



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R 0 8 - 0 2 9 0

AUG 0 4 2008

REPORT RE:

DRAFT ORDINANCE AMENDING ARTICLE 7.1 OF CHAPTER IV, SUBDIVISION 13 OF SUBSECTION A OF SECTION 151.09, AND SUBSECTION G OF SECTION 151.09, OF THE LOS ANGELES MUNICIPAL CODE TO CLARIFY PROCEDURES IN THE RESIDENTIAL HOTEL UNIT CONVERSION AND DEMOLITION ORDINANCE REGARDING THE DETERMINATION OF HOTELS SUBJECT TO THE ORDINANCE AND THE CLASSIFICATION OF ROOMS IN RESIDENTIAL HOTELS AS TOURIST OR RESIDENTIAL, AND TO ADD A PROVISION ALLOWING THE MAYOR TO VETO A DECISION BY THE LOS ANGELES CITY COUNCIL REGARDING THE NUMBER OF REPLACEMENT UNITS

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Council File No. 08-0644

Honorable Members:

On July 23, 2008, your Honorable Body requested this office to draft an ordinance clarifying the procedures in the Residential Hotel Unit Conversion and Demolition Ordinance regarding the determination of hotels subject to the ordinance, and to add a provision allowing the Mayor to veto a decision by the Los Angeles City Council regarding the number of replacement units. As requested, this office has prepared and now transmits for your action the attached draft ordinance, approved as to form and legality. This draft ordinance would amend Article 7.1 of Chapter IV, and Section 151.09 of the Los Angeles Municipal Code to regulate the demolition and conversion of residential hotel units. In addition to allowing the Mayor to veto City Council decisions regarding the number of replacement units, and clarifying the procedure by which the Los Angeles Housing Department identifies the hotels subject to the ordinance, this draft ordinance would also clarify the procedure by which

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residential hotel rooms are classified as tourist or residential, add a provision regarding record keeping requirements to assist in the enforcement of the ordinance, and make other clarifying changes.

CEQA Findings

Regarding a finding pursuant to the California Environmental Quality Act (CEQA), the Los Angeles Housing Department has recommended that Council find that the adoption of this ordinance is exempt from the provisions of CEQA under Article 18, Section 15060 (c)(2) of the State CEQA Guidelines and Article II, Section 2(m) of the City CEQA Guidelines. If the City Council concurs, it should adopt this finding prior to or concurrent with its action on the ordinance.

Background and Summary of Ordinance Provisions

Effective May 20, 2008, the City enacted Ordinance No. 179,868 regulating the demolition and conversion of residential hotel units. On July 23, 2008, the City Council requested this office to prepare a draft ordinance to amend the prior action in the manner described above.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Los Angeles Housing Department. The Housing Department recommends that the Council adopt the draft ordinance.

If you have any questions, please contact Deputy City Attorney Judith E. Reel at 213.978.7965. Either she or another member of this office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By


DAVID MICHAELSON
Chief Assistant City Attorney

DM:JER:lee
Transmittal

ORDINANCE NO. _____

An ordinance amending Article 7.1 of Chapter IV, Subdivision 13 of Subsection A of Section 151.09, and Subsection G of Section 151.09, of the Los Angeles Municipal Code to clarify procedures in the Residential Hotel Unit Conversion and Demolition Ordinance regarding the determination of hotels subject to the ordinance and the classification of rooms in residential hotels as tourist or residential, and to add a provision allowing the Mayor to veto a decision by the Los Angeles City Council regarding the number of replacement units.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 7.1 of Chapter IV of the Los Angeles Municipal Code is amended to read:

**ARTICLE 7.1
RESIDENTIAL HOTEL UNIT CONVERSION AND DEMOLITION**

SEC. 47.70. Title.

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

SEC. 47.71. Purpose.

It is the purpose of this ordinance to benefit the general public by minimizing the adverse impact on the housing supply and on displaced low-income, elderly, and disabled persons, which results from the loss of residential hotel units through conversion and demolition. This is to be accomplished by establishing the status of residential hotel units, by regulating the demolition and conversion of these units to other uses, and by establishing appropriate administrative and judicial remedies.

SEC. 47.72. Findings.

The Los Angeles City Council finds that:

- A. There is a severe shortage of decent, safe and sanitary rental housing in the City of Los Angeles and this shortage most severely affects elderly, disabled and low-income persons.
- B. Many elderly, disabled and low-income persons reside in residential hotel units.
- C. The Los Angeles Housing Department (LAHD) currently designates 336 hotels as residential hotels, which contain 18,739 units in the City of Los Angeles. An additional

survey of residential hotels billed for annual fees by LAHD in 2006, revealed that 87% of residential hotels did not request exemptions for tourist units.

D. As a result of the removal of residential hotel units from the rental housing market, a housing emergency exists within the City of Los Angeles, acutely impacting elderly, disabled and low-income persons.

E. Residential hotel units are endangered housing resources and must be protected.

F. The Los Angeles City Council recognized the housing emergency caused by the loss of residential hotel units and enacted an ordinance that established a moratorium on the demolition or conversion of residential hotel units to any other use. This Interim Control Ordinance became effective on May 24, 2006.

G. The conversion and demolition of residential hotel units affect those persons who are least able to cope with displacement in the City of Los Angeles' housing market.

H. It is in the public interest that the conversion and demolition of residential hotel units be regulated. Furthermore, in order to protect the resident tenants and to conserve limited housing resources, remedies must be provided where unlawful conversion or demolition has occurred.

SEC. 47.73. Definitions. Singular references also include plural and derivative uses of defined terms where capitalized.

A. Affordable Housing Project. Affordable Housing Project is a housing development project with a government-imposed regulatory agreement that has been recorded with the Los Angeles County Recorder, or which shall be recorded within six months of the Claim of Exemption filed pursuant to Section 47.77, guaranteeing that all of the residential units will be affordable to either lower income or very low income households for a period of at least 55 years, with at least ten percent of the units affordable to households with income no greater than 30 percent of Area Median Income, and no more than 25 percent of the units affordable only to households with income at 60 percent of Area Median Income. None of the units shall be affordable only to households with income greater than 60 percent of Area Median Income, as these terms are defined by the United States Department of Housing. "Lower income or very low income households" is defined in accordance with California Health and Safety Code Sections 50079.5 and 50105.

B. Affordable Housing Trust Fund. Affordable Housing Trust Fund is a fund established by Los Angeles Administrative Code Section 5.522.

C. CRA/LA. CRA/LA is the Community Redevelopment Agency of the City of Los Angeles.

D. **Comparable Unit.** Comparable Unit is a unit which is similar in size, services, rental amount and facilities to the Residential Unit proposed to be converted or demolished.

E. **Conversion.** Conversion is any action that converts any Residential Unit in a Residential Hotel through either: (1) a change of use to a commercial, industrial, or other non-residential use; (2) a change to a different residential use; (3) a change from a residential use to a transient or tourist guest use or occupancy; or (4) a conversion to a condominium, cooperative, or similar form of ownership.

F. **Demolition.** Demolition is any action that reduces the number of existing guest rooms, light housekeeping rooms, or efficiency units in a Residential Hotel, either by a complete tearing down of a building or structure so that it no longer exists or by combining two or more units into a single unit.

G. **Destroyed.** Destroyed is an action defined by Section 12.03 of the Los Angeles Municipal Code.

H. **Disaster.** Disaster is an event defined by Section 12.03 of the Los Angeles Municipal Code.

I. **Efficiency Dwelling Unit.** Efficiency Dwelling Unit is defined in Section 12.03 of the Los Angeles Municipal Code.

J. **GSD.** GSD is the Department of General Services.

K. **Guest Room.** A Guest Room is defined in Section 12.03 of the Los Angeles Municipal Code.

L. **Interested Party.** An Interested Party is a resident or Tenant of a Residential Hotel, or his or her authorized representative. Interested Party shall also mean any nonprofit organization exempted from federal taxation pursuant to Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, and organized for the purpose of maintaining or creating affordable housing.

M. **LADBS.** LADBS is the Los Angeles Department of Building and Safety.

N. **LAHD.** LAHD is the Los Angeles Housing Department.

O. **Light Housekeeping Rooms.** Light Housekeeping Rooms are those designed and used as a bedroom and for the cooking and preparing of food, in conformance with the provisions of Los Angeles Municipal Code Section 91.8116.

P. **Member of Appraisal Institute.** Member of Appraisal Institute is a trade organization that certifies appraisers who meet the requirements for the MAI designation.

Q. **Owner.** Owner includes any person or legal entity holding any ownership interest in a Residential Hotel or a building under consideration for Residential Hotel status.

R. **Person.** A Person is defined in Section 11.01 (a) of the Los Angeles Municipal Code.

S. **Residential Hotel.** A Residential Hotel, as defined in accordance with California Health and Safety Code Section 50519, is any building containing six or more guest rooms or efficiency units, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, and which is also the primary residence of those guests. The term Residential Hotel excludes any building containing six or more guest rooms or efficiency units, which is primarily used by transient guests who do not occupy units in that building as their primary residence.

T. **Residential Unit.** A Residential Unit is any guest room, light housekeeping room, efficiency unit, or dwelling unit in a Residential Hotel that was occupied as a primary residence on October 11, 2005. If a unit was vacant on October 11, 2005, a Residential Unit shall mean any guest room, light housekeeping room, efficiency unit, or dwelling unit in a Residential Hotel that, on the first day that the unit was subsequently occupied, was occupied as a primary residence.

U. **Tenant.** A Tenant is a Person who is entitled to occupy and occupies a Residential Unit for at least 31 consecutive days.

V. **Tourist Unit.** A Tourist Unit is a unit in a Residential Hotel that does not meet the criteria of a Residential Unit.

SEC. 47.74. Applicability of this Article.

A. This article shall not apply to any Residential Hotel that is an Affordable Housing Project. An Affordable Housing Project that is exempt from the provisions of this article shall lose its exempt status and become subject to the provisions of this article when it ceases to be an Affordable Housing Project.

B. This article shall also not apply to any Residential Hotel that:

1. was completely and continuously unoccupied by any Person from October 11, 2005, through and including the date that the Owner applies for a building permit for a Residential Hotel that constitutes a proposed Conversion or Demolition of the Residential Hotel, or is a new development on the site of a Destroyed or Demolished Residential Hotel; or

2. pursuant to California Government Code Section 7060, *et seq.*, was first approved for residential occupancy on or after January 1, 1990, as

evidenced by a certificate of occupancy issued by LADBS on or after that date;
or

3. pursuant to California Government Code Section 7060, *et seq.*, sent or delivered to LAHD before October 11, 2005, a notice of intent to withdraw all of the building's accommodations from rent or lease; or

4. consisted entirely of Residential Units that were rented or offered for rent for periods of no less than 30 days from October 11, 1995, to the effective date of this article. This exemption applies only to Residential Hotels containing 55 or fewer units.

SEC. 47.75. Residential Hotel Status Determination.

A. LAHD will determine whether a building is a Residential Hotel.

B. LAHD shall notify the Owner of any building that it classifies as a Residential Hotel that such building is subject to the provisions of this article. LAHD shall include in the notification a copy of this article, the appeal form referenced in Subsection C of this section, and an Application for Exemption. LAHD shall mail the notice to the Owner at the address that appears in the last equalized assessment roll or at the address provided to LAHD through any registration in accordance with Section 151.05. The Owner shall immediately post the notice until the time for appealing such designation expires.

C. An Owner of a Residential Hotel or Interested Party who alleges that the building is not a Residential Hotel may file an appeal with LAHD within 60 days of the date that LAHD deposited its notification in the mail pursuant to Subsection B of this section.

1. An appellant who files an appeal shall do so on a form prescribed by LAHD and shall pay an administrative fee in the amount of \$605. The fee shall pay for the cost of investigating and processing the appeal.

2. The appellant shall submit evidence with the appeal to support the appeal.

3. The appellant has the burden of proving by a preponderance of the evidence that the property is not a Residential Hotel. Tenants, other Interested Parties and the Owner if the Owner is not the appellant, may submit evidence to LAHD.

4. Within 15 days of the filing of the appeal, LAHD shall provide the appellant and any Interested Party requesting such information all information LAHD relied upon in the determination from which the appeal is made, except that the Owner's confidential financial or proprietary information shall not be

disclosed to any Person other than the Owner. Within 20 days from receipt of such information, the appellant may submit additional information to LAHD.

5. On the date that the Owner files the appeal, or as soon as LAHD notifies an Owner that an Interested Party has filed an appeal, the Owner shall post a notice on a form prescribed by LAHD. The notice shall state that the appellant has appealed the City's Residential Hotel Status Determination. The notice shall identify the grounds for the appeal. The notice shall provide the name and contact number of LAHD staff an Owner or Interested Party can contact to provide additional evidence and information regarding the appeal. LAHD shall also mail a copy of the notice to the occupants of the building subject to the appeal. The notice shall remain posted until after LAHD issues a written determination regarding the appeal.

6. LAHD shall issue a determination of the appeal based on the evidence submitted within 90 days of the filing of the appeal. The basis for the determination shall be described therein. LAHD shall mail a copy of the determination to the Owner, and any Interested Party who filed an appeal or submitted evidence pursuant to this section.

D. An Owner or any Interested Party who presented evidence pursuant to this section may appeal LAHD's determination to a General Manager's Hearing Officer pursuant to the provisions of Section 47.84. The Owner shall post LAHD's determination until the time for filing any appeal expires. The appeal shall be filed at LAHD within 15 calendar days after LAHD mails its determination. LAHD's determination shall be final if a timely appeal is not filed.

E. Any appeal of a Notice regarding a Residential Hotel determination that was sent to an Owner of a building prior to the effective date of this Ordinance shall be governed by the procedures set forth in Section 47.75 of this Ordinance unless the appellant elects to utilize the appeal procedures set forth in Section 47.75 as they existed prior to the effective date of this Ordinance.

SEC. 47.76. Residential Unit Status Determination.

A. After, or concurrently with, LAHD's determination of whether a building is a Residential Hotel, LAHD shall determine whether the Residential Hotel contains only Residential Units or some Tourist Units.

B. LAHD shall notify the Owner of any building that it classifies as a Residential Hotel whether any units in the Residential Hotel have been determined to be Tourist Units. LAHD shall include in the notification a copy of this article and the appeal form referenced in Subsection C of this section. LAHD shall mail the notice to the Owner at the address that appears in the last equalized assessment roll or at the address provided to LAHD through any registration in accordance with Section 151.05. The

Owner shall immediately post the notice until the time for appealing such determination expires.

C. An Owner of a Residential Hotel or Interested Party who alleges that a Tourist Unit or Residential Unit determination is incorrect may file an appeal with LAHD within 60 days of the date that LAHD deposited its notification in the mail pursuant to Subsection B of this section. Any such appeal shall be limited to the issue of the alleged improper determination of units as Residential or Tourist.

1. An appellant who files an appeal shall do so on a form prescribed by LAHD and shall pay an administrative fee in an amount to be established by ordinance. The fee shall pay for the cost of investigating and processing the appeal.

2. The appellant shall submit evidence with the appeal. An appellant who claims that the designation of the number of units as Residential or Tourist Units was incorrect shall identify the specific units it claims are incorrectly designated.

3. The Appellant has the burden of proving by a preponderance of the evidence that the units were misdesignated. Tenants, Interested Parties and the Owner if the Owner is not the appellant, may submit evidence to LAHD.

4. Within 15 days of the filing of the appeal, LAHD shall provide the appellant, and any Interested Party requesting such information, all information LAHD relied upon in the determination from which the appeal is made, except that the Owner's confidential financial or proprietary information shall not be disclosed to any Person other than the Owner. Within 20 days from receipt of such information, additional information may be submitted to LAHD.

5. On the date that the Owner files the appeal, or as soon as LAHD notifies an Owner that an Interested Party has filed an appeal, the Owner shall post a notice on a form prescribed by LAHD. The notice shall state that the appellant has appealed the City's Residential Unit Status Determination. The notice shall identify the grounds for the appeal and shall identify any rooms that the appellant contends were misdesignated and what the alleged correct designation should have been. The notice shall provide the name and contact number of LAHD staff an Owner or Interested Party can contact to provide additional evidence and information regarding the appeal. LAHD shall also mail a copy of the notice to the occupants of the building subject to the appeal. The notice shall remain posted until after LAHD issues a written determination regarding the appeal.

6. LAHD shall issue a determination of the appeal based on the evidence submitted within 90 days of the filing of the appeal. The basis for the determination shall be described therein. LAHD shall mail a copy of the determination to the Owner, the occupants of the units claimed as Tourist Units

by the Owner, and any Interested Party who filed an appeal or submitted evidence pursuant to this section.

D. An Owner or any Interested Party who presented evidence pursuant to this section may appeal LAHD's determination to a General Manager's Hearing Officer pursuant to the provisions of Section 47.84. The Owner shall post LAHD's determination until the time for filing any appeal expires. The appeal shall be filed at LAHD within 15 calendar days after LAHD mails its determination. LAHD's determination shall be final if a timely appeal is not filed.

SEC. 47.77. Claim of Exemption.

A. Applications for Exemption based on Subsection A of Section 47.74, Affordable Housing Projects. Applications for exemption based on Subsection A of Section 47.74 shall be subject to the provisions below of this subsection:

1. **Filing of Application for Exemption.** An application for exemption based on Subsection A of Section 47.74 may be filed at any time by the Owner. The Owner shall pay an administrative fee in the amount of \$205 when filing the application. The fee shall pay for the cost of investigating and processing the application.

2. **Owner's Submission of Evidence.** The Owner shall submit evidence with the application to support the claim of exemption. The Owner has the burden of proving by a preponderance of the evidence that the Residential Hotel is exempt from the provisions of this article.

3. **Determination of Exempt Status.** LAHD shall issue a determination of the claim for exemption based on the evidence submitted, and shall mail a copy of the determination to the Owner within 90 days of filing the application.

4. **Appeal of Denial of Application for Exemption.** An Owner may appeal the denial of an application for exemption pursuant to the provisions of Subsection C of this section.

B. Applications for Exemption based on Subsection B of Section 47.74. Applications for exemptions based on Subsection B of Section 47.74 shall be subject to the provisions below of this subsection:

1. **Timing of filing of Application for Exemption.** An application for exemption based on Subsection B of Section 47.74 must be filed within 60 days after LAHD mails notification pursuant to Subsection B of Section 47.75. Failure to timely file an application for exemption will result in denial of the application, unless LAHD finds that good cause exists for the untimely filing. The Owner shall also pay an administrative fee in the amount of \$205 when filing the

application. The fee shall pay for the cost of investigating and processing the application.

2. Posting Notice of Application for Exemption. On the date that the Owner files the application for exemption with LAHD, the Owner shall post a notice. The notice shall be on a form prescribed by LAHD. The notice shall provide the name and contact number of LAHD staff whom Tenants and an Interested Party can contact to provide additional evidence and information. LAHD shall also mail a copy of the Owner's application for exemption to each of the units of the Residential Hotel. The notice shall remain posted until after LAHD issues a written determination regarding the application for exemption.

3. Submission of Evidence. The Owner shall submit evidence with the application to support the claim of exemption. The Owner has the burden of proving by a preponderance of the evidence that the Residential Hotel is exempt from the provisions of this article. Any Interested Party may submit evidence to LAHD.

4. Determination of Exempt Status. LAHD shall review the application for exemption and evidence submitted. LAHD shall issue a determination of the application for exemption within 90 days of the filing of the application. LAHD shall mail a copy of the determination to the Owner and to any Interested Party who submitted evidence pursuant to the provisions of Subdivision 3 of this subsection. The Owner shall post LAHD's determination until the time for filing any appeal expires.

5. Appeal from Determination of Exempt Status. An Owner or any Interested Party who submitted evidence pursuant to Subdivision 3 of this subsection may appeal LAHD's determination of an application for exemption pursuant to the provisions of Subsection C of this section.

C. Appeal of Determination of Application for Exemption. An appeal pursuant to the provisions of Subdivision 4 of Subsection A of this section or Subdivision 5 of Subsection B of this section may be made to the General Manager's Hearing Officer pursuant to the provisions of Section 47.84 of this article. The appeal shall be filed at LAHD within 15 calendar days after LAHD mails the determination of the application for exemption. LAHD's determination of an application for exemption shall be final if a timely appeal is not filed. The appellant shall have the burden of proving by a preponderance of the evidence that the decision on exemption was erroneous.

SEC. 47.78. Application for Clearance.

The City shall not approve a Conversion or Demolition of a Residential Hotel, or any new development on the site of a Destroyed or Demolished Residential Hotel, until LAHD has approved an Application for Clearance filed by the Owner pursuant to this section.

A. If an Owner applies for a building permit for a Residential Hotel that constitutes a proposed Conversion or Demolition of the Residential Hotel, or is a new development on the site of a Destroyed or Demolished Residential Hotel, then the following procedures shall apply:

1. LADBS shall inform LAHD of the application for a building permit.

2. The Owner shall file an Application for Clearance with LAHD. Within 90 days after LAHD has deemed the application complete, LAHD shall either deny the application or determine the conditions for approval of the application.

3. LAHD shall make one of the following determinations when an Owner files a complete Application for Clearance:

(a) Deny an Application for Clearance if the applicant has violated the provisions of Subsection A of Section 47.82;

(b) Exempt the property from the provisions of this article if the Application for Clearance is for an Affordable Housing Project pursuant to the provisions of Section 47.74; or

(c) Determine the conditions for approval of an Application for Clearance pursuant to Section 47.79.

4. LAHD shall mail a copy of LAHD's letter of determination of an Application for Clearance to the Owner, the occupants of the Residential Hotel's units, and the applicable Council office.

5. The Owner and any Interested Party may appeal the conditions for approval of an Application for Clearance to the General Manager's Hearing Officer pursuant to the provisions of Section 47.84.

6. LAHD shall only approve the Application for Clearance if the Owner complies with the conditions determined by LAHD pursuant to this section or, if the conditions for approval are appealed, as determined pursuant to Section 47.84.

B. An Owner who files an Application for Clearance with LAHD and wants the option to pay a fee pursuant to the provisions of Subdivision 2 of Subsection A of Section 47.79 shall pay an application fee in the amount of \$2000 for each application. An Owner who files an Application for Clearance with LAHD and does not want the option to pay a fee pursuant to the provisions of Subdivision 2 of Subsection A of Section 47.79 shall pay an application fee in the amount of \$1108 for each application. The application fee shall pay for the City's cost of administering the application process.

C. The Application for Clearance shall contain the following information:

1. The legal and mailing address of the Residential Hotel;
2. The names and addresses of all Owners or operators of the Residential Hotel;
3. The names of all Tenants in the Residential Hotel;
4. The total number of units in the Residential Hotel and the current uses;
5. The current rental rates for the Residential Units; and
6. The length of each Tenant's tenancy in Residential Units affected by the Application for Clearance.

SEC. 47.79. Conditions for Approval of an Application for Clearance.

A. LAHD shall require an Owner to satisfy one of the following conditions for approval of an Application for Clearance:

1. Construct, for each Residential Unit to be Converted or Demolished, a Comparable Unit in the City of Los Angeles within a two-mile radius of the units to be Converted or Demolished.

(a) LAHD may authorize the construction of fewer units to replace the Residential Units to be Converted or Demolished if LAHD determines that the following three conditions are met:

(i) The replacement units provide amenities, such as bathrooms and kitchens, not present in the units to be withdrawn;

(ii) The needs of the current residents of the Residential Hotel would be served by the better amenities and larger units; and

(iii) The reduction in the number of units would not significantly decrease the number of available Residential Units in the City.

(b) Where the Owner chooses to comply with the conditions for approval of an Application for Clearance pursuant to this subdivision, LAHD shall not approve the Application for Clearance until LADBS issues a certificate of occupancy for units constructed pursuant to this subdivision, except where CRA/LA has approved replacement units within four years of the date of Demolition of the Residential Hotel units pursuant to CRA/LA Development Guidelines and Controls for Residential Hotels in the City Center and Central Industrial Redevelopment Project Areas, so long as the guidelines are in full force and effect.

2. Pay to the City of Los Angeles a fee in an amount equal to 80 percent of the cost of construction of an equal number of comparable Residential Units plus 100 percent of site acquisition costs. GSD shall determine the fee amount based on an independent MAI certified appraisal reviewed by GSD. The applicant shall pay for the appraisal. The fee payments shall be placed in the

Affordable Housing Trust Fund and be used for the Permanent Supportive Housing Program pursuant to Subsection B of this section. The funds deposited in the Affordable Housing Trust Fund for the Permanent Supportive Housing Program pursuant to the provisions of this subdivision may be used to create replacement units. If the units to be Converted or Demolished are in the City Center or Central Industrial Redevelopment Project Area, the fee will be paid into the Affordable Housing Trust Fund to be used for the Permanent Supportive Housing Program in accordance with the CRA/LA's Guidelines and Controls for Residential Hotels in the City Center and Central Industrial Redevelopment Project Areas, for so long as the guidelines are in full force and effect.

3. Convert Residential Units to units that are either Light Housekeeping Rooms, Efficiency Dwelling Units or dwelling units, and which shall be subject to a regulatory agreement filed with the Los Angeles County Recorder guaranteeing for a period of at least 55 years that at least 10 percent of the units shall be affordable to households with income no greater than 30 percent of Area Median Income, at least an additional 40 percent of the units shall be affordable to households with income no greater than 40 percent of Area Median Income, and at least an additional 30 percent of the units shall be affordable to households with income no greater than 50 percent of Area Median Income, as these terms are defined by the United States Department of Housing. The initial rent for the remaining units may be set at any amount.

(a) The option provided by this subdivision applies only to Residential Hotels containing more than 250 units.

(b) LAHD may authorize the construction of fewer units to replace the Residential Units to be Converted pursuant to this subdivision if LAHD determines that the following three conditions are met:

(i) The replacement units provide amenities, such as bathrooms and kitchens, not present in the units to be withdrawn;

(ii) The needs of the current residents of the Residential Hotel would be served by the better amenities and larger units; and

(iii) The reduction in the number of units would not significantly decrease the number of available Residential Units in the City.

B. The funds deposited in the Affordable Housing Trust Fund pursuant to the provisions of this article shall be used to provide capital funding for the development of permanent supportive housing projects pursuant to the City's Permanent Supportive Housing Program. At the end of the calendar year after the year in which funds are deposited in the Affordable Housing Trust Fund, any remaining funds that have not been committed through the Permanent Supportive Housing Program shall be available for the development of affordable housing projects funded through the Affordable

Housing Trust Fund. Units developed with funds committed under the Affordable Housing Trust Fund pursuant to this subsection shall be restricted to households with incomes no greater than 35% of Area Median Income, as defined by the United States Department of Housing and Urban Development.

SEC. 47.80. Rights of Tenants.

A. **Relocation Assistance.** Tenants evicted from Residential Units pursuant to Section 151.09 A 13 of this code shall be entitled to relocation assistance pursuant to the provisions of Section 151.09 G.

B. **Right of First Refusal.** Within 60 days of the issuance of a certificate of occupancy for units constructed pursuant to Section 47.79 A 1, the Owner shall first offer to rent the units to Tenants who were evicted, pursuant to Section 151.09 A 13 of this Code, from the Residential Units that were the subject of the Application for Clearance.

C. **Tenancy.** If a Tenant takes possession of a unit pursuant to the provisions of Subsection B of this section, that unit shall be subject to the provisions of Chapter XV of this Code.

SEC. 47.81. Destroyed Buildings or Buildings Demolished Pursuant to an Abatement Proceeding.

A. This section shall apply to Residential Hotel buildings that are Destroyed by a Disaster or Demolished by LADBS pursuant to Section 91.8905 or 91.8907 of this Code, unless the proposed development will be an Affordable Housing Project.

B. The City shall not approve building permits for a Destroyed Residential Hotel building, or for any new development on the site of a Destroyed or Demolished Residential Hotel, unless the owner files an Application for Clearance with LAHD and complies with the provisions of Section 47.79.

C. LAHD shall have the authority to record an affidavit with the County Recorder stating that no permits for any new development on the site of a Destroyed or Demolished Residential Hotel shall be issued unless the Owner has complied with the provisions of this article.

SEC. 47.82. Unlawful Conversion; Remedies; Fines.

A. It shall be unlawful for any person to Convert or Demolish any Residential Hotel building or Residential Unit in violation of the provisions of this article.

1. Changing the use of a Residential Unit for non-commercial purposes that serves only the needs of the permanent residents, such as a residents' lounge, storeroom or common area, does not constitute a violation of this article.

2. Demolition of an existing Residential Unit to combine units for a non-commercial purpose that serves only the needs of the permanent residents does not constitute a violation of this article.

3. An Owner is prohibited from Converting or Demolishing less than all of the original number of Residential Units in a Residential Hotel, except where an Owner satisfies the conditions for approval of an Application for Clearance pursuant to the provisions of Subdivision 3 of Subsection A of Section 47.79.

B. LAHD Order Regarding Violations and Fines. Whenever LAHD determines that any Residential Hotel is in violation of this article, LAHD shall order the violation corrected, and shall impose a fine pursuant to the provisions of this section.

C. Appeal of Order to General Manager's Hearing. Where an Owner believes that an order issued pursuant to the provisions of Subsection B of this section was in error regarding the violations identified or the fine assessed, the Owner may appeal the order by filing a request for a General Manager's hearing pursuant to the provisions of Section 47.84. The Owner must file the appeal in writing on a form provided by the Department within 15 calendar days of when LAHD mailed the order. If the appeal is not received within this period, the order shall be final. If the Owner timely appeals the order to a General Manager's hearing, the order shall be stayed pending the appeal.

D. Fines, Penalties and Interest.

1. **Imposition of Fine.** A Person violating any provision of this article shall pay a fine up to the amount of \$250 per day for each violation that is the subject of an order issued pursuant to Subsection B of this section. Fines imposed pursuant to orders that are not appealed to a General Manager's hearing must be paid within 30 days after issuance of the order. Fines not paid within 30 days shall be deemed delinquent. Fines imposed by orders that are appealed to a General Manager's hearing must be paid within 30 days after the Hearing Officer issues a written decision pursuant to the provisions of Subsection F of Section 47.84 if the Hearing Officer affirms imposition of the fine. Fines not paid within 30 days of issuance of a decision shall be deemed delinquent.

2. **Imposition of Late Penalty.** A Person whose fine is delinquent shall be assessed a penalty in the amount of 100 percent of the fine. The penalty shall be owed in addition to the amount of the fine.

3. **Interest.** In addition to the fine and penalties imposed, any Person with a delinquent fine shall pay interest on the amount of the fine and any penalty owed at the rate of one and one-half percent per full month of delinquency.

4. Personal Obligation of Owner. In addition to all other remedies provided by law, all penalties and interest owed for violations of this article shall be a personal obligation of the Owner, recoverable by the City in an action before any court of competent jurisdiction.

5. Criminal Penalties for Violations. Any Person willfully violating the requirements of this article shall be guilty of a misdemeanor. The penalty upon conviction shall be not more than a fine of \$1,000 or imprisonment in the county jail, not exceeding six months, or both fine and imprisonment. Violations of this article are deemed continuing violations, and each day that a violation continues is deemed to be a new and separate offense.

6. False Information Misdemeanor. It shall be unlawful for any Person to willfully provide false information to LAHD or its designees. Any Person who provides false information to the City, when required to provide information pursuant to this article, shall be guilty of a misdemeanor. Conviction of this misdemeanor shall be punishable by a fine of not more than \$500 or by imprisonment in the County Jail for a period not to exceed six months, or both fine and imprisonment.

E. Civil Action. An Interested Party or the City may institute a civil proceeding for injunctive relief and damages for violations of this article. The Interested Party instituting a civil proceeding, or the City suing to enforce the provisions of this article, if prevailing parties, shall be entitled to the costs of enforcing this article, including reasonable attorneys' fees, pursuant to an order of the Court.

SEC. 47.83. Post or Posting. Where posting is required by this article, material shall be posted in a conspicuous location at the front desk in the lobby of the Residential Hotel subject to the posting requirement, or if there is no lobby, in the public entranceway. No material posted may be removed by any Person except as otherwise provided in this article.

SEC. 47.84. Appeals to LAHD General Manager's Hearing Officer.

A. Filing of the Appeal. Appeals to the General Manager's Hearing Officer shall be on a form prescribed by LAHD. The appellant must pay a fee in the amount of \$600 to fund the administrative cost of the hearing process. Appellants must state the basis of the appeal and provide supporting evidence.

B. Powers of the Hearing Officer. The General Manager's Hearing Officer shall exercise all powers related to the conduct of a hearing. The Hearing Officer shall have the discretion to grant a continuance of the hearing upon a showing of good cause. The Hearing Officer has the power to administer oaths and affirmations during the hearing. The Hearing Officer shall require the maintenance of order in the hearing room, may order the exclusion of witnesses, may expel anyone who disturbs the

hearing, and may secure the aid of the Los Angeles Police Department for these purposes.

C. Notice of General Manager's Hearing. The General Manager's hearing shall be held within 60 days of the filing of the appeal. Notice of the General Manager's hearing shall be mailed to the Owner, via certified United States mail, postage prepaid, or delivered in person, at least seven calendar days prior to the hearing. Upon receipt of the notice, the Owner shall post the notice and shall keep the notice posted until after completion of the hearing. LAHD shall also provide notice to the occupants of the Residential Hotel by mail, or in person, at least seven calendar days prior to the hearing.

D. Presentation of Evidence. LAHD staff, the Owner, and any other Interested Party may present oral, photographic or documentary evidence that is relevant to the case for consideration by the Hearing Officer. Appellants shall have the burden of proof, and shall present substantial evidence and specific facts to support their appeal.

E. Recording of Hearing. The proceedings shall be audio-recorded by LAHD.

F. Hearing Officer's Decision. After considering all relevant evidence and arguments, the Hearing Officer shall issue a written decision within 30 calendar days of the hearing. The Hearing Officer shall decide, based on the record, whether LAHD erred or abused its discretion. The decision shall be supported by written findings. LAHD will mail a copy of the decision to the Owner and any Interested Party who presented evidence at the hearing, and the occupants of the Residential Hotel. The Owner shall post the Hearing Officer's determination for 20 days. The decision of the Hearing Officer shall be the final administrative decision except in the following circumstance: If the Hearing Officer authorizes construction of fewer units pursuant to Section 47.79 A 1(a) or Section 47.79 A 3 (b) and this results in a reduction of more than 25 percent of the number of Residential Units being converted or demolished, the Owner or any Interested Party may appeal the Hearing Officer's decision to the City Council pursuant to the provisions of Subsection G of this section.

G. Appeals to the City Council. Appeals to the City Council shall be filed with LAHD on the forms prescribed by LAHD within fifteen days of the date of mailing of the Hearing Officer's decision. LAHD shall transmit the appeal form to the City Clerk for a public hearing before the City Council. The City Council shall hear the appeal within 30 days after it is filed, unless LAHD and the Owner consent to an extension of time. The Council shall give notice of the hearing to the Appellant and any Interested Party who presented evidence at the hearing. The Owner shall post notice of the hearing until the hearing is concluded. At the time established for the hearing, the Council or its Committee shall hear the testimony of LAHD staff, the Owner and any Interested Party, and any witnesses on their behalf. Appellants shall have the burden of proof, and shall present substantial evidence and specific facts to support their appeal. Upon conclusion of the hearing, the City Council shall within ten days render its decision on the appeal based upon the testimony and documents produced before it. The City

Council may by resolution sustain, modify, or reject LAHD authorization of the construction of fewer units pursuant to Section 47.79 A 1(a) or Section 47.79 A 3 (b), and shall make findings consistent with the provisions of this article. Notice of the City Council's decision shall be mailed to LAHD, the Owner, and any Interested Party who presented evidence at the hearing. The Owner shall post the decision for 20 days after receipt of the decision. If at the end of the time limit specified in this subsection, or time extension consented to by LAHD and Appellants, the City Council fails to act, the appeal shall be deemed denied and the Hearing Officer's decision from which the appeal was taken shall be deemed affirmed. It shall be the duty of the City Clerk to issue the decision.

H. Mayoral Review of City Council Decision. When the City Council renders a decision pursuant to Subsection G of this section, the matter together with the files and reports shall forthwith be transmitted to the Mayor. The Mayor may approve or disapprove the City Council decision within ten working days of its presentation to the Mayor. This action shall be based solely upon the administrative record and whether the Mayor believes the City Council decision is consistent with the provisions of this article. If the Mayor disapproves the decision, the Mayor shall return the matter to the City Clerk for presentation to the City Council, along with objections in writing. If the Mayor does not disapprove the decision within ten working days after its presentation, the City Council decision shall become final and effective.

If the Mayor disapproves the City Council decision, the Mayor shall return the matter to the Clerk for presentation to the City Council, together with objections in writing. The City Council may override the disapproval by a two-thirds vote within ten working days of the first City Council meeting at which the Clerk presented the matter with the objections of the Mayor. If the City Council fails to override the Mayor's disapproval within the ten working days, the following shall be the effect of the disapproval:

(1) If the City Council had sustained LAHD authorization of the construction of fewer units, the Mayor's disapproval shall constitute a rejection of LAHD's authorization of the construction of fewer units;

(2) If the City Council had modified LAHD authorization of the construction of fewer units, the Mayor's disapproval shall constitute approval of LAHD's authorization of the construction of fewer units; and

(3) If the City Council had rejected LAHD authorization of the construction of fewer units, the Mayor's disapproval shall constitute approval of LAHD's authorization of the construction of fewer units.

SEC. 47.85. Records of Use. All Residential Hotels shall maintain a daily log documenting the status of each room, whether it is occupied or vacant, whether it is used as a Residential or Tourist Unit, the name under which each adult occupant is registered, the type of identification used to verify the identity of the occupants, and the amount of rent charged. Each Residential Hotel shall provide receipts to each adult

occupant and maintain copies of the receipts showing the following: the room number, the name of each adult occupant, the rental amount and period paid for and any associated charges imposed and paid for the unit, including, but not limited to, security deposits and any taxes. The daily log and copies of receipts shall be made available for inspection and investigation by the LAHD upon request.

SEC. 47.86. Investigations. LAHD may request information from an Owner or Interested Party and conduct investigations as reasonably necessary to implement the provisions of this Article and to determine the status of a building as a Residential Hotel. If LAHD has requested information from an Owner in order to make a determination pursuant to Sections 47.75 or 47.76, and the requested information is not provided, LAHD may deem the building a Residential Hotel and all of the units therein Residential Units.

SEC. 47.87. Promulgation of Rules and Regulations. LAHD and LADBS shall have the authority to adopt policies, rules and regulations to effectuate the purposes of this article, and to implement and administer their duties imposed pursuant to the provisions of this article.

SEC. 47.88. Annual Review of Residential Hotel Status.

The General Manager of LAHD, with assistance from LADBS, shall prepare and report to the Mayor and the City Council annually with respect to the administration of this article and shall provide the following information:

- A. Current data on the number of Residential Hotels and the number of Residential Units in each of the Residential Hotels in the City of Los Angeles;
- B. Current data on the number of Residential Units Converted or Demolished pursuant to an approved application for clearance;
- C. Current data on the number of Residential Units eliminated due to Demolition as a result of major fires, natural causes or accidents;
- D. Current data on the number of Residential Units illegally converted;
- E. Current data on the number of replacement housing units rehabilitated or constructed;
- F. A summary of the enforcement efforts by all City agencies responsible for the administration of this article; and
- G. A report on expenditures of monies in the Affordable Housing Trust Fund received pursuant to the provisions of this article.

SEC. 47.89. Construction. Nothing in this article may be construed to supersede any other lawfully enacted ordinance of the City of Los Angeles, except that definitions provided in this article shall govern the enforcement of this article. An Owner of a Residential Hotel subject to the provisions of this article must comply with all applicable federal, state and local laws, including, without limitation, the CRA/LA Development Guidelines and Controls for Residential Hotels in the City Center and Central Industrial Redevelopment Project Areas, so long as the guidelines are in full force and effect.

Sec. 2. Subdivision 13 of Subsection A of Section 151.09 of the Los Angeles Municipal Code is amended to read:

13. The rental unit is in a Residential Hotel, and the landlord seeks to recover possession of the rental unit in order to Convert or Demolish the unit, as those terms are defined in Section 47.73 of the Los Angeles Municipal Code. A landlord may recover possession of a rental unit pursuant to this paragraph only after the Department has approved an Application for Clearance pursuant to the provisions of Section 47.78.

Sec. 3. Subsection G of Section 151.09 of the Los Angeles Municipal Code is amended to read:

If the termination of tenancy is based on the grounds set forth in Subdivisions 8, 10, 11, 12 or 13 of Subsection A of this section, then the landlord shall pay a relocation fee of: \$15,300 to qualified tenants and a \$7,000 fee to all other tenants who have lived in their rental unit for fewer than three years, or \$17,600 to qualified tenants and a \$9,300 fee to all other tenants who have lived in their rental unit for three years or longer, or \$17,600 to qualified tenants and \$9,300 to all other tenants whose household income is 80 percent or below Area Median Income (AMI), as adjusted for household size, as defined by the U.S. Department of Housing and Urban Development, regardless of length of tenancy. If more than one fee applies to a rental unit, the landlord shall pay the highest of the applicable fees. Tenants who claim eligibility based on their income shall file a statement with the Housing Department verifying their income on a form prescribed by the Housing Department. The Housing Department shall charge a fee of \$186 per rental unit to resolve any disputes regarding tenant income eligibility. For the year beginning July 1, 2009, and all subsequent years, the fee amounts shall be adjusted on an annual basis pursuant to the formula set forth in Section 151.06 D. of this Code. The adjusted amount shall be rounded to the nearest \$50 increment.

Sec. 4. **Severability.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

KAREN E. KALFAYAN, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By 
JUDITH REEL
Deputy City Attorney

Date August 4, 2008

File No. 08-0644