) Hearing Officer Decision and Collection of Penalties. If any imposed administrative penalties and costs have not been deposited at the time of the Hearing Officer's decision, the Director may proceed to collect the penalties and costs pursuant to the lien procedures set forth in Subsection 41A.6(e), consistent with the Hearing Officer's decision.

(7) Remedy of Violation. If the Hearing Officer determines that a violation has occurred, the Hearing Officer's Decision should:

(*A*~~i~~) Specify a reasonable period of time during which the *O*~~o~~wner must correct or otherwise remedy the violation; ~~*and*~~

(*B*~~ii~~) State that if the violation is not corrected or otherwise remedied within this period, the *O*~~o~~wner may be required to pay the administrative penalties set forth in Subsection 41A.6(c)*; and,*

(C) State that if the violation is not corrected or otherwise remedied within this period, the Department may prohibit the offending Owner from including such Residential Unit on any Hosting Platform for a period of one year.

(8) If the Hearing Officer determines that no violation has occurred, the determination is final.

(c) **Imposition of** ~~***Administrative***~~ **Penalties for Unabated Violations and Enforcement Costs.**

(1) Administrative Penalties. If the violation has continued unabated beyond the time specified in the notice required by the Hearing Officer, an administrative penalty of not more than four times the standard hourly administrative rate of $104.00 shall be charged for each unlawfully converted unit from the day the unlawful use commenced until such time as the unlawful use terminates.

(2) Enforcement Costs. The *Q*~~o~~wner shall reimburse the City for the costs of enforcement of this Chapter, which shall include, but not be limited to, reasonable attorneys' fees.

(3) Prohibition on Listing Unit(s) on Any Hosting Platform. If the violation has continued unabated beyond the time specified in the notice required by the Hearing Officer, the Department shall include the Residential Unit(s) on a list maintained by the Department of Residential Units that may not be listed by any Permanent Resident on any Hosting Platform until compliance. Any Owner who continues to list a Residential Unit in violation of this section shall be liable for additional civil penalties of up to $1000 per day of unlawful inclusion.

(d) **Notice of Continuing Violation and Imposition of Penalties**. The Director shall notify the *Q*~~o~~wner by certified mail that the violation has continued unabated and that administrative penalties shall be imposed pursuant to this Chapter 41A. The notice shall state the time of the continued existence of the violation and the resulting imposition of penalties. Payment of the administrative penalties and enforcement costs shall be made within 30 days of the certified mailed notice to the *Q*~~o~~wner. If the administrative penalties and enforcement costs are not paid, the Director shall initiate lien procedures to secure the amount of the penalties and costs against the real property that is subject to this Chapter, under Article XX of Chapter 10 of the ~~*San Francisco*~~ Administrative Code to make the penalty, plus accrued interest, a lien against the real property regulated under this Chapter. Except for the release of the lien recording fee authorized by Administrative Code Section 10.237, all sums collected by the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and distributed as provided in Section 41A.5(d) of this Chapter.

(e) **Deposit of Penalties**. Administrative penalties paid pursuant to this Chapter shall be deposited in the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs incurred by the City and County of San Francisco in pursuing enforcement

under this Chapter 41A. If enforcement costs were imposed, such funds shall be distributed according to the purpose for which they were collected.

Section 3. The Planning Code is hereby amended by revising Sections 102.7, 102.13, 790.88 and 890.88, to read as follows:

SEC. 102.7. DWELLING UNIT.

A room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen. A housekeeping room as defined in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of this Code, a live/work unit, as defined in Section 102.13 of this Code, shall not be considered a dwelling unit. *Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a residential use.*

* * * *

SEC. 102.13. LIVE/WORK UNIT.

A live/work unit is a structure or portion of a structure combining a residential living space for a group of persons including not more than four adults in the same unit with an integrated work space principally used by one or more of the residents of that unit; provided, however, that no otherwise qualifying portion of a structure which contains a Group A occupancy under the San Francisco Building Code shall be considered a live/work unit. *Notwithstanding the foregoing, use of a live/work unit as a Short-Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a live/work unit.*

* * * *

SEC. 790.88. RESIDENTIAL USE.

A use which provides housing for San Francisco residents, rather than visitors, including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a residential hotel, as defined in Section 790.47 of this Code and in Chapter 41 of the San Francisco Administrative Code. *Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a residential use.*

(a) Dwelling Unit. A residential use which consists of a suite of two or more rooms and includes sleeping, bathing, cooking, and eating facilities, but has only one kitchen.

(b) Group Housing. A residential use which provides lodging or both meals and lodging without individual cooking facilities for a week or more at a time in a space not defined as a dwelling unit. Group housing includes, but is not limited to, a rooming house, boarding house, guest house, lodging house, residence club, commune, fraternity and sorority house, monastery, nunnery, convent, and ashram. It also includes group housing operated by a medical or educational institution when not located on the same lot as such institution.

* * * *

SEC. 890.88. RESIDENTIAL USE.

A use which provides housing for San Francisco residents, rather than visitors, including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a residential hotel, as defined in Section 890.47 of this Code and in Chapter 41 of the San Francisco Administrative Code. *Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a residential use.*

(a) Dwelling Unit. A residential use which consists of a suite of two or more rooms and includes sleeping, bathing, cooking, and eating facilities, and has only one kitchen.

(b) Group Housing. A residential use which provides lodging or both meals and lodging without individual cooking facilities for a week or more at a time in a space not defined as a dwelling unit. Group housing includes, but is not limited to, a roominghouse, boarding house, guest house, lodging house, residence club, commune, fraternity and sorority house, monastery, nunnery, convent, and ashram. It also includes group housing operated by a medical or educational institution when not located on the same lot as such institution.

(c) Single Room Occupancy (SRO) Unit. A dwelling unit or group housing room consisting of no more than one occupied room with a maximum gross floor area of 350 square feet and meeting the Housing Code's minimum floor area standards. The unit may have a bathroom in addition to the occupied room. As a dwelling unit, it would have a cooking facility and bathroom. As a group housing room, it would share a kitchen with one or more other single room occupancy unit/s in the same building and may also share a bathroom. A single room occupancy building (or "SRO" building) is one that contains only SRO units and non nonaccessory living space.

Section 4. Other Uncodified Provisions.

(a) Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it

would be liable in money damages to any person who claims that such breach proximately caused injury.

(c) No Conflict with State or Federal Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any State or federal law.

(d) Severability. If any of section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance would be subsequently declared invalid or unconstitutional.

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

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

By: _____
MARLENA G. BYRNE
Deputy City Attorney

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