

Case File Number: ZA18013

September 26, 2018

<b>Location:</b>	Citywide
<b>Proposal:</b>	Planning Code amendments regulating Residential Hotels, including (1) revisions to Section 17.102.230 to remove references to Rooming Units and (2) creating a new Planning Code Chapter 17.153 that defines Residential Hotels and an associated Registry process; restricts conversion, demolition and rehabilitation of Residential Hotels or Residential Hotel Units and associated communal facilities; outlines exemptions from the Residential Hotel regulations; and describes procedures for appeal; and (3) related and conforming revisions to other sections of the Oakland Planning Code
<b>Applicant:</b>	City of Oakland
<b>Case File Number:</b>	<b>ZA18013</b>
<b>General Plan:</b>	Citywide
<b>Zoning:</b>	Citywide
<b>Environmental Determination:</b>	The proposed amendments to the Planning Code rely on a number of previously adopted and certified program-level CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Wood Street EIR (2005), Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).
<b>City Council District:</b>	All districts
<b>Action to be Taken:</b>	To receive public comments; review and discuss the proposal
<b>Staff Recommendation:</b>	Recommend approval to the Oakland City Council
<b>For Further Information:</b>	Contact Case Planner <b>Christina Ferracane</b> at <b>(510) 238-3903</b> or by email at <a href="mailto:cferracane@oaklandca.gov">cferracane@oaklandca.gov</a> .

## SUMMARY

Oakland's Residential Hotels represent an increasingly rare form of flexible and easy to access "naturally occurring affordable housing" (NOAH) essential to shelter thousands of Oakland residents. The current economic climate of increasing construction costs and record demand for luxury housing and boutique hotels make the conversion of existing Residential Hotels an appealing investment opportunity for real estate speculators. However, the potential loss of Oakland's remaining Residential Hotel units – also called single room occupancy units (SROs) – represents a threat to the health and safety of Oakland's residents who may face displacement or homelessness in their absence.

The proposed Planning Code changes described in this report aim to protect Oakland's remaining Residential Hotel units by regulating the three main causes of reduction to the stock or their accessibility to low-income tenants:

- 1) Demolition of existing Residential Hotel units
- 2) Conversion of existing Residential Hotel units to be used for other Commercial or Residential Activities
- 3) Rehabilitation of Residential Hotels in a manner that reduces the size of units, or the amount of existing communal or private amenities; or adds amenities that may increase the market rent

## BACKGROUND/LEGISLATIVE HISTORY

### History and Characteristics of Residential Hotels

As noted in Oakland Housing and Community Development Department's 2015 report, "Downtown Oakland's Residential Hotels" (see **Attachment A**), the majority of Residential Hotels in Oakland were constructed during late 19th and early 20th century to house transient workers. As the name implies, the typical units in a Residential Hotels are single rooms for residents. They are distinguished from studio or efficiency units in that they typically do not include a private kitchen in the room and only occasionally include a private bathroom. Historically, Residential Hotel units also differ from other dwelling units in the type of population that they historically housed. Residential Hotel tenants were traditionally primarily itinerant male workers, rather than women, couples, or families.

Today, Residential Hotels do not typically require a security deposit, credit references, proof of income, or long-term lease agreement. For these reasons, Residential Hotels often serve the housing needs of vulnerable populations with unstable finances or little access to credit. The tenants of Residential Hotels are also not necessarily transient. The city's 2015 Residential Hotels report documented that 85 percent of surveyed SRO residents had occupied their units at least one month, 65 percent had occupied their units for more than one year, and a little over a quarter had occupied their units for at least five years; some residents had resided in the same building for more than twenty-five years.<sup>1</sup>

While previous City reports about Residential Hotels have focused on those located in Downtown Oakland, where most these types of buildings can be found, the proposed Planning Code amendments will apply to Residential Hotels throughout the City of Oakland. See **Attachment B** for a map of properties preliminarily identified as Residential Hotels that will be further investigated as part of the Residential Hotel registry process to be established by the proposed Planning Code amendments.

Oakland also has numerous motels built in the 1960s and 1970s that today are frequently used for stays of longer than one month, in addition to shorter-term stays. While these may at times serve a similar market to SROs, they can be distinguished from traditional Residential Hotels in the following ways: 1) they are of more recent construction, 2) they were originally built to serve tourists, and 3) they nearly always contain private bathrooms. While worthy of study, determining resident status of the numerous motels on West MacArthur Boulevard and elsewhere in Oakland is outside the scope of the Council directive (described below) and the proposed Planning Code amendments.

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<sup>1</sup> City of Oakland's Housing and Community Development Department, *Downtown Oakland's Residential Hotels* (2015), page 6.

### Loss of Residential Hotels and Impacts on Oakland Residents

In the midst of an unprecedented housing crisis, many of Oakland's Residential Hotels are under threat of being converted to either boutique hotel use, high-income rentals, or for-sale condominiums. The loss of this source of "naturally occurring affordable housing" (NOAH) units could lead to an increase in Oakland's already large and growing population of unsheltered individuals unable to access other forms of housing. Most recent demographic surveys show that approximately 64 percent of Residential Hotel residents are African Americans<sup>2</sup>, and per the "Every One Counts! 2017 Homeless Count and Survey", 68 percent of Oakland's unsheltered population are Black or African American, while that group constitutes only 26 percent of Oakland's overall population. Therefore, a reduction in the number of Residential Hotel units or in accessibility to those units would likely further exacerbate an existing racial disparity in the number of African American homeless residents.

According to the Housing and Community Development Department, from 1985 through 2015, the City lost approximately 799 Residential Hotel units in Downtown Oakland, and many more of these NOAH units are at-risk of being lost or are already lost.

### City Council Directive

Oakland has long supported SROs as a viable housing option for low-income residents. Most recently, on October 4th, 2016, the City Council unanimously passed Resolution No. 86408 C.M.S. which requested the City Planning Commission to initiate action to amend Oakland's Planning Code to help preserve the existing supply of Residential Hotel units, and to return to Council with proposed amendments. This resolution also called for an immediate increase in relocation payments for residents evicted in the case of a demolition or conversion, as well as a report from the City Administrator on programmatic options to preserve Residential Hotels. Subsequently, Oakland's City Council adopted an ordinance that placed a moratorium on actions that would lead to the loss of Residential Hotel units. This ordinance, titled Ordinance No. 13410 C.M.S., went into effect on December 13<sup>th</sup>, 2016. In January of 2017, the moratorium was extended until December 11<sup>th</sup>, 2018.

### Existing Regulations Related to Residential Hotels

There is an existing Planning Code Section (Section 17.102.230) aimed at preserving SRO units. However, the existing Code language allows conversion of SROs to hotels (Transient Habitation Commercial activity), and does not adequately regulate demolitions or conversion to other uses.

Residential Hotels may also be subject to Planning Code Chapter 17.157, *Deemed Approved Hotel and Rooming House Regulations*, which regulates habitability and safety of accommodations for guests in hotels, motels, and rooming houses, along with potential nuisances or blight issues for the surrounding community.

## **PRINCIPLES**

Staff was guided by the following principles in developing the proposed changes to the Planning Code:

1. Code changes should help maintain the existing, and increasingly scarce stock of Residential Hotel units in Oakland.

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<sup>2</sup> City of Oakland's Housing and Community Development Department, *Downtown Oakland's Residential Hotels* (2015), page 9.

2. Regulations should strike a balance of protecting the stock of Residential Hotels without encumbering property owners in such a way that stymies investment and leads to units being kept either vacant or substandard.
3. Regulations should limit displacement of current SRO residents, as displacement is likely without other viable housing options.
4. Code changes should help maintain SROs as an accessible housing option for Oakland's most vulnerable and highest need residents.
5. Capital improvements to Residential Hotels should benefit current residents, rather than prospective future renters.

## COMMUNITY OUTREACH AND INVOLVEMENT

Staff has conducted extensive community outreach, with a wide range of stakeholders, in order to formulate a comprehensive understanding of the role of Residential Hotels in Oakland. The efforts are described below, and further summarized in *Attachment C*:

Stakeholder Working Groups: Staff convened three stakeholder working group meetings wherein participants shared their concerns regarding diminishing SRO stock, strategies for protection, and goals for forthcoming policy. Attendees consisted of City of Oakland staff from the Housing and Community Development Department, City Attorney's Office, Planning and Building Department and the Mayor's Policy Director for Housing Security, along with housing developers, policy analysts, tenant advocates, community development professionals, and Alameda County's Public Health Department staff.

Resident Focus Groups: Staff conducted two focus groups comprised of over nearly two dozen residents from two different Residential Hotels. While the staff prepared questions in advance, the format of the focus groups allowed for residents to engage one another, broach new subject matter, and utilize their institutional knowledge and personal experience to illuminate intricacies of life in a Residential Hotel. These sessions built staff understanding as to how specific policy changes would directly affect SRO residents.

Interview: Staff conducted one in-depth interview with a long-time resident of multiple Residential Hotels in Oakland. During this interview, the Residential Hotel residents expounded upon common themes broached during working group and focus group sessions.

Residential Hotel Ownership Meeting: Staff conducted a meeting with owners of Residential Hotel properties in Oakland. During this meeting, staff presented the background and context of our regulatory efforts, as well as an overview of proposed changes to the Planning Code. Property owners and their representatives had the opportunity to share how respective changes would impact them and their business, as well as future housing retention efforts.

In addition to these most recent efforts, the City also relied upon the previous studies of Downtown Residential Hotels, published in 1985, 2005, and 2015, that included resident demographic data and property manager interviews.

## PROPOSAL

The proposed Planning Code Amendments in *Attachment D* (red-line version) and *Attachment E* (clean version) include the following, and are further summarized below:

- New Planning Code Chapter 17.153 – These are the main Planning Code amendments regulating the demolition, conversion and rehabilitation of Residential Hotels.
- Related Planning Code changes
  - Changes to Table of Contents
  - Changes to Chapter 17.10 (land use activities)
  - Changes to Chapter 17.54, 56, 74, 76 and 78 (references to 17.102.230)
  - Changes to Section 17.102.230 (existing regulations related to rooming units)
  - Changes to Section 17.134.020.A.3 (special situations requiring a Major Conditional Use Permit)

In addition to Planning Code amendments, staff is proposing changes to Oakland Municipal Code, Title 15 to potentially implement impact fees, as further summarized below.

### New Planning Code Chapter 17.153

The proposed new Chapter 17.153 is based on the regulations formulated in Oakland's Residential Hotel Moratorium, along with case studies of similar regulations in other cities, including San Francisco, San Diego, Sacramento, Berkeley, New York City and Chicago (see *Attachment F* for a summary of the regulations in other cities), and the feedback from stakeholders.

Here is a summary of the main regulations contained within the new Chapter 17.153:

#### **1. Definitions**

The proposed Code contains the following key definitions for terms that appear in this section, as summarized here:

- *Conversion* means any action that converts an existing Residential Hotel to be used for other Residential or Commercial Activities, or that changes a Permanent Occupancy Unit (which requires stays of at least 30 days) to a Transient Occupancy Unit (allows short-term of less than 30 days).
- *Demolition* means any action that eliminates an existing Residential Hotel Unit.
- *Rehabilitation, Amenity* means any action that reduces the size of Residential Hotel Units, or eliminates or reduces private or communal amenities such as bathrooms and kitchens, or any action that adds a kitchen or kitchenette to a room that currently doesn't have one.
- *Residential Hotel* is any building built before 1960 containing six (6) or more Rooming Units intended or used for sleeping purposes by guests, which is also the primary residence of those guests.
- *Residential Hotel Unit* means a Rooming Unit (a room occupied as living quarters without a kitchen) or Efficiency Dwelling Unit (contains only a single habitable room other than a kitchen or is less than 500 square feet in size) located in a Residential Hotel.

#### **2. Restrictions:** Proposed regulations prohibit:

- Any action that reduces the size of Residential Hotel Units or eliminates or reduces private or communal amenities, such as bathrooms and kitchens (defined as Amenity Rehabilitation).

*Purpose:* Loss of private or communal facilities like kitchens and bathrooms are a burden for existing SRO tenants. Removing and reducing both private or communal bathroom and kitchen facilities was a key aspect of a tenant harassment lawsuit that was recently settled against an Oakland SRO landlord.

- Any action that adds a kitchen or kitchenette to a Residential Hotel room that currently doesn't have one (also included in the definition of Amenity Rehabilitation).

*Purpose:* Rehabilitation of Rooming Units to include kitchenettes is likely to place the unit at a higher rent level and further out of reach for the target very low income populations. Staff's analysis shows that Efficiency Units appear to command an approximately 14 percent higher market rent than Rooming Units.<sup>3</sup> During focus group discussions, residents overwhelmingly said they preferred lower or more stable rents rather than additional amenities like a kitchenette.

- Conversion or demolition of a Residential Hotel Unit if there is a verified case of tenant harassment or illegal eviction.

*Purpose:* This restriction aims to provide a disincentive for harassment or illegal displacement of tenants intended to facilitate conversion or demolition.

3. **Conditional Use Permit Requirement:** Proposed regulations would require a Conditional Use permit for any Demolition or Conversion, as defined earlier.

*Purpose:* Requiring a Conditional Use permit for any demolition or conversion allows the public and the Planning Commission to consider the potential public health and safety impacts of the resulting loss of existing SRO units and potential impacts to tenants.

4. **Replacement Unit Requirement for Demolition or Conversion:** An applicant must provide replacement rental units that are equivalent – in affordability, size, and services and facilities offered – to each unit proposed for demolition or conversion. The replacement units must be within two miles of the subject facility, and obtain a certificate of occupancy prior to the proposed Residential Hotel unit demolition or conversion.

*Purpose:* Provision of replacement units would mitigate the potential public health and safety impacts of the demolition or conversion of Residential Hotel units. Requiring replacement units to be located near the original building allows displaced residents to retain their social, professional, and medical networks intact throughout any potential relocation. By providing equivalent housing in a comparable location, replacement units will effectively serve the same purpose and function as the lost Residential Hotel units.

5. **Tenant Protections:** If a Residential Hotel unit is to be converted or demolished, the unit's tenant(s) shall receive written notice 120 days prior to commencement of work. The tenant must be referred to an equivalent, available unit, and if the tenant chooses not to move in to that unit, they must be provided with a relocation allowance as specified for studio units in Section 8.22.450 of the Oakland Municipal Code. Any tenant(s) displaced because of conversion or demolition of Residential Hotel units shall be offered first right of refusal to rent the replacement units.

*Purpose:* As noted earlier, Residential Hotel are often utilized as housing of last resort, meaning that displaced residents rarely have any other option besides homelessness if they are displaced

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<sup>3</sup> Average Rooming Unit (without kitchen) rents from the 2015 "Downtown Oakland's Residential Hotels" report were compared to HUD Fair Market Rents for Efficiency Units (with kitchen) for 2015 in the three zip codes containing the Downtown SROs.

from their units. This component of the Planning Code amendments aims to protect tenants from displacement, and ensures that they have a viable housing option if they do ultimately need to vacate their unit.

**6. Exceptions to the Conditional Use Permit Requirement:**

It’s important to craft exceptions to the proposed requirements to allow for life safety and other desired improvements that meet the goals of public health and safety.

<b>Exception</b>	<b>Applicability</b>	<b>Purpose</b>
Affordable Housing Projects that are reserved for occupancy by extremely low and very low-income households and minimize unit reduction	<ul style="list-style-type: none"> <li>• conversion</li> <li>• demolition</li> <li>• amenity rehabilitation</li> </ul>	The project will be serving the intended population.
Transitional Housing Projects	<ul style="list-style-type: none"> <li>• conversion</li> <li>• demolition</li> <li>• amenity rehabilitation</li> </ul>	The project will be serving the intended population.
Residential Hotel that must comply with a City order to repair or demolish an unsafe, uninhabitable or substandard condition.	<ul style="list-style-type: none"> <li>• conversion</li> <li>• demolition</li> <li>• amenity rehabilitation</li> </ul>	Allows for life safety related repairs and upgrades.
Residential Hotel that has been completely vacant and unoccupied for more than ten (10) years	<ul style="list-style-type: none"> <li>• amenity rehabilitation</li> </ul>	Allows rehabilitation of vacant buildings that may already require significant upgrades.
Action necessary for health and safety purposes and does not result in temporary displacement of any tenant for more than sixty (60) days or permanent displacement of any tenant	<ul style="list-style-type: none"> <li>• amenity rehabilitation</li> </ul>	Allows for life safety related repairs and upgrades.

**7. Waivers and Appeals Process:** This allows an applicant to request a waiver from the proposed requirements, and opportunity to appeal any decision regarding the waiver if the requirements have been applied incorrectly or inadvertently conflict with any federal, state or local law.

*Purpose:* This provides an applicant due process in case there is justification for a waiver or appeal.

**8. Certificate of Use or Statement of Exemption** – The proposed regulations establish the procedure for creating a registry of Residential Hotels. The Certificate of Use requires property owners to provide evidence regarding their Residential Hotel’s characteristics, including number of units, and number and type of communal facilities. The proposed regulations allow an owner to file a Statement of Exemption with supporting evidence if they believe their property should not be considered a Residential Hotel.

*Purpose:* Creation of a registry will help clarify the implementation of the proposed regulations. These requirements help establish a baseline of the Residential Hotel’s characteristics to facilitate potential enforcement in case of code violations, and it also provides due process for property owners to show evidence if they believe they should not be considered a Residential Hotel.

Related Planning Code Changes

In association with the proposed new regulations for the conversion, demolition and rehabilitation of Residential Hotels, the following other portions of the Planning Code would be amended:

1. Changes to Table of Contents – to add the new Chapter 17.153
2. Changes to Chapter 17.10 (land use activities) – this proposal would amend the definition of the “Permanent Residential” land use activity to be based on stays of at least 30 days (rather than of at least seven days), and make complementary amendments to the “Semi-Transient Residential” and “Transient Habitation Commercial” activities, among others. This is a long overdue change that will allow Planning Code definitions to align with the city’s tenant right timelines, transient occupancy tax timelines and other portions of the Municipal Code.
3. Changes to Chapter 17.54, 56, 74, 76 and 78 (references to Section 17.102.230) – this simply updates the references in other Chapters to the revised title for Section 17.102.230.
4. Changes to Section 17.102.230 (existing regulations related to Rooming Units) – the portion of this Planning Code Section related to restrictions on conversion or demolition of Rooming Units is being superseded by the proposed new Chapter 17.153. The Code Section’s restrictions on conversion of dwelling units would remain.
5. Changes to Section 17.134.020.A.3 (special situations requiring a Major Conditional Use Permit) – this section would be amended to reflect that the Conditional Use Permit required for the conversion, demolition or rehabilitation of Residential Hotels shall be considered a Major Conditional Use Permit, which requires review by the Planning Commission.

Proposed Impact Fees for the Conversion, Demolition and Rehabilitation of Residential Hotels (Oakland Municipal Code, Title 15)

City staff is studying the possibility of requiring impact fees associated with any demolition or conversion of a Residential Hotel. For demolition or conversion of Residential Hotel units, payment of an impact fee could be an alternative to the proposed requirement for providing replacement units in new Chapter 17.153. A nexus study is underway to determine the fiscal impacts of the loss of Residential Hotel units in Oakland, or the loss of their availability to low income renters. The possibility of this option will be presented during City Council public hearings, following any recommendations from the Planning Commission on the overall Planning Code amendments.

*Purpose:* The purpose of an impact fee would be to address the loss of Oakland’s remaining Residential Hotel units, and mitigate the threat to the health and safety of SRO residents who may face homelessness in their absence. Payment of impact fees would provide funds to the Affordable Housing Trust Fund to invest in the construction of new SRO units to offset the impact of removing the units from the rental market.

**KEY ISSUES**

The following is a summary of the key policy issues that were considered while creating the proposed regulations:

**Issue: Concern from property owners regarding over-regulation** (as articulated during the Property Owner Meeting held in August 2018 and further summarized in *Attachment C*, and in other interactions with property owners)

*Policy Response:* The proposed regulations have been created to serve an important public interest – address a threat to the health and safety of some of Oakland’s most vulnerable residents, who may face displacement or homelessness in the absence of a Residential Hotel housing option. Only the regulations that Staff has determined are critical to meet the above intent are included - no more and no less.

**Issue: Developers are purchasing SRO buildings, investing heavily in capital improvements and refurbishment to the building, and putting them back on the market at significantly higher rents. This reduces the number of units financially accessible to Oakland’s most vulnerable residents.**

*Policy Response:* While it is likely true that SRO buildings where there has been major capital investment will likely demand higher market rents. It is also true that the existing Residential Hotel stock is composed of older buildings that are often in need of major life safety and system upgrades. The City does not want to restrict that type of much-needed investment, and in terms of regulations and implementation of regulations, it is not practical nor feasible to specify all the types of rehabilitation that are restricted or permitted. However, the proposed regulations capture the addition of a kitchenette as a type of rehabilitation that is clearly tied to an increase in market rents, while clearly not being required for life safety purposes.

**Issue: Residents may be displaced from their Residential Hotel Units due to capital improvements or demolition, and do not have other housing options. This puts residents at risk of becoming homeless, and causes significant stress and trauma.**

*Policy Response:* In cases where Residential Hotel units would be converted or demolished, the proposed regulations will require that tenants receive advance notice, and referral to another equivalent units and a relocation allowance. Furthermore, in cases where there has been verified tenant harassment or illegal evictions in the past five years, conversion and demolition would be prohibited.

**Issue: Excessive regulation stymies investment, and makes it difficult for property owners to attract the capital necessary to improve unit habitability, or bring long-vacant units back onto the market.**

*Policy Response:* The proposed regulations contain a specific exception from Rehabilitation restrictions for buildings that been continuously vacant for more than 10 years, with the understanding that those properties will require significant investment and upgrades. Furthermore, the proposed regulations do not establish rental rates for those SRO units.

**Issue: Focusing the definition of a Residential Hotel on physical features could have the unintended consequence of regulating dormitories, co-living spaces, and uses that are distinct from SROs.**

*Policy Response:* The purpose of the proposed registry is to limit the applicability of the regulations to only those properties determined to be a Residential Hotel. Furthermore, many Residential Hotel do function as co-living spaces, where residents appreciate and come together in communal spaces, and have opportunities for cultural cohesion, particularly in ethnic Residential Hotels. As noted by one focus group participant, a resident preferred living in a Residential Hotel Unit compared to a one-bedroom unit because the community feeling that was part of the Residential Hotel.

**Issue: Consideration of replacement unit requirement compared to an Impact Fee to mitigate the loss of Residential Hotel Units, resulting from a conversion or demolition action.**

*Policy Response:* The proposed regulations require a replacement unit for conversion or demolition of Residential Hotel Units. However, as noted earlier in the report, the City is considering implementation of an Impact Fee that is based on the cost to replace a Rooming Unit as specified in the Conditional Use Permit's replacement unit requirement. Staff will be proposing to City Council that the replacement unit requirement be kept unless an Impact Fee payment is made.

***Issue: Concern that Residential Hotels will attempt to undertake major rehabilitation work to qualify for a Substantial Rehabilitation exemption from rent control, as defined in Oakland Municipal Code, Title 8.***

*Policy Response:* There is currently a Moratorium in effect that prohibits the use of the Substantial Rehabilitation exemption from rent control; and on September 14, 2018, City Council extended that Moratorium and directed staff to make changes to the Oakland Municipal Code to eliminate the Substantial Rehabilitation exemption for all properties citywide. The elimination of that exemption will also apply to Residential Hotel units.

***Issue: Merits of only allowing Affordable Housing Projects to be excepted from the requirements if they adhere to certain criteria.***

*Policy Response:* Affordable Housing Projects (AHPs) that guarantee housing that is affordable to low-income residents through property deed restrictions are a critical part of dealing with our current housing crisis, and provide a clear public health and safety benefit to the Oakland community. However, most affordable housing funds require units to have kitchenettes and to meet a certain minimum size threshold, which would require Amenity Rehabilitation and Demolition of units (to achieve the minimum size and/or to fit in kitchenettes). Therefore, the proposed regulations strike a balance between ensuring the feasibility of AHPs, and ensuring the housing remains dedicated to the target population of extremely-low and very-low income tenants. The regulations do this by allowing for AHPs to be excepted from demolition, conversion and rehabilitation requirements, while specifying the required income levels the AHPs must serve. The proposed regulations aim for the minimum loss of housing stock by specifying that the new unit types in the AHPs must be Rooming, Efficiency or one-bedroom units without specifying a specific cap in the reduction of units to allow for the flexibility that may be required by affordable housing funds. Furthermore, the proposed regulations require that an AHP, at the time of application, have at least 25 years remaining in their regulatory agreement timeline. The City's standard requirement for length of affordability of a new AHP is 55 years, yet requiring a regulatory agreement to have at least 25 guaranteed remaining years of affordability is a significant length of time and is also long enough to ensure that there is not an incentive for property owners with soon-expiring deed restrictions to convert, demolish or rehabilitate in anticipation of higher market rents.

## ENVIRONMENTAL REVIEW

The proposed amendments to the Planning Code rely on the previous set of applicable California Environmental Quality Act (CEQA) documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Wood Street EIR (2005), Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); The Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), and Coliseum (1995); the 199 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA

Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163.

The proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents. As a result, none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that: (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3).

Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

**RECOMMENDATIONS**

Staff recommends that the Planning Commission:

1. Affirm staff's environmental determination; and
2. Recommend that the City Council approve the proposed Planning Code amendments related to Residential Hotel Regulations.

Prepared by:



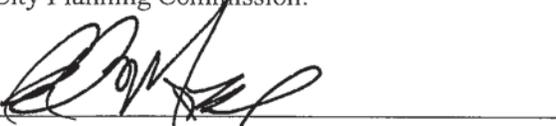
Christina Ferracane  
Planner III

Reviewed by:



Laura Kaminski  
Acting Strategic Planning Manager  
Bureau of Planning

Approved for forwarding to the  
City Planning Commission:



Ed Manasse  
Interim Deputy Director  
Bureau of Planning

Attachments:

- A. Downtown Oakland's Residential Hotels (2015)
- B. Maps of Preliminary Identification of Residential Hotels
- C. Summary of Community Outreach
- D. Proposed Code Amendments (showing deletions and additions)
- E. Proposed Code Amendments (clean version)
- F. Summary of Case Studies of Other Cities Regulations of Residential Hotels

# Downtown Oakland's Residential Hotels



**Cost**



**Characteristics**



**Challenges**



CITY OF OAKLAND

A Report Prepared by The City of Oakland, California  
Housing and Community Development Department  
September 2015

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Photos and text by Brian Warwick. Study overseen by Maryann Sargent, Housing Development Coordinator.

Figure 1

# Downtown Oakland's Residential Hotels





*A sign advertises “SRO Units Available For Rent” outside the Claridge. Vacancies are an anomaly among SROs currently—most residential hotels in Oakland are at or near full capacity.*

## About This Report

This report is designed to be a collection of useful information about downtown Oakland’s residential hotels. It includes data such as occupancy rates and room fees, as well as relevant legal statutes and policies, and useful resources for further research. It is to be used as an introduction to Oakland’s residential hotels rather than an exhaustive account. The report also includes a small sampling of how some other cities have chosen to approach their own single room occupancy hotels. It is not the purpose of this report to advocate for any specific policy or set of proposals, nor is the report intended to single out specific hotels for punitive action. Where evidence has pointed to crime, pests, or other problems at specific hotels, we have provided that information.

Previous reports were published by the Housing and Community Development Department in 1985 and 2004. This report’s release is timed to coincide with Oakland’s Downtown Specific Plan, which began the community participation process in the summer of 2015. It is our hope that this report provides a basis for community members, policy advocates, city officials, and the general public to engage in a meaningful debate about the ongoing role of Oakland’s historic residential hotels.

**The Terms “residential hotel” and “SRO” (Single Room Occupancy) are used interchangeably in this report.**

## Defining Residential Hotels

Residential Hotels, also called Single Room Occupancy hotels, or SROs, were constructed during late 19th and early 20th century to house transient workers. As the name implies, they are composed of a single room for residents. They are distinguished from studio or efficiency units in that they typically do not include a private bathroom or kitchen in the room. Historically, residential hotels have also differed from other dwelling units in the type of population that they house. Residential hotel tenants have traditionally been primarily itinerant male workers, rather than women, couples, or families.

Residential hotels do not typically require a security deposit, credit references, proof of income, or long-term lease agreement. For these reasons, residential hotels can provide housing for vulnerable populations with unstable finances or little access to credit. In recent decades, residential hotels have gained a reputation for entrenched poverty, crime, and prostitution. This report investigates these issues for residential hotels in downtown Oakland.

Despite being seen as housing of last resort, market-rate residential hotels are not necessarily an inexpensive form of housing. The cost of living in an SRO can rival or exceed that of traditional apartments. The tenants of residential hotels are also not necessarily tran-

sient. One quarter of Oakland residential hotel tenants have occupied their units for at least five years. Some residents have resided in the same building for more than twenty years.

Similar forms of housing, such as “extended stay” hotels, today often serve the same semi-permanent worker population that SROs once served. Oakland also has a number of motels built in the 1960s and 1970s that today house a primarily local population. While these serve a similar market to SROs, they can be distinguished from traditional residential hotels in a few ways: they are of more recent construction, they were originally built to serve tourists, and they nearly always contain private bathrooms and/or kitchen facilities. While worthy of study, the numerous motels on West MacArthur and elsewhere in Oakland are outside the scope of this report.

The terms residential hotel and SRO are used interchangeably in this report.

## Previous SRO Studies

This study follows reports that were released by the City of Oakland in 1985, 1995, and 2004. The 1985 study was written at a time when SRO housing was rapidly being lost due to redevelopment. At the time of the 1985 report, there were 2,003 SRO units in the downtown area. (This study did not include the San Pablo corridor.) Today, there are 1,403 remaining SRO units downtown and along the San Pablo corridor. The 1995 and 2004 studies are less extensive follow-up reports to the 1985 study. (A survey was also conducted in 2009, but the results were never released.)

**Read the full 1985 and 2004 SRO reports at:**

<http://www2.oaklandnet.com/Government/o/hcd/s/Data/DOWD008692#sro>.

**See the current rent restrictions for regulated affordable SRO units at:**

<http://www2.oaklandnet.com/Government/o/hcd/s/Data/DOWD008693>.

The 1989 Loma-Prieta earthquake left catastrophic damage on many residential hotels in Oakland, leaving as many as twenty-five hundred residents temporarily homeless. Because most of these residents were considered short-term tenants, they were not initially eligible for relief from the Federal Emergency Management Agency (FEMA). Funds were later granted in a landmark settlement. Much of the funding was

used to purchase and rehabilitate the hotels, to be operated by nonprofit affordable developers as permanent housing for low-income tenants.<sup>1</sup> The 1995 report briefly describes the difficult process of securing financing for structural repairs to residential hotels and replacement housing for displaced tenants. The 1995 report identifies a high vacancy rate--an average of 28%--as a chief concern for SRO landlords at the time.

The number of residential hotels in downtown Oakland has shrunk with each report. Some buildings have been demolished, converted to other uses or renovated into non-SRO dwellings. Today, 18 SRO buildings remain in the downtown and San Pablo corridor area. While Oakland and other cities are currently experimenting with microapartments and shared housing, residential hotels with shared kitchens and bathrooms are primarily a legacy form of housing.

Despite these changes, there is a great deal of continuity at many of the hotels still in operation. The majority of the properties have not changed hands since the 2004 report. Some residents have occupied the same unit since prior to 1985. Two of the hotels that were singled out as havens for crime or mismanagement in the 2004 report were the Grand Hotel and the Menlo Hotel (now called Empyrean Towers). Both of these have recently been placed into court-ordered receivership for these reasons.

## The 2015 Survey

Oakland’s Housing and Community Development Department staff conducted the current survey during June and July of 2015. Staff visited hotels directly and spoke with managers or desk clerks to obtain the information. While the hotel staff seemed knowledgeable and the numbers provided were consistent with other available data, we cannot independently verify all of the information given. Nonprofit organizations were generally able to provide more detailed occupancy statistics because of record-keeping requirements.

## Cost of Housing

On average, those hotels that accept daily guests charge \$62 per night. The SROs accepting weekly guests charge an average of \$251. The average monthly rate for those accepting monthly guests is

<sup>1</sup> Comerio, Mary C. “Housing Repair and Reconstruction After Loma Prieta.” *Housing Repair and Reconstruction After Loma Prieta*. University of California, Berkeley, 09 Dec. 1997. Web. 04 Oct. 2015. [http://nisee.berkeley.edu/loma\\_prieta/comerio.html](http://nisee.berkeley.edu/loma_prieta/comerio.html)

\$676.

The average rates in 2002 were \$35 daily, \$199 weekly, and \$544 monthly. (These figures have not been adjusted for inflation.) After adjusting for inflation, daily rates have increased 34%. Weekly rates have actually decreased 4.6%, and monthly rates have decreased 6.4% after adjusting for inflation.

Looking back to the 1985 study, the average rates then were \$18.50 daily, \$77 weekly, and \$246.50 monthly. Over the past 30 years, this represents an inflation-adjusted increase of 51% at the daily rate, 46% at the weekly rate, and 29% at the monthly rate.

Most residents of Oakland’s SROs are permanent tenants. A full 85% of current residents have occupied their rooms at least one month, and 65% have been tenants for at least one year. An estimated 26% of residents have been tenants for five years or more.

Several hotels do not accept new guests on a monthly basis. Local residents who do not have permanent housing must shuttle around between different hotels every 30 days or less in order to comply with this policy. (Preexisting permanent tenants must be grandfathered in to this policy. For more information about tenancy regulations, see the “Relevant Legal Statutes for Regulation of SROs” chart.) The maximum stay for new guests at the Hotel Travelers, for example, is 28 days. Because the weekly rate at the Hotel Travelers is \$270, the effective monthly rate is \$1,080 per month. This is a full 50% higher than the average monthly rate for those that do accept monthly guests.

Permanent residents of SROs do not necessarily pay the market average for rent. Oakland’s rent adjustment ordinance limits rent increases for permanent residents to the cost of inflation. Depending on when a resident has

Table 1

Downtown Oakland's Residential Hotels						
	Hotel	Address	Total Units	Total Available Units	Occupied Units	Occupancy Rate
1	Avondale Hotel	540 28th St	55	55	55	100%
2	The C.L. Dellums	644 14th St	72	72	70	97%
3	Claridge (formerly Ridge Hotel)	634 15th St	197	197	130	65%
4	Empyrean Towers (formerly Menlo Hotel)	344 13th St	96	96*	96*	unknown
5	Fremont Hotel	524 8th St	41	39*	39*	unknown
6	Grand Hotel (formerly Palm Hotel)	641 W. Grand Ave	77	32	32	100%
7	Harrison Hotel	1415 Harrison St	81	81	78	96%
8	Hotel Travelers	392 11th St	70	65	65	100%
9	Lakehurst Residential Hotel	1569 Jackson St	120	120	95	79%
10	Madrone Hotel	477 8th St	31	23	23	100%
11	Malonga Casquelourd Center for the Arts (formerly Alice Arts Center)	1428 Alice St	75	75	45†	60%†
12	Milton Hotel	1109 Webster St	40	20	20	100%
13	Old Oakland	805 Washington St	37	35	35	100%
14	San Pablo Hotel	1955 San Pablo Ave	144	144	137	95%
15	Silver Dollar Hotel	2329 San Pablo Ave	20	20	18	90%
16	Sutter Hotel	584 14th St	102	100	95	95%
17	The New Fern's Hotel	415 15th St	33	30	30	100%
18	Twin Peaks Hotel	2333 San Pablo Ave	20	20	9	45%
<b>Totals</b>			<b>1311</b>	<b>1224</b>	<b>1072</b>	<b>88%</b>
<p>*Estimated number, based on visual observations or news accounts.                  † Recently renovated. Still in the process of securing tenants.</p>						

moved in, market rents may have increased faster than inflation, and the resident may thus be paying below-market rent.

An individual paying more than 30% of his or her gross income in rent is typically classified as “rent-burdened,” and an individual

paying more than 50% is classified as “severely rent-burdened.” In order to not be rent-burdened, an individual would need to earn at least \$28,120 per year to afford the monthly rate. To afford the weekly rate on a yearly basis, an individual would need to earn \$40,160

Table 2

## 2004 Residential Hotels

NO.	HOTEL NAME	NUMBER	STREET	TOTAL ROOMS	AVAILABLE ROOMS
1	Alendale Guest Home * †	278	Jayne Street	10	10
2	Alice Arts Center	1428	Alice Street	74	74
3	Asasha Hotel *	2541	San Pablo Avenue	Closed	N/A
4	Avondale Hotel	540	28th Street	52	52
5	Aztec Hotel	583	8th Street	59	59
6	C.L. Dellums Apartments	644	14th Street	72	68
7	California Hotel	3501	San Pablo Avenue	149	149
8	Fern's Hotel †	415	15th Street	32	31
9	Fremont Hotel	524	8th Street	38	38
10	Hamilton Hotel	2101	Telegraph Avenue	92	92
11	Harrison Hotel * †	1415	Harrison Street	90	89
12	Hotel Oakland	270	13th Street	315	315
13	Hotel Palm	641	West Grand Avenue	69	69
14	Hotel Travelers	392	11th Street	88	78
15	Hotel Westerner * †	1954	San Pablo Avenue	19	19
16	Jefferson Inn	1424	Jefferson Street	65	55
17	Lake Merritt Lodge	2332	Harrison Street	157	157
18	Lakehurst Residence	1569	Jackson Street	127	127
19	Madrone Hotel	477	8th Street	31	30
20	The Menlo	344	13th Street	96	96
21	Milton Hotel * †	1109	Webster Street	58	58
22	Moor Hotel *	2351	San Pablo Avenue	Closed	N/A
23	Oaks Hotel	587	15th Street	84	84
24	Old Oakland Hotel	805	Washington Street	38	37
25	Ridge Hotel	634	15th Street	200	200
26	San Pablo Hotel	1955	San Pablo Avenue	144	144
27	Silver Dollar Hotel *	2330	San Pablo Avenue	Unknown	Unknown
28	Sutter Hotel	584	14th Street	106	86
29	Twin Peaks Hotel	2333	San Pablo Avenue	20	20
30	Will Rogers Hotel *	371	13th Street	Closed	N/A
31	Hotel Royal *	2000	San Pablo Avenue	Closed	N/A
<b>NO. OF SRO UNITS</b>				<b>2,285</b>	<b>2,237</b>

per year. To afford the daily rate on a yearly basis, an individual would need to earn \$75,433. Area Median Income (AMI) in Alameda County is \$65,450 in 2015. A person earning 50% of AMI would bring home \$32,550 annually. Residents of SROs would need to earn at least 45% of AMI in order to not be rent burdened living in an SRO.

Demographic data on sources of income for SRO residents indicates that most residents rely on Social Security and disability payments as their primary source of income. The income generated from such payments would put most residents below the 25% AMI threshold. This evidence suggests that

### SROs and Affordable Developers

Since the 1989 Loma-Prieta earthquake, affordable housing developers have continued to acquire and rehabilitate residential hotels. These developers, which are usually mission-driven nonprofit organizations, receive a mix of funding from city, state, and federal agencies to rehabilitate the hotels and lease them out to low income residents. Developers must adhere to a set of requirements when they accept such funding:

- Tenants sign year leases, rather than staying on a weekly or nightly basis.
- Occupancy is restricted to low-income residents, usually those earning 50% or less of Area Median Income (AMI).
- The maximum rent that can be charged is restricted to levels set by the various regulatory agencies. The units must remain affordable for a set period of time, usually 55 years under current state regulations. (See Table 6, “SROs with Affordability Requirements” for affordability expiration dates.)

State and Federal policies directed toward rehabilitation of SROs into rehabilitated affordable housing have included the Section 8 Moderate Rehabilitation SRO Program, administered by the Department of Housing and Urban Development (HUD). This program was designed to help house homeless residents. The program was later folded into a larger program directed towards the homeless, Continuum of Care (CoC). California also sets aside 4% of Low Income Housing Tax Credit funds towards either Special Needs or SRO project types.

### Characteristics of SROs

Oakland’s residential hotels vary widely in terms of size, cost, quality, and population served. Among the chief distinctions:

- **Size** — The Claridge is currently the largest residential hotel, with 197 units. The Silver Dollar and Twin Peaks hotels, meanwhile, have only 20 units each.

Table 3

## 2015 Residential Hotel Survey Results

	Number	Percentage
<b>Hotels Receiving Tax Credits or Owned by Nonprofit Developer</b>	5	28%
<b>Market Rate Hotels</b>	13	72%
<b>Market Rate Hotels receiving bulk of clients through social service referrals</b>	3	17%
<b>Only accepts new residents less than 28 days</b>	5	28%
<b>Only accepts new residents for month/year leases</b>	8	44%
<b>Accepts Daily Rentals</b>	4	22%
<b>Accepts Weekly Rentals</b>	6	33%
<b>Accepts Monthly Rentals</b>	13	67%
<b>Rooms with private bathroom</b>	482	34%
<b>Rooms with private kitchen</b>	133	9%
<b>Buildings with common kitchen</b>	6	32%
<b>Buildings with private mailboxes for tenants†</b>	9	47%
<b>Landlords that accept Section 8 vouchers</b>	7	42%
<b>Rooms occupied for less than 1 month‡</b>		15%
<b>Rooms occupied for less than 1 year‡</b>		17%
<b>Rooms occupied for more than 1 year‡</b>		65%
<b>Rooms occupied for more than 5 years‡</b>		26%
<b>Average Daily Rate*</b>	\$62	
<b>Average Weekly Rate*</b>	\$251	
<b>Average Monthly Rate*</b>	\$642	

\*Some rent levels are set in accordance with Oakland Housing Authority requirements.

†Buildings without private mailboxes typically hold all mail at the front desk in individual slots.

‡Where known. Some respondents provided only rough estimates or did not disclose information.

• **Demographics** — The Fremont Hotel and Milton Hotel served an almost exclusively Chinese-American population, with few English speakers among the residents or the staff. A handful of the hotels primarily serve populations with specific needs such as mental health care.

Our survey of hotel management did not include any questions about the race, gender, or origin of SRO residents. The Housing and Community Development Department was able to separately obtain detailed demographic data for 240 units, or 22% of all SRO residents. The residents of these units were 71% male and 28% female, in keeping with the traditional gender breakdown of SROs. Residents of these units identified as 66% black, 27% white, and 4.5% Asian. The majority of residents reported social security and/or disability benefits as their sole source of income, with a smaller group receiving pension payments or general assistance.

• **Needs** — Some buildings, such as the Lakehurst, the Avondale Hotel, and the Hotel Twin Peaks, primarily acquire tenants through referrals from social service agencies such as Bay Area Community Services (BACS). These tenants often have mental or physical disabilities limiting their ability to secure employment and housing. Unfortunately, most residential hotels do not offer onsite supportive services such as mental health professionals, medical staff, job training, or enrichment activities. The Lakehurst Hotel does employ a kitchen staff to serve two meals a day to residents, and the Hamilton Apartments, operated by Mercy Housing, offers Shelter Plus Care service. Moreover, many residents may be visited by social workers and other professionals independently of their relationship to housing.

• **Mail Delivery** — All of the hotels had some

form of mail delivery for tenants. Roughly half had private mailboxes, while the other half kept tenant mail in individual slots maintained by the desk clerk. One hotel, the Silver Dollar, had a common slot for all mail delivery to the building.

• **Ownership Status** — Many of the hotels are privately owned. As mentioned above, however, nonprofit housing organizations have taken an increasing interest in acquiring residential hotels. Not all buildings that receive subsidies are owned by nonprofits, however. The Claridge Hotel, whose affordability requirements expire in 2023, is privately owned. The Madrone Hotel is owned by a nonprofit housing developer and receives city rehabilitation funding but no state tax credits.

• **Management** — The majority of the residen-

Table 4

Residential Hotel Demographics		
	Number	Percentage of Total
Total Units Surveyed	240	22.4%
Female	67	27.9%
Male	170	70.8%
Black	154	64.2%
White	69	28.8%
Asian	9	3.8%
Other/Unknown/ Multiracial	10	4.2%

Available data indicates that residential hotels continue to primarily serve single men, in keeping with historic patterns.

tial hotels employ full-time staff during business hours to manage the property. There were a few exceptions. Staff was unable to reach a manager or desk clerk at the Silver Dollar Hotel, despite multiple attempts. Tenants reported that the management visits the building regularly but does not employ a desk clerk during business hours. (A tenant helped us complete the survey.) The Fremont Hotel also did not appear to have onsite management. City staff visited the hotel with a translator but were unable to find a manager on duty or a knowledgeable tenant willing to discuss the hotel. Statistics for this hotel were compiled by observing visual clues, such as counting the number of mailboxes, and shoes at the entrance of rooms.

• **Occupancy Rate** — The average occupancy rate is 88% among residential hotels. This average was distorted by a handful of outliers. Buildings that received guests primarily through social service agency referrals tended to have a lower occupancy rate. In addition, the Malonga Casquelorde Center for the Arts (formerly the Alice Arts Center) recently completed a large renovation and is still in the midst of completing its lease-up process. They expect to fill these vacancies shortly and be fully occupied. The Claridge Hotel is another outlier, with an occupancy rate of just 65%. Staff at the hotel gave vague responses about why the occupancy rate was so low; while insisting that they were all available for rent, they also made reference to the units being cleaned up due to damage from former tenants. Tax credit requirements state that a building’s management must make a “reasonable attempt” to fill any vacancies before allowing a unit to remain vacant or be filled by a market-rate tenant. The occupancy rate of all other affordable housing SROs is 98%.

• **Length of Stay** -- Some residential hotels rent only by the day and week, while others rent only by the month. Overall, 65% of dwellings accepted monthly rentals.

Under city law, guests who stay longer than 30 days are considered permanent residents. This entitles them to certain legal protections: they cannot be evicted without just cause, and rent increases are tied to inflation. For this reason, some hotels have instituted a policy of not allowing new guests to stay more than one month (or 28 or 21 days, in certain instances). Long-term tenants at these hotels are grandfathered in as permanent residents, while new guests are limited in their stay. The Hotel Travelers is one such example--fifty of the seventy units are occupied by permanent residents, while the remaining units are dedicated to short-term rentals.



Private mailboxes at the Fremont Hotel. Roughly half of all SROs have private mailboxes, while the rest keep all mail behind the front desk, to be distributed by the desk clerk.

## Loss of SRO Units

While the number of SRO units in Oakland continues to decline, the reasons for such loss are multifaceted. Many former SROs continue to house or serve low-income populations. The California Hotel, Oaks Hotel, Hamilton Apartments, and Jefferson Inn were renovated by nonprofit affordable developers, with bathrooms and kitchenettes installed in each room. These upgraded apartments are no longer classified as “single room occupancy,” but they provide a much higher quality of housing to low-income residents. Other properties have been converted into housing with onsite supportive services. Operation Dignity, a transitional home for veterans, is at the site of the former Aztec Hotel.

Where residential hotels are extensively renovated, some loss of units is customary in order to provide more space and amenities. The Lake Merritt Lodge, for example, was rehabilitated to provide student housing for the Hult International Business School. It now has 97 rooms instead of its former 157.

As Oakland gentrifies, rumors have spread about investors making plans to renovate residential hotels in order to market them to wealthier customers. In May of 2015, the San Francisco Business Times reported that Hotel Travelers may soon be converted to an upscale boutique hotel. (See “Oakland’s Residential Hotels in the News” on page 11 for more information.) Sutter Hotel management has also expressed to city staff their interest in converting their building to upscale apartments. Unlike residential hotels managed by affordable developers, there are few restrictions in place to preserve for-profit market-rate residential hotels. Oakland currently has a section of its municipal code aimed at preserving SRO units (see “Preservation Efforts for Oakland’s Residential Hotels”, page 16). However, this code relies largely on the discretion of City staff in choosing to issue or deny permits for demolition or conversion.

The Moor Hotel, pictured on page 13, has been shuttered for over a decade. While the reasons for the property’s long-term closure are unknown, this is consistent with the practice of land banking, in which an owner will hold on to a property purely for the speculative value of the land.

**Table 5** What Has Happened to Former Residential Hotels?

SROs in Operation in 2004	Address	Former Units	Current Units	Current Use
Alendale Guest Home	278 Jayne Ave	10	unknown	Market-rate apartment rental units.
Aztec Hotel	583 8th St	59	58	Transitional Home for Veterans.
California Hotel	3501 San Pablo Ave	149	137	Affordable housing apartments with private kitchens and bathrooms.
Hamilton Apartments*	510 21st St	160	92	Affordable housing operated by Mercy Housing. Supportive services, private kitchens and bathrooms for all residents.
Hotel Westerner	1954 San Pablo Ave	19	n/a	Demolished. Parcel was incorporated into larger market-rate apartment project (The Uptown).
Jefferson Inn	1424 Jefferson St	65	101	Savoy Apartments, a project-based Section 8 development with private kitchens and bathrooms.
Lake Merritt Lodge	2332 Harrison St	157	97	Student Housing for Hult International Business School.
Oaks Hotel	587 15th St	85	n/a	Combined with Jefferson Inn to form Savoy Apartments.
SROs Closed Prior to 2004	Address	Former Units	Current Units	Current Use
Asasha Hotel	2541 San Pablo Ave	unknown	20	Project Pride, a development for women in recovery with children.
Hotel Royal	2000 San Pablo Ave	unknown	n/a	Alameda County Social Service Center office.
Hotel Touraine	559 16th Street	108	62	Henry Robinson Multi Service Center, providing transitional housing and supportive services for the homeless. Each unit has individual restrooms.
Moor Hotel	2351 San Pablo Ave	unknown	n/a	Vacant building.
Will Rogers Hotel	371 13th St	96	63	Clarion Hotel, a tourist hotel.
Totals†		908	630	

\*The Hamilton Apartments were rehabilitated and converted to affordable studios prior to 2004. They have been reclassified in this report.

†Totals are approximate. Because the number of units at some hotels is unknown, actual totals are higher for both former and current units.

**Table 6** SROs with Affordability Requirements

Name	Address	Affordability Expiration Year
Claridge	634 15th Street	2023
San Pablo Hotel	1955 San Pablo Avenue	2024
Harrison Hotel	1415 Harrison Street	2026
C.L. Dellums	644 14th Street	2068
Madrone Hotel	477 8th Street	2069

*The Claridge, which is no longer owned by an affordable housing developer, is likely to be converted to a more upscale use upon expiration of its affordability requirements in 2023.*

## Residential Hotels and Pests

The most common pests found at residential hotels are bedbugs, cockroaches, mice, rats, fleas, lice, and flies. Vector Control of Alameda County handles all complaints of pests within dwellings in Oakland. Upon receiving a complaint or request for investigation, Vector Control visits the property to assess the problem. Vector Control does not exterminate pests, but rather recommends an abatement plan for the owner. The agency records if and when the problem is abated, although they have no enforcement power for non-compliant properties.

Vector Control keeps records of each complaint logged since 2007. Residential hotels accounted for a disproportionate number of complaints to Vector Control during that time period. SROs accounted for 253 of the roughly 2800 total complaints registered within Oakland from January 2007 through July 10th of 2015. In other words, just 18 buildings—less than 1% of the total dwelling units in Oakland—account for over 9% of vector control complaints.

Going further, a small number of SRO properties account for a disproportionate number of SRO vector control problems. The Claridge Hotel accounts for more than one-third of SRO vector control complaints from 2007 to June 2015, and just under one-third of all SRO complaints for the period from 2014 to June 2015. The Claridge is Oakland's largest SRO, with 197 units, but this figure is still high when divided

Table 7

**Vector Control SRO Complaints**  
1/1/2007-6/10/2015

Hotel Name	Complaints, 2007 to 6/10/15	Total Units	Complaints Per 100 Units (Weighted Average)
Silver Dollar Hotel	11	20	55.0
New Fern's Hotel	13	33	39.4
Claridge	73	197	37.1
Old Oakland	11	37	29.7
Grand Hotel	22	77	28.6
Sutter Hotel	19	102	18.6
Avondale Hotel	9	55	16.4
Empyrean Towers	15	96	15.6
Hotel Travellers	10	70	14.3
Madrone Hotel	4	32	12.5
San Pablo Hotel	18	144	12.5
Harrison Hotel	10	81	12.3
Lake Merritt Lodge	11	157	7.0
Lakehurst Hotel	10	120	8.3
Hamilton Apts	7	92	7.6
C.L. Dellums	5	72	6.9
Fremont Hotel	2	41	4.9
Center for the Arts	3	75	4.0
Hotel Twin Peaks	0	20	0.0
Milton Hotel	0	40	0.0
<b>Totals and Averages</b>	<b>253</b>	<b>1561</b>	<b>16.2</b>

by the total number of rooms.

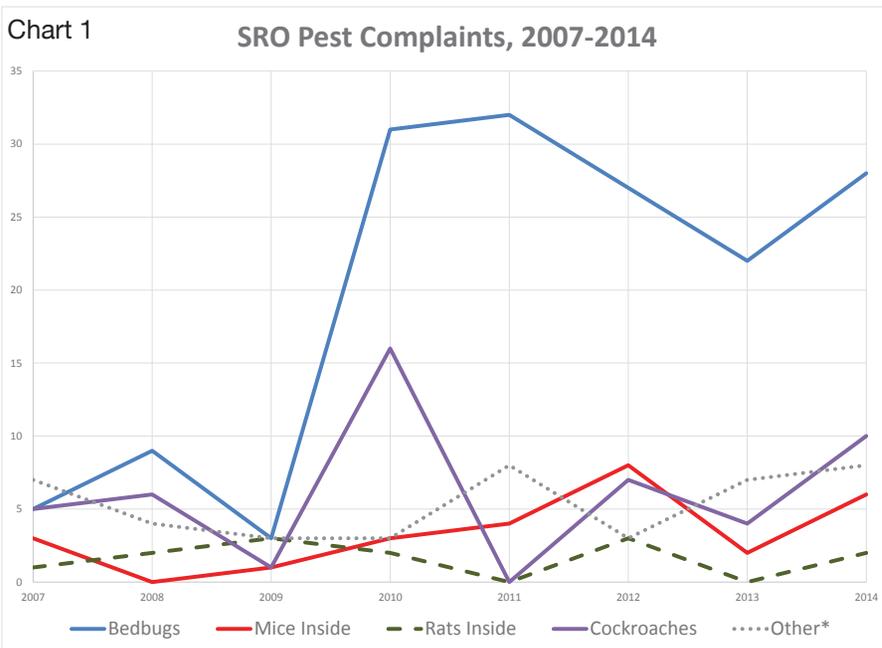
Since 2010, there has been a dramatic rise in the number of complaints regarding bedbugs at residential hotels. This is a reflection of a wider phenomenon; bedbugs have re-emerged as a nuisance pest across the globe in recent decades. Bedbugs can contaminate furniture, clothing, and accessories undetected, making containment especially difficult. Because hotels host a transient population, they can transmit bedbugs easily if not treated aggressively.

A word of caution must be given regarding the interpretation of these figures. Because vector control's records are based on resident complaints, they are not necessarily a precise representation of the pest problems in SROs. A single outbreak may induce multiple complaints, while a persistent pest problem may go unreported for years. Many SRO residents lack access to a telephone or internet service and may not have a convenient way of contacting the proper authorities. Others may be uncomfortable acting as advocates for themselves if management is hostile to remediation. Still others may see Vector Control as an unwanted intrusion and not allow agents to investigate their rooms for outbreaks. Bedbugs can thwart even the most well-meaning of landlords. A high number of requests may indicate a severe problem, or it may indicate that the owner is seeking to aggressively treat an outbreak.

**Table 8 Vector Control SRO Complaints By Type and Year**

Year	Bedbugs	Mice Inside	Rats Inside	Cockroaches	Other*	Total
2007	5	3	1	5	6	20
2008	8	0	2	6	4	20
2009	3	1	3	1	3	11
2010	31	3	2	16	3	55
2011	32	4	0	0	8	44
2012	27	8	3	7	3	48
2013	21	2	0	4	7	34
2014	24	6	2	10	8	50
<b>Total</b>	<b>151</b>	<b>27</b>	<b>13</b>	<b>49</b>	<b>42</b>	<b>282</b>

Note: Totals exceed 253 because some complaints addressed multiple problems.  
 \*\*"Other" may include bats, opossums, pigeons, rats outside, mice outside, lice, and larval flies.



The number of bedbug complaints at SROs jumped sharply in 2010 and has remained elevated, while other types of pest complaints have remained flat.

**Table 9 Vector Control SRO Complaints 1/1/2014 - 6/10/2015**

Hotel Name	Complaints, 1/1/14-6/10/15	Total Units	Complaints Per 100 Units (Weighted Average)
Silver Dollar Hotel	4	20	20.0
Old Oakland	6	37	16.2
Claridge	18	197	9.1
Sutter Hotel	6	102	5.9
Empyrean Towers	4	96	4.2
Harrison Hotel	3	81	3.7
Madrone Hotel	1	32	3.1
New Fern's Hotel	1	33	3.0
Malonga Casquelourd Center for the Arts	2	75	2.7
Grand Hotel	2	77	2.6
San Pablo Hotel	3	144	2.1
Lakehurst Hotel	2	120	1.7
Avondale Hotel	0	55	0.0
C.L. Dellums	0	72	0.0
Fremont Hotel	0	33	0.0
Hotel Travelers	0	70	0.0
Milton Hotel	0	40	0.0
Hotel Twin Peaks	0	20	0.0
<b>Totals and Averages</b>	<b>52</b>	<b>1304</b>	<b>4.0</b>

The New Fern's Hotel has shown a dramatic reduction in the number of pest complaints in recent years. Complaints from the Silver Dollar and Claridge Hotels, on the other hand, suggest that pest infestations at these hotels have not yet been abated.

# Residential Hotels and Crime

Residential hotels have become associated in the public consciousness with crime. Nearly all of the residential hotels in Oakland had numerous security features intended to address this issue. Surveillance cameras were omnipresent at SROs; most hotels had surveillance cameras installed at all entryways, lobbies and hallways throughout the buildings. The desk clerks can monitor all activities through a closed-circuit television screen installed at the front desk station.

The desk clerks at most hotels were stationed behind a window of thick glass. Most SROs kept the front door locked even when a desk clerk was on duty. The desk clerks at these hotels could buzz in visitors remotely. If a desk clerk was not on duty, the hotel was locked and closed to visitors.

The Oakland Police Department (OPD) identified drug use and sales, drunk in public charges, public disturbances caused by mental health issues, and to a lesser extent, prostitution, as the chief problems originating from SROs. Assault and domestic violence calls were less common.

The San Pablo corridor, which includes the Silver Dollar and Twin Peak hotels, was identified as a hotspot of criminal activity. The intersection of 14th Street and Martin Luther King was noted as a hub of prostitution (specifically, transgender prostitution). This has been the case for decades, and may not be solely attributed to residential hotels; the combination of several freeway exits and rooms for rent in a low-income neighborhood long associated with prostitution may all be contributing factors.

The Harrison Hotel was identified as having a problem with loitering and drinking

in public, especially in front of the liquor store adjacent to the hotel. The 2004 SRO study similarly identified the Harrison Apartments as a hub of loitering. The Harrison Apartments are owned by Resources for Community Development (RCD), a nonprofit housing developer. An asset manager at RCD reported that the organization is aware of the loitering problem outside the hotel. The asset manager attributed the problem partly to the fact that residents have few other options for where to go; the units are very small and lack amenities, there is no lobby or common area at the hotel, and

there is little public space in the direct vicinity of the hotel. The manager also reported that RCD has considered hiring additional onsite security, but the slim operating margin of the hotel does not allow room for the added expense.

Police officers are limited in terms of what kinds of enforcement activities they can undertake. The Oakland Police Department has fewer police officers than most cities of its size and has therefore chosen to prioritize enforcement of violent crimes over other crimes. Moreover, with the passage in 2014 of California Proposition 47, minor drug possession has been reclassified as a misdemeanor. A person found with drugs will be cited and released, rather than being arrested and imprisoned. Due to the extensive paperwork required to cite someone found with a small amount of drugs, OPD indicated that it was usually not worth the paperwork to aggressively confront these violations.

The Oakland Police Department also observed that the presence of upscale new apartment buildings has amplified friction between different social classes, often leading to complaints. Affluent new residents in nearby apartments and condominiums have frequently called the police over activity that would not have warranted investigation previously. The Jade Apartments, next door to the Claridge Hotel, were identified as a source of frequent complaints about low-level offenses nearby.

The Claridge has taken several steps to curb criminal activity within its building. They now require all non-resident guests to sign in at the front desk, and they conduct extensive video surveillance. Management has gone so



Nearly all residential hotels have “no loitering” signs, surveillance cameras, and heavily secured entrances and exits.

far as to broadcast classical music within the lobby in an attempt to discourage loitering. Some community members speculate that this has simply driven criminal activity into the street, where it is more visible to neighbors.

OPD reported very few complaints with regard to the Lakehurst Hotel, which primarily receives tenants through social service referrals. Similarly, the department reported very few issues having arisen at the Hamilton Apartments, a former SRO that now offers studio units and supportive services for residents with special needs.

Police officers did not endorse conversion and displacement as a practical solution to some of the problems of SROs. In the words of one officer, “If you kick them out, they become homeless, and we already have a huge homeless population on our hands.”



*Left: The Silver Dollar Hotel, at 2329 San Pablo Avenue, has been repeatedly identified as being associated with crime. The hotel also has a high rate of vector control complaints. Right: A sign warns, “THIS PROPERTY IS PROTECTED BY SURVEILLANCE CAMERAS” at the New Fern’s Hotel.*

## Visitor Fees

Some hotels charge a small fee (typically \$5 to \$10) to residents who bring guests into his or her room. Because questions about visitor fees were not included in the hotel survey, it is not known how widespread the practice is; however, at least one hotel, the Sutter, has previously indicated to city staff that they do charge the fees. The reason for such fees is a matter of dispute. Visitor fees may be a method for hotels to tacitly condone and profit from drug dealing or prostitution among residents. The Sutter Hotel, however, firmly insists that they were directed to charge the fees by the Oakland Police Department, as a way of preventing illegal activity. The beat police officer for the area was unfamiliar with the practice of visitor fees and was not aware of any directives by the police department in this regard.



# Legal Actions

If a hotel or other dwelling is exhibiting a pattern of mismanagement, tolerance of crime, or other nuisance behavior, the City Attorney's Office may choose to take legal action. Operating agreements and receivership are the two main forms of legal action available to the city attorney's office for handling troubled SRO properties.

## Operating Agreements

Before pursuing legal action through the courts, the City Attorney's Office may attempt to come to an operating agreement with a property owner. Such agreements are legally binding conditions placed on the property in order to address a serious problem. For example, the owner of a crime-ridden property may agree to install security features such as gates, surveillance equipment, and lighting. In cases where a hotel has a recurrent pattern of tolerating or condoning human trafficking or other crimes, the City Attorney's Office may push for even stronger measures, such as requiring the owners to delegate management to an outside company.

## Receivership

An additional tactic for dealing with mismanaged properties is to place them into receivership. This action must be approved by a municipal court. Receivership can be granted for habitability issues or a pattern of crime at a property. California Civil Code also allows the courts to grant receivership using an "equitable approach," which involves subjective consideration of a wide range of factors. Courts often hear testimony from tenants, and may also consider whether the property managers are making a good-faith effort to address code violations.

Under receivership, a court-appointed third party acts as the manager of the property for a set period of time. The third party manager is obligated to address the problems that triggered receivership, while also acting in the financial best interests of the property owner. The management company may take out a loan to make improvements, with a priority lien placed against the property. Receivership does not usually require a transfer of ownership, although the owner may voluntarily choose to sell the property in order to pay back debts acquired.

After a set period of time (usually not more than three years), control of the property is restored to the owner. Additional conditions may be placed upon the property once control has been restored to the owner.

For example, an outside management company may be required to monitor the property on an ongoing basis.

Properties may also be shut down entirely for a period of time, with all of the residents required to vacate the premises. This tactic has been used in Oakland for tourist hotels with a track record of condoning prostitution. This is generally not a practical solution for hotels with permanent residents who have few other housing options. During receivership, eviction of tenants must still be based on just cause.

## Cases of Receivership

In 2015, the courts ordered receivership at two residential hotels. The West Grand Hotel, at 641 West Grand Avenue, was taken into receivership in May of 2015. The Empyrean Towers, at 344 13th Street, was approved for receivership on June 26, 2015.

The West Grand Hotel was placed into receivership due to a high volume of drug arrests, as well as habitability issues. There were numerous fire safety violations, such as an inoperable sprinkler system and blocked fire escapes. The owners had also neglected to repair several plumbing leaks and electrical hazards.

The Empyrean Towers was placed into receivership using an equitable approach. Unsafe water, plumbing leaks, and faulty heating and electrical wiring were some of the problems contributing to the court's decision. The Tenant Defense Center, a nonprofit legal association, was a key advocate in bringing evidence of code violations to the attention of the City Attorney's Office.

The receivership action on the Empyrean Towers was concurrent with several news reports highlighting the poor living conditions of the hotel. News channel KTVU ran an expose detailing the plumbing, electrical, and other hazards of the building. In response to these stories, Oakland Mayor Libby Schaaf expressed her support for a more proactive inspection process. "We can't let living conditions get to the way that they are at these towers," Schaaf emphasized.

The Empyrean Towers also made the news under its previous name of the Hotel Menlo. In January of 2011, owner Richard Singer was caught on film attempting to pay an undercover agent to commit arson on the hotel. Singer was fined \$60,000 and sentenced to 27 months in prison for soliciting a crime of violence.

## Preservation Efforts for Oakland's Residential Hotels

In 2003, Oakland's Redevelopment Agency passed a resolution adopting a replacement housing policy for SRO units. The policy stated that any redevelopment project which resulted in the loss of SRO units from the market required a one-for-one replacement elsewhere within the city. This law only applied to developments carried out or funded in part by the Redevelopment Agency itself.

In 2012, the state dissolved all redevelopment agencies within California. Upon dissolution of the Oakland Redevelopment Agency, the City assumed the housing functions and obligations of the former Redevelopment Agency, including the SRO replacement housing policy. Therefore, the policy would continue to apply to the City to the extent that former redevelopment funds are being used to assist a project that results in the loss of SRO units in

Oakland.

Oakland's Municipal Code also contains a section (§ 17.102.230) governing rooming units in nonresidential zones, which describes most SROs. Property owners wishing to demolish such units or convert them to nonresidential uses must apply for a conditional use permit. The criteria for permit approval are somewhat subjective; one criterion is "That the benefits to the City resulting from the proposed demolition or conversion will outweigh the loss of a unit from the City's housing supply." Housing advocates such as East Bay Housing Organizations (EBHO) have long sought to establish stricter criteria for demolition or conversion of SRO units, in order to prevent displacement of Oakland's low-income residents.



*The stairs at Emphyrean Towers are enclosed by a metal cage. Reports indicate that the elevator is frequently out of service for tenants.*



*The Moor Hotel has been shuttered since prior to the 2004 report.*

## Relevant Legal Statutes for Regulation of SROs

### Demolition or Conversion of Rooming Units

Oakland Municipal Code § 17.102.230

*Requires property owners wishing to demolish or convert dwelling units in nonresidential locations to acquire a conditional use permit from the City of Oakland. Outlines criteria for granting such a permit.*

### Tenant Protection Ordinance (TPO)

Oakland Municipal Code § 8.22.600-8.22.680

*Prohibits harassing behaviors by landlords against tenants.*

### Just Cause for Eviction Ordinance

Oakland Municipal Code § 8.22.300-390

*Guests are considered permanent tenants after 30 days. Landlords cannot evict permanent tenants without just cause.*

### Evasion of Permanent Tenant Status

California Civil Code § 1940.1

*Prohibits landlords from requiring guests to check out before 30 days and check back in shortly thereafter for the sole purpose of preventing them from becoming permanent tenants.*

### Nuisance Eviction Ordinance

Oakland Municipal Code § 8.23.100

*The city may carry out evictions of residents convicted of drug-related offenses, violent crimes, or prostitution.*

### Ellis Act

California Civil Code § 7060-7060.7

*Permits landlords to evict tenants for the purpose of exiting the rental housing market.*

### Rent Adjustment Ordinance

Oakland Municipal Code § 8.22.010-8.22.200

*Sets maximum rent increases on all rental properties occupied before 1983. Increase is tied to consumer price index.*

### Red Light Abatement Act

California Penal Code § 11225-11235

*Allows prosecution of hotel owners that condone prostitution on their premises.*

### Generalized Drug Nuisance Abatement Act

California Health & Safety Code § 11570-11587

*Defines properties in which drug use or sales take place as a public nuisance.*

## Agencies Responsible for Monitoring SROs

### Building Services

[www2.oaklandnet.com/Government/o/PBN/OurOrganization/BuildingServices](http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/BuildingServices)

*Responsible for code enforcement, inspections, and permits.*

### Vector Control

(510) 567-6800 || [www.acvcgsd.org](http://www.acvcgsd.org)

*Responsible for controlling any animals that spread disease, including rats, roaches, and bedbugs.*

### Fire Department

911 || Fire Prevention Bureau (510) 238-3851

*Inspects buildings for fire safety, including properly functioning emergency exits, fire extinguishers, and sprinkler systems. Issues permits.*

### Police Department

911 || Non-emergency number (510) 777-3333

*Responds to crime and emergency complaints.*

### City Attorney's Office

[www.oaklandcityattorney.org](http://www.oaklandcityattorney.org)

*Prosecutes crimes. Has targeted residential hotels found to be in gross violation of health and safety standards.*

### California Tax Credit Allocation Committee (CTCAC)

[www.treasurer.ca.gov/ctcac](http://www.treasurer.ca.gov/ctcac)

*Monitors properties that receive tax credit funding to ensure they are serving low-income residents as legally required.*

## Oakland's SROs in the News

### Hotel Travelers

**“Damon Lawrence, founder of the Homage Hotel Group, is making plans to open the Town Hotel in downtown Oakland. The Town Hotel will replace an existing hotel at 392 11th St.”**

Sciaccia, Annie. “New Boutique Hotel Heads to Downtown Oakland.” *San Francisco Business Times*. 6 May, 2015. Web. 15 September 2015.  
<http://www.bizjournals.com/sanfrancisco/blog/2015/05/new-boutique-hotel-heads-to-downtown-oakland.html>

### California Hotel

**“At the end of a three-year, \$43 million rehabilitation, the historic 1929 landmark is a beacon again...Only 26 defiant tenants were still living in the falling-apart hotel that overlooks Interstate 580 when EBALDC bought the property in 2011.”**

O’Brien, Matt. “California Hotel Reopens as a Home for Low-Income Residents.” *Contra Costa Times*. May 15, 2014. Web. 15 September 2015.  
[http://www.contracostatimes.com/news/ci\\_25771994/oakland-california-hotel-reopens-home-low-income-residents](http://www.contracostatimes.com/news/ci_25771994/oakland-california-hotel-reopens-home-low-income-residents)

### Grand Hotel

**“Every tenant in our city has a right to safe and humane living conditions...Unfortunately the owners of the West Grand Hotel treat their tenants as nothing more than ATM machines while their buildings literally fall apart.”**

**Oakland City Attorney Barbara Parker**

“Oakland Seeks to Shut Down Hotel Alleging Squalid Conditions.” *ABC 7 News*. 6 August 2014. Web. 15 September 2015.  
<http://abc7news.com/news/oakland-seeks-to-shut-down-hotel-alleging-squalid-conditions/246321/>

### Savoy Apartments

**“We’re happy to create a pocket of affordability in a neighborhood that will soon be unaffordable.”**

Torres, Blanca. “Developer turns two run-down Oakland hotels into new housing.” *San Francisco Business Times*. 22 October 2013. Web. 15 September 2015.  
<http://www.bizjournals.com/sanfrancisco/blog/real-estate/2013/10/satellite-affordable-housing-oakland.html>

## Empyrean Towers

**“We can’t let living conditions get to the way that they are at these towers.”**

**Mayor Libby Schaaf**

“City of Oakland files lawsuit against owners of troubled hotel.” *KTVU*. 25 April 2015. Web. 15 September 2015.  
<http://www.ktvu.com/news/4317940-story>

**“Every morning for the last year, I’ve woke up nauseous, and four out of seven days, I’ve vomited,” Anast said. “I didn’t realize it was going on throughout the hotel until I started talking to other tenants.”**

Fraley, Malaika. “Contaminated water forces out about 100 residents of Oakland residential hotel.” *San Jose Mercury News*. 8 May 2015. Web. 15 September 2015.  
[http://www.mercurynews.com/ci\\_28077744/contaminated-water-forces-out-around-100-residents-oakland](http://www.mercurynews.com/ci_28077744/contaminated-water-forces-out-around-100-residents-oakland)

**“Fire damage, broken toilets, missing smoke detectors and uncollected garbage are just some of the problems on a long list of complaints reported by tenants of the Empyrean Towers in downtown Oakland.”**

“Mounting problems, complaints at notorious Bay Area hotel.” *KTVU*. February 5, 2015. Web. 15 September 2015.  
<http://www.ktvu.com/news/4156581-story>

**“The defendant provided a check in the amount of \$1,500 for the materials necessary to commit the arson. The defendant admitted that he had agreed to pay a total of \$65,000 after the Hotel Menlo was successfully burned down.”**

“Richard Singer Convicted of Soliciting Arson.” *Federal Bureau of Investigation*. August 31, 2011. Web. 15 September 2015.  
<https://www.fbi.gov/sanfrancisco/press-releases/2011/richard-singer-convicted-of-soliciting-arson>

## Regulation of Residential Hotels in Other Cities

Many cities have passed legislation specifically targeting residential hotels in recent years. Some laws seek to preserve the hotels' role as housing for the poor. Others address habitability issues. Below is a summary of some of the characteristics and regulatory landscape of SROs in other cities.

- **San Francisco** has 523 residential hotels, with nearly 10,000 units in total.<sup>1</sup> The San Francisco Residential Hotel Unit Conversion and Demolition Ordinance of 1980 restricts the conversion of SROs to uses other than tourist hotels. In 2012, San Francisco's Department of Public Health adopted an extensive set of mandatory treatment practices for bedbug prevention.

- **Los Angeles** has 336 residential hotels, with 18,739 units.<sup>2</sup> Most of these units are located downtown, primarily in the Skid Row area. In 2005, Los Angeles instituted a temporary moratorium on converting or demolishing SROs. In 2008, a comprehensive SRO ordinance was passed. The law requires hotel owners who demolish SROs to replace them within two miles of the existing building or pay the city for the land acquisition costs and 80% of the construction costs of a new development.

- **San Diego** requires long-term tenants to be given 60 days' notice and approximately two months' rent in the event of a hotel closure. SRO owners who want to demolish, convert or close an SRO must replace each unit with an SRO unit or pay a fee. However, many SRO owners have been granted exemptions to the law by notifying the city before January 2004 that they would

eventually go out business.<sup>3</sup>

- **Portland** has adopted minimum standards for SROs. Rooms must be 100 square feet, and each floor must have a cooking facility.<sup>4</sup>

- **Chicago** had 81 remaining residential hotels as of 2012. In 2014, Chicago passed an ordinance making it more difficult to convert SRO hotels to upscale apartments or condos. The ordinance requires owners to either find a buyer to maintain the building's affordability status for 15 years or pay \$20,000 per unit into an SRO preservation fund. Displaced tenants would also receive between a lump sum, between \$2,000 and \$10,600, to help pay for relocation costs.<sup>5</sup>

- **New York** passed Local Law 19 in 1983, requiring any SRO landlord wishing to redevelop an SRO building to demonstrate that there had been no harassment of SRO residents in the previous three years. Former Mayor Ed Koch also initiated an SRO Support Subsidy Program to provide financial support for nonprofit organizations renovating and preserving residential hotels. This policy continues today.<sup>6</sup>

1 Figures provided by office of San Francisco County Supervisor Mark Farrell.

2 Scott, Ana. "New Law Protects Residential Hotels." *LA Downtown News*. LA Downtown News. 12 May 2008. Web. 15 September 2015.

3 Garrick, David. "Old housing law drawing fire." *San Diego Union Tribune*. Tribune Publishing. 18 April 2015. Web. 15 September 2015.

4 "29.30.290 Special Standards for Single-Room Occupancy Housing Units." PortlandOnline RSS. Web. 15 Sept. 2015. <http://www.portlandonline.com/auditor/index.cfm?a=18218&c=28732>

5 Wisniewski, Mary. "Chicago passes rules to stem redevelopment of cheap hotels." *Reuters*. Reuters. 12 November 2014. Web. 15 September 2015.

6 "History of Supportive Housing." History of Supportive Housing. Web. 15 Sept. 2015. <http://shnny.org/learn-more/history-of-supportive-housing/>

### Cross-subsidization: the Skwachàys Lodge model

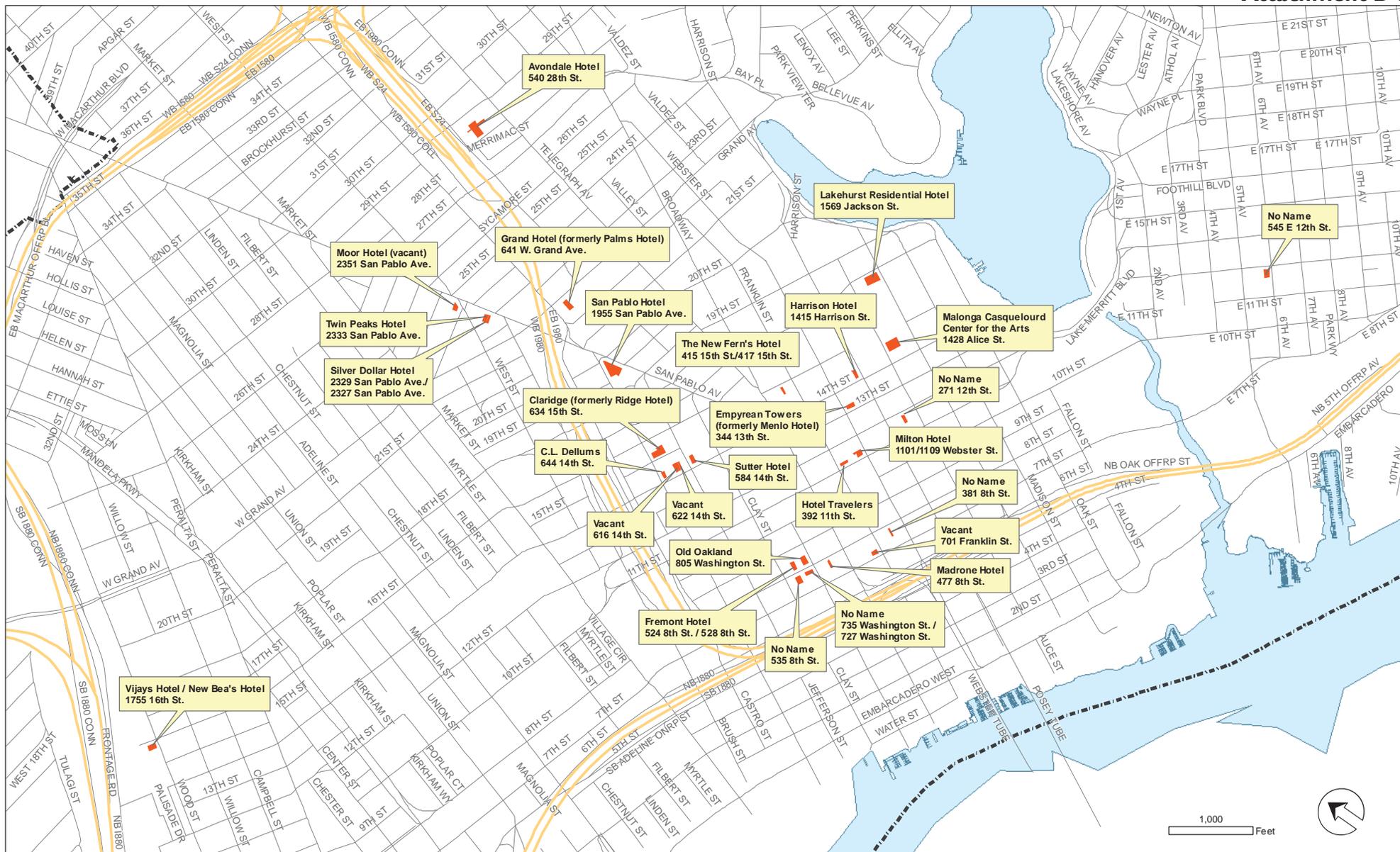
The economic pressures of gentrification and scarce housing are not unique to Oakland. The Gastown district in Vancouver, Canada, is home to both numerous SROs and new luxury condos. Demand for hotels continues to increase as Vancouver has become a popular travel destination in recent years. One former SRO was recently converted to a tourist hotel, with a twist: 18 of the units were devoted to tourist rentals, with the profits used to subsidize the remaining 24 units of affordable housing. The hotel, Skwachàys Lodge, is dedicated to preserving indigenous First Nations culture. The ground-floor is a



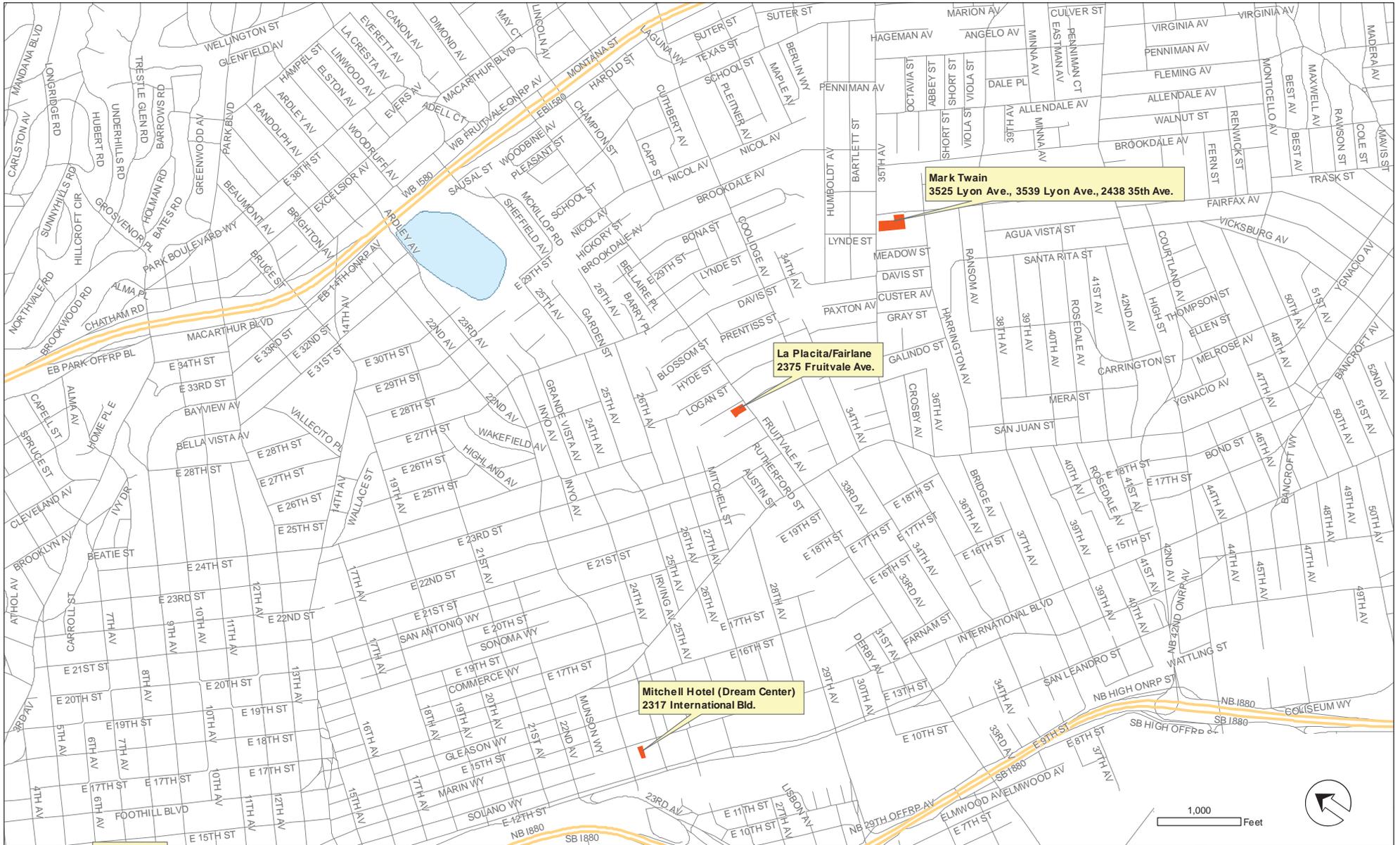
Photo: [skwachays.com](http://skwachays.com)

First Nations art gallery, and the long-term residents are aboriginal "artists-in-residence," some of whom helped design the First Nations-inspired rooms. The affordable housing is funded entirely free of government subsidies.

The Skwachàys Lodge founders intended their business model to serve as a template for other regions. The program is not a panacea; the renovated building has still displaced about half of its permanent residents in favor of tourists. Nevertheless, the hotel is one example of how organizations can produce high-quality affordable housing in the absence of government financing.



# Preliminary Identification of Residential Hotels – Downtown & West Oakland



# Preliminary Identification of Residential Hotels – East Oakland

## **Community Engagement Summary**

Staff has conducted extensive community outreach, with a wide range of stakeholders, in order to formulate a comprehensive understanding of the role residential hotels play for Oakland’s residents, property owners, and activists.

### **I. Summary of Resident Engagement**

Throughout July and August of 2018, the City of Oakland’s Planning and Building Department conducted a series of outreach activities in order to better understand the experiences, motivations, and concerns of residents of Residential Hotels. The team conducted two focus groups – one at San Pablo Hotel on July 27<sup>th</sup>, and one at Empyrean Towers on July 31<sup>st</sup> – with a total of two dozen attendees. The team also conducted twenty surveys, and conducted one in-depth resident interview. In addition to providing insight into the demographic composition of Residential Hotels, these efforts helped elucidate three themes of high importance – (1) *accessibility*, (2) *housing stability and security*, and (3) *common spaces*.

#### *Demographic Information:*

SRO residents are a specifically vulnerable population, as 80% of survey respondents have disabilities, and 85% over the age of 60. Only 25% of this high-need population has the support of a Section 8 voucher, and would thus face severe hardship were they to lose their current housing. Additionally, of the 20 respondents, 75% identify as people of color, 55% are male. Focus group attendees stated that SROs are an important source of long-term housing stability – the vast majority acknowledged that they had either been at their current SRO for over a year, planned to stay for an extended period of time, or had years-long stays at SROs in the past.

#### *Accessibility:*

Accessibility was consistently singled out as a chief complaint of SRO residents. Focus group and interview participants noted elevators and handrails as having a large impact on their quality of life; given the large percentage of seniors and persons with disabilities, daily life is a struggle without such infrastructure. Residents noted that they would avoid running errands or leaving their rooms because of the mobility challenges presented by their places of residence. Improving accessibility, participants said, would have a large impact on their quality of life, regardless of the state of the finishes, walls, rugs, and floors in their buildings.

#### *Housing Stability and Security:*

Throughout two focus groups and one interview, security and stability of housing consistently emerged as the issue of greatest importance to residents of Residential Hotels. Interview and focus group participants noted that they could not afford a significant rent increase, and would have no options other than homelessness were they to face one. While there was a general consensus that they would prefer to pay a small amount more each month for improved living conditions, they repeatedly emphasized that, although they would happily accept upgrades like having private bathrooms, kitchenettes or more reliable elevator service, their highest priority was housing security and assurance they would not be priced out or asked to move out of their units. Focus group and interview participants noted stability – not having to move – as the best aspect of their current housing situation.

*Common Spaces:*

Although common spaces were noted to be of less importance than affordability and accessibility, they play a large role in the lives of residents. Focus group and interview participants noted the common spaces as one of the best aspects of their living situation, as they provide an opportunity to interact with other residents and build community. They are of particular importance to residents with disabilities and those who serve as caretakers, as they are not able to venture far from their building. One resident in particular said she chose her SRO over an opportunity to move into her own one-bedroom unit whose building lacked community rooms.

**II. SRO Property Owner Meeting Synopsis**

*Summary:*

Staff hosted a meeting with the owners and representatives of Residential Hotels, which was attended by representatives of six (6) different Residential Hotels in Oakland. The meeting took place the evening of August 22<sup>nd</sup>, 2018. Three common themes consistently emerged throughout the meeting – (1) *burden and inflexibility of excessive regulation*, (2) *difficulty of operating a Residential Hotel*, (3) *difficulty of financing, developing, and bringing new units to market*. It should be noted that only two attending property owners had owned their respective properties for more than five years.

*Burden and Inflexibility of Excessive Regulation:*

Owners consistently brought up the ways in which regulations hindered them from effectively managing, improving, and profiting from their buildings. They felt that regulations often become outdated by the market or economic conditions, and hold them accountable to antiquated requirements. Rather than being “regressive,” several owners claimed that regulations should be “progressive.” Several owners cited the seemingly counter-intuitive prohibition of adding bathrooms to a facility at the expense of Rooming Units. One attendee suggested clearly stipulating the goals of any forthcoming regulations, and reviewing them after a predetermined period of time to gauge their effectiveness in achieving the desired outcomes; if the regulations are not shown to effectively advance the goals, they would be repealed and replaced with different measures. This suggestion received support from other meeting attendees.

*Difficulty of Operating a Residential Hotel:*

Over the course of the meeting, owners continuously stressed the difficulty of operating and maintaining a Residential Hotel. One major component of their difficulty is compliance with myriad ordinances and regulations. They feel it is impossible to keep abreast of each requirement necessary to remain in compliance with local and state regulations. They also noted the extensive paperwork required to prove said compliance. The other major challenge is the day-to-day operations of the Residential Hotels. Owners are faced with issues of crime, mental illness, and sanitation that are very financially and emotionally straining. Rather than being vilified for the condition of their buildings and their residents, property owners feel they should be thanked for providing the important service of housing this high-need population. The costs required of dealing with this population makes it such that they get very little revenue from the buildings.

*Difficulty Financing, Developing, and Bringing New Units to Market:*

Several of the property owners, especially those who purchased their buildings more recently, complained that excessive regulation makes it difficult to create new – or improve existing – housing stock. Fees, fines, and staff time required to stay on top of paperwork make it difficult for projects to be profitable enough to justify new development or improvement. Additionally, one owner noted that constricting regulations dissuade investors and lenders, making it difficult to secure the financing necessary to develop new or rehabilitate existing units.

*Key Question:*

Several property owners inquired as to whether they would be able to abide by regulations – pertaining to conversion, rehabilitation, and demolition – of existing units, while building additional units above. They wanted to know what requirements would be ascribed to the new development, and if they would be subjected to standard new development fees and requirements, or if there would be anything additional due to the location of new units above existing SRO units.

# Proposed Planning Code Amendments

All changes are illustrated as underline for additions and ~~strikeout~~ for deletions.

- Changes to Table of Contents..... page 2
- Changes to Chapter 17.10 (land use activities)..... page 3
- Changes to Chapter 17.54, 56, 74, 76 and 78 (references to 17.102.230)..... page 5
- Changes to Section 17.102.230 (existing regulations related to Rooming Units)..... page 8
- Changes to Section 17.134.020.A.3 (special situations requiring a Major Conditional Use Permit)..... page 10
- New Chapter 17.153 Demolition, Conversion and Rehabilitation Regulations for Residential Hotels..... page 11

**Title 17 PLANNING**

**Chapters:**

Chapter 17.138 - DEVELOPMENT AGREEMENT PROCEDURE

Chapter 17.140 - PLANNED UNIT DEVELOPMENT PROCEDURE

Chapter 17.142 - MINI-LOT AND PLANNED UNIT DEVELOPMENT REGULATIONS

Chapter 17.144 - REZONING AND LAW CHANGE PROCEDURE

Chapter 17.148 - VARIANCE PROCEDURE

Chapter 17.150 - FEE SCHEDULE

Chapter 17.152 - ENFORCEMENT

[Chapter 17.153 - DEMOLITION, CONVERSION AND REHABILITATION OF RESIDENTIAL HOTELS](#)

Chapter 17.154 - ZONING MAPS

Chapter 17.155 - SPECIAL REGULATIONS APPLYING TO MINING AND QUARRYING EXTRACTIVE ACTIVITIES

Chapter 17.156 - DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

Chapter 17.157 - DEEMED APPROVED HOTEL AND ROOMING HOUSE REGULATIONS

Chapter 17.158 - ENVIRONMENTAL REVIEW REGULATIONS

**Chapter 17.10 USE CLASSIFICATIONS**

**Sections:**

**Article II - Activity Types**

Part 1 - Residential Activity Types

Part 3 - Commercial Activity Types

**Article II Activity Types**

**Part 1 Residential Activity Types**

17.10.110 Permanent Residential Activities.

17.10.118 Emergency Shelter Residential Activities.

17.10.120 Semi-Transient Residential Activities.

17.10.125 Bed and Breakfast Residential Activities.

**17.10.110 Permanent Residential Activities.**

Permanent Residential Activities include the occupancy of living accommodations on a ~~weekly~~thirty (30) days or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis; but exclude institutional living arrangements other than state-licensed Residential Care Facilities for six (6) or fewer residents. However, such state-licensed Residential Care Facilities shall be subject to the three hundred (300) foot separation requirement in Section 17.103.010.B. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.118 Emergency Shelter Residential Activities.**

Emergency Shelter Residential Activities include the provision of short term housing, ~~partly on a less-than-weekly basis and partly for a longer period,~~ with or without a fee, to individuals and families who are homeless and who may require special services. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.120 Semi-Transient Residential Activities.**

Semi-Transient Residential Activities include the occupancy of living accommodations partly on a ~~weekly~~thirty (30) days or longer basis and partly for a shorter time period, but with less than thirty percent (30%) of the living units under the same ownership or management on the same lot being occupied on a less-than-~~weekly~~thirty (30) day basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.125 Bed and Breakfast Residential Activities.**

The provision of lodging services to transient guests on a less-than-~~weekly~~thirty (30) day basis, other than in the case of activities classified by Section 17.10.440 Transient Habitation Commercial Activities or by another Residential Activity (Sections 17.10.100 through 17.10.120), that have each of the following characteristics:

- A. The activity occupies a One-Family Dwelling Residential Facility, One-Family Dwelling with Secondary Unit Residential Facility, or a Two-Family Dwelling Residential Facility;
- B. The activity allows no more than twelve (12) adult paying guests at any time and contains no more than six (6) guest units;
- C. The activity is located in a facility that is owner occupied;
- D. The activity is located in a facility on a property with an existing or contingency historic rating of "A", "B", "C", or "D", or is a Landmark according to the City of Oakland Office of Historic Preservation;
- E. The facility includes incidental eating and drinking services for lodgers only that are provided from a single kitchen per Bed and Breakfast establishment.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Part 3 Commercial Activity Types**

**17.10.440 Transient Habitation Commercial Activities.**

**17.10.440 Transient Habitation Commercial Activities.**

Transient Habitation Commercial Activities include the provision of lodging services to transient guests on a less-than-~~weekly~~thirty (30) day basis, other than in the case of activities classified by Section 17.10.120 Semi-Transient Residential Activities or Section 17.10.125 Bed and Breakfast Residential Activities. Examples include hotels and motels. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Chapter 17.54 C-40 COMMUNITY THOROUGHFARE COMMERCIAL ZONE REGULATIONS**

**Sections:**

17.54.010 Title, purpose, and applicability.

17.54.040 Required design review process.

17.54.050 Permitted activities.

17.54.060 Conditionally permitted activities.

17.54.070 Permitted facilities.

17.54.080 Conditionally permitted facilities.

17.54.090 Special regulations applying to certain activities.

17.54.095 Reserved.

17.54.100 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a Nonresidential Aactivity.

**17.54.100 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a nonresidential Aactivity.**

See Section 17.102.230.

**Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS**

**Sections:**

17.56.010 Title, purpose, and applicability.

17.56.040 Required design review process.

17.56.050 Permitted activities.

17.56.060 Conditionally permitted activities.

17.56.070 Permitted facilities.

17.56.080 Conditionally permitted facilities.

17.56.090 Restriction on accessory parking and loading within 75 feet of front lot line.

17.56.095 Special regulations regarding extensive agriculture.

17.56.100 Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages.

17.56.105 Reserved.

17.56.110 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a Nonresidential Aactivity.

17.56.110 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a nNonresidential Aactivity.

See Section 17.102.230.

#### **Chapter 17.74 S-1 MEDICAL CENTER COMMERCIAL ZONE REGULATIONS**

##### **Sections:**

17.74.010 Title, purpose, and applicability.

17.74.020 Required design review process.

17.74.030 Permitted activities.

17.74.040 Conditionally permitted activities.

17.74.050 Permitted facilities.

17.74.060 Conditionally permitted facilities.

17.74.070 Special regulations applying to certain Commercial Activities.

17.74.075 Special regulations applying to Extensive Agriculture.

17.74.080 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a Nonresidential Aactivity.

17.74.080 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a nNonresidential Aactivity.

See Section 17.102.230.

#### **Chapter 17.76 S-2 CIVIC CENTER COMMERCIAL ZONE REGULATIONS**

##### **Sections:**

17.76.010 Title, purpose, and applicability.

17.76.040 Required design review process.

17.76.050 Permitted activities.

17.76.060 Conditionally permitted activities.

17.76.070 Permitted facilities.

17.76.080 Conditionally permitted facilities.

17.76.090 Special regulations applying to certain Commercial Activities.

17.76.095 Special regulations applying to Extensive Agriculture.

17.76.100 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a Nonresidential Aactivity.

17.76.100 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a nonresidential Aactivity.

See Section 17.102.230.

#### Chapter 17.78 S-3 RESEARCH CENTER COMMERCIAL ZONE REGULATIONS

##### Sections:

17.78.010 Title, purpose, and applicability.

17.78.020 Required design review process.

17.78.030 Permitted activities.

17.78.040 Conditionally permitted activities.

17.78.050 Permitted facilities.

17.78.060 Conditionally permitted facilities.

17.78.065 Special regulations applying to Extensive Agriculture.

17.78.070 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a Nonresidential Aactivity.

17.78.070 Special regulations applying to the ~~demolition of a facility containing rooming units or to the conversion of a living~~conversion of a dwelling unit to a nonresidential Aactivity.

See Section 17.102.230.

## Chapter 17.102 REGULATIONS APPLICABLE TO CERTAIN ACTIVITIES AND FACILITIES

## Sections:

17.102.230 ~~Demolition of a facility containing rooming units or to the~~ Cconversion of a living dwelling unit to a Nonresidential Activity—~~Nonresidential Zones.~~

17.102.230 —~~Demolition of a facility containing rooming units or the~~ Cconversion of a living dwelling unit to a Nonresidential Activity—~~Nonresidential Zones.~~

- A. Conditional Use Permit Requirement. The ~~demolition of a facility containing, or intended to contain, rooming units, or the~~ conversion of a living dwelling unit, other than those considered Residential Hotel Units per Chapter 17.153, from its present or last previous use by a Permanent Residential Activity, or a Semi-Transient Residential Activity, ~~or a Transient Habitation Commercial Activity~~ to its use by a Nonresidential Activity ~~other than Transient Habitation Commercial~~ is only permitted ~~in a Nonresidential Zone~~ upon the granting of a conditional use permit Conditional Use Permit pursuant to the ~~conditional use permit~~ Conditional Use Permit procedure in Chapter 17.134. The only ~~exceptions~~ exception to this requirement are conversions in the HBX Zones, ~~and units in a One-Family or Two-Family Residential Facility.~~ Such permit may be granted only upon determination that the proposed ~~demolition or~~ conversion conforms to the general use permit criteria set forth in the ~~conditional use permit~~ Conditional Use Permit procedure and to at least one of the following additional use permit criteria:
1. ~~That the facility proposed for demolition or the living~~ The dwelling unit proposed for conversion is unoccupied ~~and is,~~ or is situated in, a residential building that has been found, determined, and declared to be substandard or unsafe pursuant to Subsection 15.08.350-~~(B)~~ of the Oakland Municipal Code; or
  2. ~~That a~~ A replacement ~~rental~~ unit, comparable equivalent in affordability and type to each unit proposed for ~~demolition or~~ conversion, will be added to the City's housing supply prior to the proposed ~~demolition or~~ conversion taking place; or
  3. ~~That the~~ The benefits to the City resulting from the proposed ~~demolition or~~ conversion will outweigh the loss of a unit from the City's housing supply; ~~or,~~
  4. ~~That the conversion will be an integral part of a rehabilitation project involving both Residential and Nonresidential Activities, and that the rehabilitation project would not be economically feasible unless some Nonresidential Activity were permitted within it.~~
- B. Tenant Assistance. Upon the granting of a ~~conditional use permit~~ Conditional Use Permit for the ~~demolition of a facility containing rooming units or for the~~ conversion of a living dwelling unit to a Nonresidential Activity, the actual ~~demolition or~~ conversion cannot take place until the following have occurred:

1. ~~If a dwelling unit is to be converted, the~~Any tenant has been given a one hundred twenty (120) day written notice of the conversion. ~~If a rooming unit is to be demolished or converted, the tenant, if a permanent tenant, has been given a seventy five (75) day written notice of the demolition or conversion.~~ All such written notices shall comply with the legal requirements for service by mail.
2. ~~If a dwelling unit is to be converted, the tenant has been provided with a relocation allowance equal to one (1) month's rent or five hundred dollars (\$500.00), whichever is greater. If a rooming unit is to be demolished or converted, the~~The owner of the building containing the dwelling unit to be ~~demolished or converted~~ has referred the tenant ~~(if a permanent tenant) to a comparable~~to an equivalent, available unit; ~~if a comparable unit is~~the tenant chooses not available, ~~the permanent~~to live in the equivalent dwelling unit, the tenant has been provided with a relocation allowance, as specified in Section 8.22.450 of the Oakland Municipal Code, including any additional payments for tenant ~~has been provided with a relocation allowance equal to one (1) month's rent or five hundred dollars (\$500.00), whichever is greater.~~households that contain members who qualify as lower income, elderly, disabled and/or minor children, as set forth in Oakland Municipal Code Section 8.22.450(B).
3. The Director of City Planning has been provided with proof that the above actions have been taken. ~~(As used in this Section, a permanent tenant of a rooming unit is defined as a tenant maintaining occupancy for six (6) months or more at a hotel or motel where the innkeeper does not retain a right of access and control of the unit and where the hotel or motel does not provide or offer all of the following services to all of the residents: safe deposit boxes for personal property; central telephone service; central dining; maid, mail, room, and recreational service; and occupancy for periods of less than seven (7) days.)~~

## Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE

### 17.134.020 Definition of major and minor conditional use permits.

A. **Major Conditional Use Permit.** A Conditional Use Permit (CUP) is considered a Major Conditional Use Permit if it involves any of the following:

3. **Special Situations.** Any project requiring a Conditional Use Permit that involves any of the following situations:
  - a. A project requiring development of an Environmental Impact Report (EIR);
  - b. A single establishment containing a Commercial or Industrial Activity, or portion thereof, which is located in any Residential Zone and occupies more than five thousand (5,000) square feet of floor area, except where the proposal involves only the resumption of a nonconforming activity;
  - c. Off-Street Parking Facilities in the C-40, CBD-P, CBD-C, CBD-X, S-2, and D-LM Zones serving fifty (50) or more vehicles;
  - d. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any Residential or HBX Zone;
  - e. A project in the OS Zone listed as requiring a Major Conditional Use Permit in Chapter 17.11;
  - f. An Electroplating Activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;
  - g. A Telecommunications Facility in or within one hundred (100) feet of the boundary of any Residential Zone, HBX Zone, or the D-CE-3 or D-CE-4 Zone;
  - h. A Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zone;
  - i. A project requiring a Conditional Use Permit as set forth under Section 17.153.050 for any demolition or conversion of residential hotel units or a residential hotel.

**Chapter 17.153 DEMOLITION, CONVERSION AND REHABILITATION REGULATIONS FOR RESIDENTIAL HOTELS**

**Sections:**

17.153.010 Title, purpose and findings

17.153.020 Definitions

17.153.030 Status determination

17.153.040 Restrictions

17.153.050 Conditional Use Permit requirement

17.153.060 Exceptions to restrictions and the Conditional Use Permit requirement

17.153.070 Waivers determination and appeals process

17.153.080 Administrative regulations

17.153.090 Conflicting provisions

**17.153.010 Title, purpose and findings**

**A. Title.** The provisions of this Chapter shall be known as the Demolition, Conversion and Rehabilitation Regulations for Residential Hotels.

**B. Purpose.** The purpose of this Chapter is to minimize adverse impact on the housing supply and on low income, elderly, and disabled persons resulting from the loss of Residential Hotel Units as a naturally affordable housing option. This is to be accomplished by establishing a process for identifying and preparing a registry of know existing Residential Hotel Units, and by regulating the demolition, conversion and rehabilitation of Residential Hotel Units.

**C. Findings.** The City Council finds that:

1. The City of Oakland is experiencing a severe housing affordability crisis that requires immediate emergency action by the City government.
2. Residential Hotels are often housing of last resort for the poor, especially in areas with extremely high costs of housing such as Oakland.
3. The housing affordability crisis continues to overwhelm Oakland residents and threatens the public health, safety and/or welfare of our citizenry.
4. A number of economic forces, including the dearth of hotels and the high cost of new construction in Oakland, create incentives for developers to purchase Residential Hotels and repurpose them for non-residential uses, such as boutique hotels, or

reconfigure them for other residential uses that result in the displacement of existing tenants or the removal of rental units from the market.

5. The loss of Residential Hotels in Oakland would exacerbate the already overwhelming burden on public and non-profit agencies that provide protective, social, health, psychological, nutritional, and other important and necessary services to the tenant population of such hotels.
6. The City Council has determined that Residential Hotels are an essential component of the City's supply of Naturally Occurring Affordable Housing (NOAH) as they are a flexible and easily accessible form of housing that provides low, very low, and extremely low-income residents the ability to remain in Oakland and to avoid homelessness.
7. The City of Oakland Housing and Community Development Department prepared a report in September of 2015 which states that from 1985 through 2015, the City lost approximately 799 Residential Hotel units in Downtown Oakland, and many more units are at-risk of being lost or are already lost to the supply of NOAH units.
8. The California State Legislature has recognized the need for retaining Residential Hotels to provide housing for low, very low, and extremely low-income individuals in legislation, and in justifying such legislation:

*The Legislature finds and declares that the need for decent housing among individuals of very low and low income is great, and that residential hotels are often the only form of housing affordable to these individuals. Many residential hotels are in poor condition and in need of rehabilitation, and many are being demolished or converted to other uses. California Health and Safety Code § 50519(a)*
9. The unrestricted demolition, conversion or rehabilitation of Residential Hotels exacerbates the housing crisis by making such units unaffordable to low, very low, and extremely low-income Oakland residents, and may result in the displacement of Oakland residents from their homes and communities.
10. Based on the previous findings, the City finds that there is a current and immediate threat to the public health, safety, and/or welfare associated with the Demolition, Conversion and Rehabilitation of Residential Hotels.

### **17.153.020 Definitions**

The following terms, whenever used in this Chapter, shall be construed as defined herein. Words and phrases not defined herein shall be construed as defined in Chapter 17.09 of the Oakland Planning Code or in the Oakland Municipal Code.

“Affordable Housing Organization” means a religious, hospital, scientific, or charitable fund, foundation, limited liability company, or corporation, including a limited partnership in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, or a veterans' organization, as described by California Revenue and Taxation Code Section 214, subsection (g).

**“Affordable Housing Project”** means a property used primarily for rental housing and related facilities, owned or operated by an affordable housing organization where, pursuant to legally binding restrictions, all of the units are restricted as affordable housing at an affordable rent or affordable housing cost, as those terms are defined in California Health & Safety Code Section 50053 and 50052.5, to occupancy by extremely low, very low, low, and/or moderate-income households, as those terms are defined California Health and Safety Code Sections 50079.5, 50093, 50105 and 50106.

**“Conversion”** means any action that converts one or more existing Residential Hotel Units originally intended as a Permanent Occupancy Unit to a Transient Occupancy Unit, or converts the Residential Hotel to another Residential or Commercial Activity, as those terms are defined in Section 17.10.030 of the Oakland Planning Code, regardless of whether substantial improvements have been made to such units.

**“Demolition”** means any action that eliminates an existing Residential Hotel Unit, including but not limited to complete or partial demolition of a Residential Hotel unit, combining two or more existing Residential Hotel Units to make a larger new unit, or any other action.

**“Director”** means the Director of the Planning and Building Department, or the designee of the Director of the Planning and Building Department, or the designee of the City Administrator.

**“Occupancy Unit, Permanent”** means a Residential Hotel Unit that shall be restricted to occupancy by the same person or household for stays of thirty (30) or more consecutive days.

**“Occupancy Unit, Transient”** means a Residential Hotel Unit that is allowed to have occupancy by the same person or household for stays of fewer than thirty (30) consecutive days.

**“Owner”** means an owner of record of a Residential Hotel, or an entity or individual with a long-term lease or some form of equitable interest in a Residential Hotel.

**“Rehabilitation, Amenity”** means any action that reduces the size of Residential Hotel Units or eliminates or reduces the size of private or communal amenities in a Residential Hotel or Residential Hotel unit, such as bathrooms, kitchens, elevators or laundry through complete or partial removal of those facilities, including reduction in the number of toilets or sinks in a bathroom. It also means any action that adds a kitchen or kitchenette to a Rooming Unit within an existing Residential Hotel.

**“Residential Hotel”** is defined in accordance with California Health and Safety Code Section 50519, and means any building built before 1960 containing six (6) or more Rooming Units, as defined in Section 17.09.040, 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, which is also the primary residence of those guests, and where the entrances to the individual units are generally accessed via a shared lobby area. See also the process for Status Determination in Section 17.153.030. Any building or units that are constructed to satisfy the requirements of Section 17.153.050(A) shall be subject to the provisions of this Chapter.

“Residential Hotel Unit” means a Rooming Unit or Efficiency Dwelling Unit, as those terms are defined in Section 17.09.040 of the Oakland Planning Code, located within a Residential Hotel. Any unit that is constructed to satisfy the requirements of Section 17.153.050(A) shall be subject to the provisions of this Chapter.

### **17.153.030 Status determination**

This Section sets forth the process to establish the status of facilities preliminarily determined by the city to be Residential Hotels and Residential Hotel Units, and therefore subject to the regulations in this Chapter.

**A. Timelines for notices and filing.** Within thirty (30) days of the adoption of this ordinance, the Planning and Building Department shall mail out a summary of this Chapter and a notice to property owners preliminarily determined by the city to be operating a Residential Hotel. Each property owner notified of such shall be required to file an Initial Usage Report or Statement of Exemption, as described in Section 17.153.030(B) below. Buildings that do not meet the definition of a Residential Hotel as set forth in Section 17.153.020 may be considered for an exemption, as stated in Section 17.153(B)(2) below. If the owner or operator intends to file a Statement of Exemption, they must file it with the Planning and Building Department within ninety (90) calendar days of the mailing date of the notice; otherwise, the owner or operator shall file an Initial Usage Report within one hundred eighty (180) calendar days. All filings shall be accompanied by supporting evidence. However, upon application by an owner or operator and upon showing a good cause, the Director may grant an extension of time not to exceed thirty (30) days for filing either the Statement of Exemption or the Initial Usage Report.

**B. Filing for status determination.** All properties notified by the Planning and Building Department of their preliminary Residential Hotel status must file an Initial Usage Report or a Statement of Exemption to determine the legal use of the subject property as of December 13, 2016.

**1. Initial Usage Report.** The Initial Usage Report shall be filed in accordance with the timelines set forth in Section 17.153.030, and be accompanied by evidence, such as a certified copy of the Residential Hotel’s tax returns, transient occupancy tax records, residential landlord tax records, Planning and Building Permit records, Alameda County Assessor records, to confirm the following required information:

- a. Floor plans showing all the legal units, communal facilities such as bathrooms, kitchens, laundry facilities or other shared amenities, as well as any ground floor commercial space and lobby area, as of December 13, 2016.
- b. The floor plans shall indicate by room number and location which units were legally functioning as Transient Occupancy Units and which were functioning as Permanent Occupancy Units, as defined in Section 17.153.020, as of December 13, 2016.

c. The floor plans shall also indicate the legal number and location of private bathrooms, and the number and location of communal bathrooms, including shower, toilet and sink facilities, as of December 13, 2016.

**2. Statement of Exemption.** The provisions of this Chapter shall not apply to a building that does not meet the definition of Residential Hotel as set forth in Section 17.153.020. In order to be considered for an exemption, property owners notified by the Planning and Building Department of their property's preliminary status as a Residential Hotel must file a Statement of Exemption, in accordance with the timelines set forth in Section 17.153.030 and shall be accompanied by evidence, such as a certified copy of the property's tax returns, transient occupancy tax records, residential landlord tax records, Planning and Building Permit records, Alameda County Assessor records, floor plans, or any other evidence necessary to prove the property does not meet the aforementioned definition of Residential Hotel.

**C. Insufficient Filing.** If the Director determines that additional information is needed to make a determination, the Director shall request the additional information in writing. The owner shall furnish the requested information within thirty (30) calendar days upon receipt of the written request. If the requested information is not furnished, the Director will issue the Certificate of Status confirming that the building is a Residential Hotel. If insufficient information was provided regarding the occupancy of individual Residential Hotel Units, those in question shall be determined to be Permanent Occupancy Units.

**D. Failure to File Statement of Exemption or Initial Usage Report.** If a presumed Residential Hotel that received notice of their preliminary Residential Hotel status and of a requirement to file a Statement of Exemption or Initial Usage Report, does not submit one within the time set forth in Section 17.153.030(A), the Director shall mail a notice to the owner of record by registered or certified mail stating that the owner has ten (10) calendar days to submit the Initial Usage Report or Statement of Exemption. If these are not filed within ten (10) calendar days, the Director will issue the Certificate of Status, confirming that the building is a Residential Hotel, the occupancy of individual Residential Hotel Units shall be determined to be Permanent Occupancy Units.

**E. Certificate of Status.** The Director shall review the information provided in the Initial Usage Report or Statement of Exemption, and accompanying supporting data. If, in the opinion of the Director, the Initial Usage Report or Statement of Exemption is supported by adequate evidence, the Director shall certify the information provided in the Initial Usage Report or certify an Exemption. If the property is deemed a Residential Hotel, the Certificate of Status, including a graphic floor plan, shall be posted permanently in the lobby or entranceway of the Residential Hotel.

**F. Appeal of Certificate of Status.** An owner or operator, or any interested party, may appeal the Certificate of Status issued by the Director, provided that there was no challenge pursuant to the provisions of Section 17.153.070 below, and further provided

that an appeal is filed within ten (10) calendar days of the mailing of the Certificate of Status and will follow the administrative appeal procedures set forth in Chapter 17.132.

**17.153.040 Restrictions**

Except as set forth in Section 17.153.060, and notwithstanding Section 17.153.050, the following actions shall be prohibited:

- A. Any amenity rehabilitation of Residential Hotel Units or a Residential Hotel; or
- B. Conversion or demolition, if there have been any verified cases of harassment or illegal evictions during the immediately preceding five (5) years.

**17.153.050 Conditional Use Permit requirements**

Except as set forth in Section 17.153.060, any demolition or conversion of Residential Hotel Units or a Residential Hotel, shall only be permitted upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134 and upon determination that the proposal conforms to the general use permit criteria described in Chapter 17.134 and if, prior to the demolition or conversion, the Residential Hotel owner shall do all the following:

- A. Provide replacement rental units equivalent in affordability, size, services and facilities offered to each unit proposed for demolition or conversion, and within two (2) miles of the subject facility, that must obtain a certificate of occupancy for such units prior to the proposed demolition or conversion taking place.
- B. Whenever a Residential Hotel Unit is to be converted or demolished, and will result in tenant displacement for more than sixty (60) days, the Residential Hotel Owner shall:
  - 1. Provide the tenant(s) a one hundred twenty (120) day written notice of the conversion or demolition. All such written notices shall comply with the legal requirements for service by mail; and
  - 2. Concurrent with the filing for a Conditional Use Permit, the applicant shall submit a list of the names of any tenants residing in the Residential Hotel, and any tenants who have moved, been removed, or evicted during the preceding 180 calendar days and the reasons for the move, removal, or eviction.
  - 3. Refer the tenant(s) to an equivalent, available unit; and if the tenant(s) chooses not to live in the equivalent unit, then provide the tenant(s) with a relocation allowance, as specified for studio units in Section 8.22.450 of the Oakland Municipal Code, including any additional payments for tenant households that contain members who qualify as lower income, elderly, disabled and/or minor children, as set forth in Oakland Municipal Code Section 8.22.450(B); and
  - 4. Satisfy the requirements of any other tenant relocation programs, such as those set forth in Oakland Municipal Code Chapter 15.60 related to code enforcement cases; and

5. Offer any displaced tenant a first right of refusal to rent the replacement units built to satisfy requirements in Section 17.153.050(A).

C. Provide the Director with proof that the above actions have been taken.

**17.153.060 Exceptions to the restrictions and Conditional Use Permit requirements**

The following are not subject to the restrictions set forth in Section 17.153.040 nor the Conditional Use Permit requirements set forth in Section 17.153.050 as specified below; all other Conditional Use Permit requirements set forth in other Chapters of Title 17 shall still apply:

A. Any Residential Hotel that is an Affordable Housing Project as defined in Section 17.153.020, and complies with the following additional criteria:

1. The units are restricted to occupancy by extremely low and/or very low-income households, as those terms are defined California Health and Safety Code Sections 50079.5, 50093, 50105 and 50106. However, in the event of either a deed in lieu of foreclosure or foreclosure by a Project lender, or a termination, non-renewal or material reduction of project-based Section 8 or other project-based rental assistance for Assisted Units, the maximum tenant household income and maximum rent limitations for Assisted Units may be increased to amounts necessary to make operation of the Project financially feasible, including the payment of all required operating costs and debt service, but in no event may (a) the maximum tenant household income limitation exceed sixty percent (60%) of AMI, or (b) the maximum annual rent limitation exceed thirty percent (30%) of sixty percent (60%) of AMI; and
2. The Project shall have an executed written agreement with the City setting forth the number, type, location, approximate size and construction schedule of all units, restricting the occupancy and rent or sale price of such units, and setting forth other terms and conditions as required for ensuring compliance with the requirements of this Section. Said agreement shall be recorded against the Affordable Housing units as covenants running with land, senior in priority to any private liens or encumbrances except as provided below, and shall be enforceable by the City against the Project for the full affordability term. Additional restrictions, deeds of trust, rights of first refusal, or other instruments may be required by the City Administrator as reasonably needed to enforce these restrictions. The City Administrator shall have the authority to subordinate such restrictions to other liens and encumbrances if he or she determines that the financing of the Affordable Housing units would be infeasible without said subordination; and
3. The executed written agreement with the City shall extend for at least another twenty-five (25) years beyond the date of application for an Exception; and
4. The proposed actions minimize the reduction in number of units by only allowing new unit types to be Rooming Units, Efficiency Units or one-bedroom units; and

- 5. For a newly created Affordable Housing Project, the executed written agreement with the City shall require that the new rental units remain affordable for at least fifty-five (55) years.
- B. Any Residential Hotel that will converting to a Transitional Housing Activity, as defined in Oakland Municipal Code 17.10.116 and per State of California Government Code 65582.
- C. Any Residential Hotel that has been completely vacant and unoccupied continuously for more than ten (10) years, as demonstrated by the applicant, is not subject to restrictions on amenity rehabilitation; these properties remain subject to restrictions on conversion and demolition; or
- D. Any amenity rehabilitation, which is determined by the Chief Building Official to: (1) be necessary for health and safety purposes and (2) not result in temporary displacement of any tenant for more than sixty (60) days or permanent displacement of any tenant; or
- E. Any Residential Hotel that must comply with a City order to repair or demolish an unsafe, uninhabitable or substandard condition.

**17.153.070 Waiver determination and appeals process**

- A. Waiver determinations may be granted by the Director to the restrictions set forth in Section 17.153.040 or the Conditional Use Permit requirements set forth in Section 17.153.050 under any one of the following scenarios:
  - a. The requirements of this Chapter have been incorrectly applied; or
  - b. Application of the requirements of this Chapter is unlawful under and/or conflict with federal, state, or local law and/or regulation, including constituting an unlawful taking of property without just compensation.
- B. Applications for waiver determinations. Applications for waiver determinations must be made no later than the date of application for a building or planning permit on a form provided by the City, and shall include payment of fees as established in the Master Fee Schedule. The burden of establishing by satisfactory factual proof the applicability and elements of this Section shall be on the Applicant. The Applicant must submit full information in support of their submittal as requested by the Director. Failure to raise each and every issue that is contested in the application and provide appropriate supporting evidence will be grounds to deny the application and will also preclude the Applicant from raising such issues in court. Failure to submit such an application shall preclude such person from challenging the Residential Hotel regulations in court. The Director may require, at the expense of the Applicant, review of the submitted materials by a third party.
- C. The Director shall mail the Applicant a written determination on the application for a waiver.

D. If an applicant for a waiver determination set forth in Section 17.153.070(A) that has been denied seeks to challenge the written determination of the Director, the Appellant must appeal to the City Planning Commission, and such appeal must be filed within ten (10) calendar days of the date from which the Director's written determination was issued and by 4:00 p.m. Appeals must be on the form provided by the City of Oakland and must state specifically wherein it is claimed there was error or abuse of discretion by the Director or wherein the decision is not supported by substantial evidence, and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to make a timely appeal will preclude an Appellant from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all arguments and evidence in the record which supports the basis for the appeal. Failure to do so will preclude an Appellant from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented in the appeal.

**17.153.080 Administrative regulations.**

The Director is hereby authorized to adopt administrative regulations consistent with this Chapter as needed to implement this Chapter, subject to the review and approval of the Office of the City Attorney, and to develop all related forms and/or other materials and take other steps as needed to implement this Chapter, and make such interpretations of this Chapter as he or she may consider necessary to achieve the purposes of this Chapter.

**17.153.090 Conflicting provisions.**

Where a conflict exists between the requirements in this Chapter and applicable requirements contained in other Chapters of this Code, the applicable requirements of this Chapter shall prevail.

# Proposed Planning Code Amendments

Clean version.

- Changes to Table of Contents..... page 2
- Changes to Chapter 17.10 (land use activities)..... page 3
- Changes to Chapter 17.54, 56, 74, 76 and 78 (references to 17.102.230)..... page 5
- Changes to Section 17.102.230 (existing regulations related to Rooming Units)..... page 8
- Changes to Section 17.134.020.A.3 (special situations requiring a Major Conditional Use Permit)..... page 10
- New Chapter 17.153 Demolition, Conversion and Rehabilitation Regulations for Residential Hotels..... page 11

**Title 17 PLANNING**

**Chapters:**

Chapter 17.138 - DEVELOPMENT AGREEMENT PROCEDURE

Chapter 17.140 - PLANNED UNIT DEVELOPMENT PROCEDURE

Chapter 17.142 - MINI-LOT AND PLANNED UNIT DEVELOPMENT REGULATIONS

Chapter 17.144 - REZONING AND LAW CHANGE PROCEDURE

Chapter 17.148 - VARIANCE PROCEDURE

Chapter 17.150 - FEE SCHEDULE

Chapter 17.152 - ENFORCEMENT

Chapter 17.153 - DEMOLITION, CONVERSION AND REHABILITATION OF RESIDENTIAL HOTELS

Chapter 17.154 - ZONING MAPS

Chapter 17.155 - SPECIAL REGULATIONS APPLYING TO MINING AND QUARRYING EXTRACTIVE ACTIVITIES

Chapter 17.156 - DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

Chapter 17.157 - DEEMED APPROVED HOTEL AND ROOMING HOUSE REGULATIONS

Chapter 17.158 - ENVIRONMENTAL REVIEW REGULATIONS

**Chapter 17.10 USE CLASSIFICATIONS**

**Sections:**

**Article II - Activity Types**

Part 1 - Residential Activity Types

Part 3 - Commercial Activity Types

**Article II Activity Types**

**Part 1 Residential Activity Types**

17.10.110 Permanent Residential Activities.

17.10.118 Emergency Shelter Residential Activities.

17.10.120 Semi-Transient Residential Activities.

17.10.125 Bed and Breakfast Residential Activities.

**17.10.110 Permanent Residential Activities.**

Permanent Residential Activities include the occupancy of living accommodations on a thirty (30) days or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis; but exclude institutional living arrangements other than state-licensed Residential Care Facilities for six (6) or fewer residents. However, such state-licensed Residential Care Facilities shall be subject to the three hundred (300) foot separation requirement in Section 17.103.010.B. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.118 Emergency Shelter Residential Activities.**

Emergency Shelter Residential Activities include the provision of short term housing, with or without a fee, to individuals and families who are homeless and who may require special services. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.120 Semi-Transient Residential Activities.**

Semi-Transient Residential Activities include the occupancy of living accommodations partly on a thirty (30) days or longer basis and partly for a shorter time period, but with less than thirty percent (30%) of the living units under the same ownership or management on the same lot being occupied on a less-than-thirty (30) day basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.125 Bed and Breakfast Residential Activities.**

The provision of lodging services to transient guests on a less-than-thirty (30) day basis, other than in the case of activities classified by Section 17.10.440 Transient Habitation Commercial Activities or by another Residential Activity (Sections 17.10.100 through 17.10.120), that have each of the following characteristics:

- A. The activity occupies a One-Family Dwelling Residential Facility, One-Family Dwelling with Secondary Unit Residential Facility, or a Two-Family Dwelling Residential Facility;
- B. The activity allows no more than twelve (12) adult paying guests at any time and contains no more than six (6) guest units;
- C. The activity is located in a facility that is owner occupied;
- D. The activity is located in a facility on a property with an existing or contingency historic rating of "A", "B", "C", or "D", or is a Landmark according to the City of Oakland Office of Historic Preservation;
- E. The facility includes incidental eating and drinking services for lodgers only that are provided from a single kitchen per Bed and Breakfast establishment.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Part 3 Commercial Activity Types**

**17.10.440 Transient Habitation Commercial Activities.**

**17.10.440 Transient Habitation Commercial Activities.**

Transient Habitation Commercial Activities include the provision of lodging services to transient guests on a less-than-thirty (30) day basis, other than in the case of activities classified by Section 17.10.120 Semi-Transient Residential Activities or Section 17.10.125 Bed and Breakfast Residential Activities. Examples include hotels and motels. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Chapter 17.54 C-40 COMMUNITY THOROUGHFARE COMMERCIAL ZONE REGULATIONS**

**Sections:**

17.54.010 Title, purpose, and applicability.

17.54.040 Required design review process.

17.54.050 Permitted activities.

17.54.060 Conditionally permitted activities.

17.54.070 Permitted facilities.

17.54.080 Conditionally permitted facilities.

17.54.090 Special regulations applying to certain activities.

17.54.095 Reserved.

17.54.100 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.

**17.54.100 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.**

See Section 17.102.230.

**Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS**

**Sections:**

17.56.010 Title, purpose, and applicability.

17.56.040 Required design review process.

17.56.050 Permitted activities.

17.56.060 Conditionally permitted activities.

17.56.070 Permitted facilities.

17.56.080 Conditionally permitted facilities.

17.56.090 Restriction on accessory parking and loading within 75 feet of front lot line.

17.56.095 Special regulations regarding extensive agriculture.

17.56.100 Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages.

17.56.105 Reserved.

17.56.110 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.

**17.56.110 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.**

See Section 17.102.230.

**Chapter 17.74 S-1 MEDICAL CENTER COMMERCIAL ZONE REGULATIONS**

**Sections:**

17.74.010 Title, purpose, and applicability.

17.74.020 Required design review process.

17.74.030 Permitted activities.

17.74.040 Conditionally permitted activities.

17.74.050 Permitted facilities.

17.74.060 Conditionally permitted facilities.

17.74.070 Special regulations applying to certain Commercial Activities.

17.74.075 Special regulations applying to Extensive Agriculture.

17.74.080 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.

**17.74.080 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.**

See Section 17.102.230.

**Chapter 17.76 S-2 CIVIC CENTER COMMERCIAL ZONE REGULATIONS**

**Sections:**

**17.76.010 Title, purpose, and applicability.**

**17.76.040 Required design review process.**

**17.76.050 Permitted activities.**

**17.76.060 Conditionally permitted activities.**

**17.76.070 Permitted facilities.**

**17.76.080 Conditionally permitted facilities.**

**17.76.090 Special regulations applying to certain Commercial Activities.**

**17.76.095 Special regulations applying to Extensive Agriculture.**

**17.76.100 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.**

**17.76.100 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.**

See Section 17.102.230.

**Chapter 17.78 S-3 RESEARCH CENTER COMMERCIAL ZONE REGULATIONS**

**Sections:**

17.78.010 Title, purpose, and applicability.

17.78.020 Required design review process.

17.78.030 Permitted activities.

17.78.040 Conditionally permitted activities.

17.78.050 Permitted facilities.

17.78.060 Conditionally permitted facilities.

17.78.065 Special regulations applying to Extensive Agriculture.

17.78.070 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.

**17.78.070 Special regulations applying to the conversion of a dwelling unit to a Nonresidential Activity.**

See Section 17.102.230.

## Chapter 17.102 REGULATIONS APPLICABLE TO CERTAIN ACTIVITIES AND FACILITIES

### Sections:

17.102.230 Conversion of a dwelling unit to a Nonresidential Activity.

17.102.230 –Conversion of a dwelling unit to a Nonresidential Activity.

A. Conditional Use Permit Requirement. The conversion of a dwelling unit, other than those considered Residential Hotel Units per Chapter 17.153, from its present or last previous use by a Permanent Residential Activity or a Semi-Transient Residential Activity to its use by a Nonresidential Activity is only permitted upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134. The only exception to this requirement are conversions in the HBX Zones. Such permit may be granted only upon determination that the proposed conversion conforms to the general use permit criteria set forth in the Conditional Use Permit procedure and to at least one of the following additional use permit criteria:

1. The dwelling unit proposed for conversion is unoccupied, or is situated in a residential building that has been found, determined, and declared to be substandard or unsafe pursuant to Subsection 15.08.350(B) of the Oakland Municipal Code; or
2. A replacement unit, equivalent in affordability and type to each unit proposed for conversion, will be added to the City's housing supply prior to the proposed conversion taking place; or
3. The benefits to the City resulting from the proposed conversion will outweigh the loss of a unit from the City's housing supply.

B. Tenant Assistance. Upon the granting of a Conditional Use Permit for the conversion of a dwelling unit to a Nonresidential Activity, the actual conversion cannot take place until the following have occurred:

1. Any tenant has been given a one hundred twenty (120) day written notice of the conversion. All such written notices shall comply with the legal requirements for service by mail.
2. The owner of the building containing the dwelling unit to be converted has referred the tenant to an equivalent, available unit; if the tenant chooses not to live in the equivalent dwelling unit, the tenant has been provided with a relocation allowance, as specified in Section 8.22.450 of the Oakland Municipal Code, including any additional payments for tenant households that contain members who qualify as lower income, elderly, disabled and/or minor children, as set forth in Oakland Municipal Code Section 8.22.450(B).
3. The Director of City Planning has been provided with proof that the above actions have been taken.

**Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE****17.134.020 Definition of major and minor conditional use permits.**

- A. **Major Conditional Use Permit.** A Conditional Use Permit (CUP) is considered a Major Conditional Use Permit if it involves any of the following:
3. **Special Situations.** Any project requiring a Conditional Use Permit that involves any of the following situations:
    - a. A project requiring development of an Environmental Impact Report (EIR);
    - b. A single establishment containing a Commercial or Industrial Activity, or portion thereof, which is located in any Residential Zone and occupies more than five thousand (5,000) square feet of floor area, except where the proposal involves only the resumption of a nonconforming activity;
    - c. Off-Street Parking Facilities in the C-40, CBD-P, CBD-C, CBD-X, S-2, and D-LM Zones serving fifty (50) or more vehicles;
    - d. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any Residential or HBX Zone;
    - e. A project in the OS Zone listed as requiring a Major Conditional Use Permit in Chapter 17.11;
    - f. An Electroplating Activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;
    - g. A Telecommunications Facility in or within one hundred (100) feet of the boundary of any Residential Zone, HBX Zone, or the D-CE-3 or D-CE-4 Zone;
    - h. A Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zone;
    - i. A project requiring a Conditional Use Permit as set forth under Section 17.153.050 for any demolition or conversion of residential hotel units or a residential hotel.

**Chapter 17.153 DEMOLITION, CONVERSION AND REHABILITATION REGULATIONS FOR RESIDENTIAL HOTELS**

**Sections:**

- 17.153.010 Title, purpose and findings
- 17.153.020 Definitions
- 17.153.030 Status determination
- 17.153.040 Restrictions
- 17.153.050 Conditional Use Permit requirement
- 17.153.060 Exceptions to restrictions and the Conditional Use Permit requirement
- 17.153.070 Waivers determination and appeals process
- 17.153.080 Administrative regulations
- 17.153.090 Conflicting provisions

**17.153.010 Title, purpose and findings**

- A. Title.** The provisions of this Chapter shall be known as the Demolition, Conversion and Rehabilitation Regulations for Residential Hotels.
- B. Purpose.** The purpose of this Chapter is to minimize adverse impact on the housing supply and on low income, elderly, and disabled persons resulting from the loss of Residential Hotel Units as a naturally affordable housing option. This is to be accomplished by establishing a process for identifying and preparing a registry of know existing Residential Hotel Units, and by regulating the demolition, conversion and rehabilitation of Residential Hotel Units.
- C. Findings.** The City Council finds that:
  - 1. The City of Oakland is experiencing a severe housing affordability crisis that requires immediate emergency action by the City government.
  - 2. Residential Hotels are often housing of last resort for the poor, especially in areas with extremely high costs of housing such as Oakland.
  - 3. The housing affordability crisis continues to overwhelm Oakland residents and threatens the public health, safety and/or welfare of our citizenry.
  - 4. A number of economic forces, including the dearth of hotels and the high cost of new construction in Oakland, create incentives for developers to purchase Residential Hotels and repurpose them for non-residential uses, such as boutique hotels, or

reconfigure them for other residential uses that result in the displacement of existing tenants or the removal of rental units from the market.

5. The loss of Residential Hotels in Oakland would exacerbate the already overwhelming burden on public and non-profit agencies that provide protective, social, health, psychological, nutritional, and other important and necessary services to the tenant population of such hotels.
6. The City Council has determined that Residential Hotels are an essential component of the City's supply of Naturally Occurring Affordable Housing (NOAH) as they are a flexible and easily accessible form of housing that provides low, very low, and extremely low-income residents the ability to remain in Oakland and to avoid homelessness.
7. The City of Oakland Housing and Community Development Department prepared a report in September of 2015 which states that from 1985 through 2015, the City lost approximately 799 Residential Hotel units in Downtown Oakland, and many more units are at-risk of being lost or are already lost to the supply of NOAH units.
8. The California State Legislature has recognized the need for retaining Residential Hotels to provide housing for low, very low, and extremely low-income individuals in legislation, and in justifying such legislation:
 

*The Legislature finds and declares that the need for decent housing among individuals of very low and low income is great, and that residential hotels are often the only form of housing affordable to these individuals. Many residential hotels are in poor condition and in need of rehabilitation, and many are being demolished or converted to other uses. California Health and Safety Code § 50519(a)*
9. The unrestricted demolition, conversion or rehabilitation of Residential Hotels exacerbates the housing crisis by making such units unaffordable to low, very low, and extremely low-income Oakland residents, and may result in the displacement of Oakland residents from their homes and communities.
10. Based on the previous findings, the City finds that there is a current and immediate threat to the public health, safety, and/or welfare associated with the Demolition, Conversion and Rehabilitation of Residential Hotels.

**17.153.020 Definitions**

The following terms, whenever used in this Chapter, shall be construed as defined herein. Words and phrases not defined herein shall be construed as defined in Chapter 17.09 of the Oakland Planning Code or in the Oakland Municipal Code.

**“Affordable Housing Organization”** means a religious, hospital, scientific, or charitable fund, foundation, limited liability company, or corporation, including a limited partnership in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, or a veterans' organization, as described by California Revenue and Taxation Code Section 214, subsection (g).

**“Affordable Housing Project”** means a property used primarily for rental housing and related facilities, owned or operated by an affordable housing organization where, pursuant to legally binding restrictions, all of the units are restricted as affordable housing at an affordable rent or affordable housing cost, as those terms are defined in California Health & Safety Code Section 50053 and 50052.5, to occupancy by extremely low, very low, low, and/or moderate-income households, as those terms are defined California Health and Safety Code Sections 50079.5, 50093, 50105 and 50106.

**“Conversion”** means any action that converts one or more existing Residential Hotel Units originally intended as a Permanent Occupancy Unit to a Transient Occupancy Unit, or converts the Residential Hotel to another Residential or Commercial Activity, as those terms are defined in Section 17.10.030 of the Oakland Planning Code, regardless of whether substantial improvements have been made to such units.

**“Demolition”** means any action that eliminates an existing Residential Hotel Unit, including but not limited to complete or partial demolition of a Residential Hotel unit, combining two or more existing Residential Hotel Units to make a larger new unit, or any other action.

**“Director”** means the Director of the Planning and Building Department, or the designee of the Director of the Planning and Building Department, or the designee of the City Administrator.

**“Occupancy Unit, Permanent”** means a Residential Hotel Unit that shall be restricted to occupancy by the same person or household for stays of thirty (30) or more consecutive days.

**“Occupancy Unit, Transient”** means a Residential Hotel Unit that is allowed to have occupancy by the same person or household for stays of fewer than thirty (30) consecutive days.

**“Owner”** means an owner of record of a Residential Hotel, or an entity or individual with a long-term lease or some form of equitable interest in a Residential Hotel.

**“Rehabilitation, Amenity”** means any action that reduces the size of Residential Hotel Units or eliminates or reduces the size of private or communal amenities in a Residential Hotel or Residential Hotel unit, such as bathrooms, kitchens, elevators or laundry through complete or partial removal of those facilities, including reduction in the number of toilets or sinks in a bathroom. It also means any action that adds a kitchen or kitchenette to a Rooming Unit within an existing Residential Hotel.

**“Residential Hotel”** is defined in accordance with California Health and Safety Code Section 50519, and means any building built before 1960 containing six (6) or more Rooming Units, as defined in Section 17.09.040, 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, which is also the primary residence of those guests, and where the entrances to the individual units are generally accessed via a shared lobby area. See also the process for Status Determination in Section 17.153.030. Any building or units that are constructed to satisfy the requirements of Section 17.153.050(A) shall be subject to the provisions of this Chapter.

**“Residential Hotel Unit”** means a Rooming Unit or Efficiency Dwelling Unit, as those terms are defined in Section 17.09.040 of the Oakland Planning Code, located within a Residential Hotel. Any unit that is constructed to satisfy the requirements of Section 17.153.050(A) shall be subject to the provisions of this Chapter.

### **17.153.030 Status determination**

This Section sets forth the process to establish the status of facilities preliminarily determined by the city to be Residential Hotels and Residential Hotel Units, and therefore subject to the regulations in this Chapter.

- A. Timelines for notices and filing.** Within thirty (30) days of the adoption of this ordinance, the Planning and Building Department shall mail out a summary of this Chapter and a notice to property owners preliminarily determined by the city to be operating a Residential Hotel. Each property owner notified of such shall be required to file an Initial Usage Report or Statement of Exemption, as described in Section 17.153.030(B) below. Buildings that do not meet the definition of a Residential Hotel as set forth in Section 17.153.020 may be considered for an exemption, as stated in Section 17.153(B)(2) below. If the owner or operator intends to file a Statement of Exemption, they must file it with the Planning and Building Department within ninety (90) calendar days of the mailing date of the notice; otherwise, the owner or operator shall file an Initial Usage Report within one hundred eighty (180) calendar days. All filings shall be accompanied by supporting evidence. However, upon application by an owner or operator and upon showing a good cause, the Director may grant an extension of time not to exceed thirty (30) days for filing either the Statement of Exemption or the Initial Usage Report.
- B. Filing for status determination.** All properties notified by the Planning and Building Department of their preliminary Residential Hotel status must file an Initial Usage Report or a Statement of Exemption to determine the legal use of the subject property as of December 13, 2016.
- 1. Initial Usage Report.** The Initial Usage Report shall be filed in accordance with the timelines set forth in Section 17.153.030, and be accompanied by evidence, such as a certified copy of the Residential Hotel’s tax returns, transient occupancy tax records, residential landlord tax records, Planning and Building Permit records, Alameda County Assessor records, to confirm the following required information:
    - a. Floor plans showing all the legal units, communal facilities such as bathrooms, kitchens, laundry facilities or other shared amenities, as well as any ground floor commercial space and lobby area, as of December 13, 2016.
    - b. The floor plans shall indicate by room number and location which units were legally functioning as Transient Occupancy Units and which were functioning as Permanent Occupancy Units, as defined in Section 17.153.020, as of December 13, 2016.

c. The floor plans shall also indicate the legal number and location of private bathrooms, and the number and location of communal bathrooms, including shower, toilet and sink facilities, as of December 13, 2016.

2. **Statement of Exemption.** The provisions of this Chapter shall not apply to a building that does not meet the definition of Residential Hotel as set forth in Section 17.153.020. In order to be considered for an exemption, property owners notified by the Planning and Building Department of their property's preliminary status as a Residential Hotel must file a Statement of Exemption, in accordance with the timelines set forth in Section 17.153.030 and shall be accompanied by evidence, such as a certified copy of the property's tax returns, transient occupancy tax records, residential landlord tax records, Planning and Building Permit records, Alameda County Assessor records, floor plans, or any other evidence necessary to prove the property does not meet the aforementioned definition of Residential Hotel.
- C. Insufficient Filing.** If the Director determines that additional information is needed to make a determination, the Director shall request the additional information in writing. The owner shall furnish the requested information within thirty (30) calendar days upon receipt of the written request. If the requested information is not furnished, the Director will issue the Certificate of Status confirming that the building is a Residential Hotel. If insufficient information was provided regarding the occupancy of individual Residential Hotel Units, those in question shall be determined to be Permanent Occupancy Units.
- D. Failure to File Statement of Exemption or Initial Usage Report.** If a presumed Residential Hotel that received notice of their preliminary Residential Hotel status and of a requirement to file a Statement of Exemption or Initial Usage Report, does not submit one within the time set forth in Section 17.153.030(A), the Director shall mail a notice to the owner of record by registered or certified mail stating that the owner has ten (10) calendar days to submit the Initial Usage Report or Statement of Exemption. If these are not filed within ten (10) calendar days, the Director will issue the Certificate of Status, confirming that the building is a Residential Hotel, the occupancy of individual Residential Hotel Units shall be determined to be Permanent Occupancy Units.
- E. Certificate of Status.** The Director shall review the information provided in the Initial Usage Report or Statement of Exemption, and accompanying supporting data. If, in the opinion of the Director, the Initial Usage Report or Statement of Exemption is supported by adequate evidence, the Director shall certify the information provided in the Initial Usage Report or certify an Exemption. If the property is deemed a Residential Hotel, the Certificate of Status, including a graphic floor plan, shall be posted permanently in the lobby or entranceway of the Residential Hotel.
- F. Appeal of Certificate of Status.** An owner or operator, or any interested party, may appeal the Certificate of Status issued by the Director, provided that there was no challenge pursuant to the provisions of Section 17.153.070 below, and further provided

that an appeal is filed within ten (10) calendar days of the mailing of the Certificate of Status and will follow the administrative appeal procedures set forth in Chapter 17.132.

**17.153.040 Restrictions**

Except as set forth in Section 17.153.060, and notwithstanding Section 17.153.050, the following actions shall be prohibited:

- A. Any amenity rehabilitation of Residential Hotel Units or a Residential Hotel; or
- B. Conversion or demolition, if there have been any verified cases of harassment or illegal evictions during the immediately preceding five (5) years.

**17.153.050 Conditional Use Permit requirements**

Except as set forth in Section 17.153.060, any demolition or conversion of Residential Hotel Units or a Residential Hotel, shall only be permitted upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134 and upon determination that the proposal conforms to the general use permit criteria described in Chapter 17.134 and if, prior to the demolition or conversion, the Residential Hotel owner shall do all the following:

- A. Provide replacement rental units equivalent in affordability, size, services and facilities offered to each unit proposed for demolition or conversion, and within two (2) miles of the subject facility, that must obtain a certificate of occupancy for such units prior to the proposed demolition or conversion taking place.
- B. Whenever a Residential Hotel Unit is to be converted or demolished, and will result in tenant displacement for more than sixty (60) days, the Residential Hotel Owner shall:
  - 1. Provide the tenant(s) a one hundred twenty (120) day written notice of the conversion or demolition. All such written notices shall comply with the legal requirements for service by mail; and
  - 2. Concurrent with the filing for a Conditional Use Permit, the applicant shall submit a list of the names of any tenants residing in the Residential Hotel, and any tenants who have moved, been removed, or evicted during the preceding 180 calendar days and the reasons for the move, removal, or eviction.
  - 3. Refer the tenant(s) to an equivalent, available unit; and if the tenant(s) chooses not to live in the equivalent unit, then provide the tenant(s) with a relocation allowance, as specified for studio units in Section 8.22.450 of the Oakland Municipal Code, including any additional payments for tenant households that contain members who qualify as lower income, elderly, disabled and/or minor children, as set forth in Oakland Municipal Code Section 8.22.450(B); and
  - 4. Satisfy the requirements of any other tenant relocation programs, such as those set forth in Oakland Municipal Code Chapter 15.60 related to code enforcement cases; and

5. Offer any displaced tenant a first right of refusal to rent the replacement units built to satisfy requirements in Section 17.153.050(A).

C. Provide the Director with proof that the above actions have been taken.

**17.153.060 Exceptions to the restrictions and Conditional Use Permit requirements**

The following are not subject to the restrictions set forth in Section 17.153.040 nor the Conditional Use Permit requirements set forth in Section 17.153.050 as specified below; all other Conditional Use Permit requirements set forth in other Chapters of Title 17 shall still apply:

- A. Any Residential Hotel that is an Affordable Housing Project as defined in Section 17.153.020, and complies with the following additional criteria:
  1. The units are restricted to occupancy by extremely low and/or very low-income households, as those terms are defined California Health and Safety Code Sections 50079.5, 50093, 50105 and 50106. However, in the event of either a deed in lieu of foreclosure or foreclosure by a Project lender, or a termination, non-renewal or material reduction of project-based Section 8 or other project-based rental assistance for Assisted Units, the maximum tenant household income and maximum rent limitations for Assisted Units may be increased to amounts necessary to make operation of the Project financially feasible, including the payment of all required operating costs and debt service, but in no event may (a) the maximum tenant household income limitation exceed sixty percent (60%) of AMI, or (b) the maximum annual rent limitation exceed thirty percent (30%) of sixty percent (60%) of AMI; and
  2. The Project shall have an executed written agreement with the City setting forth the number, type, location, approximate size and construction schedule of all units, restricting the occupancy and rent or sale price of such units, and setting forth other terms and conditions as required for ensuring compliance with the requirements of this Section. Said agreement shall be recorded against the Affordable Housing units as covenants running with land, senior in priority to any private liens or encumbrances except as provided below, and shall be enforceable by the City against the Project for the full affordability term. Additional restrictions, deeds of trust, rights of first refusal, or other instruments may be required by the City Administrator as reasonably needed to enforce these restrictions. The City Administrator shall have the authority to subordinate such restrictions to other liens and encumbrances if he or she determines that the financing of the Affordable Housing units would be infeasible without said subordination; and
  3. The executed written agreement with the City shall extend for at least another twenty-five (25) years beyond the date of application for an Exception; and
  4. The proposed actions minimize the reduction in number of units by only allowing new unit types to be Rooming Units, Efficiency Units or one-bedroom units; and

5. For a newly created Affordable Housing Project, the executed written agreement with the City shall require that the new rental units remain affordable for at least fifty-five (55) years.
- B. Any Residential Hotel that will converting to a Transitional Housing Activity, as defined in Oakland Municipal Code 17.10.116 and per State of California Government Code 65582.
- C. Any Residential Hotel that has been completely vacant and unoccupied continuously for more than ten (10) years, as demonstrated by the applicant, is not subject to restrictions on amenity rehabilitation; these properties remain subject to restrictions on conversion and demolition; or
- D. Any amenity rehabilitation, which is determined by the Chief Building Official to: (1) be necessary for health and safety purposes and (2) not result in temporary displacement of any tenant for more than sixty (60) days or permanent displacement of any tenant; or
- E. Any Residential Hotel that must comply with a City order to repair or demolish an unsafe, uninhabitable or substandard condition.

**17.153.070 Waiver determination and appeals process**

- A. Waiver determinations may be granted by the Director to the restrictions set forth in Section 17.153.040 or the Conditional Use Permit requirements set forth in Section 17.153.050 under any one of the following scenarios:
  - a. The requirements of this Chapter have been incorrectly applied; or
  - b. Application of the requirements of this Chapter is unlawful under and/or conflict with federal, state, or local law and/or regulation, including constituting an unlawful taking of property without just compensation.
- B. Applications for waiver determinations. Applications for waiver determinations must be made no later than the date of application for a building or planning permit on a form provided by the City, and shall include payment of fees as established in the Master Fee Schedule. The burden of establishing by satisfactory factual proof the applicability and elements of this Section shall be on the Applicant. The Applicant must submit full information in support of their submittal as requested by the Director. Failure to raise each and every issue that is contested in the application and provide appropriate supporting evidence will be grounds to deny the application and will also preclude the Applicant from raising such issues in court. Failure to submit such an application shall preclude such person from challenging the Residential Hotel regulations in court. The Director may require, at the expense of the Applicant, review of the submitted materials by a third party.
- C. The Director shall mail the Applicant a written determination on the application for a waiver.

- D. If an applicant for a waiver determination set forth in Section 17.153.070(A) that has been denied seeks to challenge the written determination of the Director, the Appellant must appeal to the City Planning Commission, and such appeal must be filed within ten (10) calendar days of the date from which the Director's written determination was issued and by 4:00 p.m. Appeals must be on the form provided by the City of Oakland and must state specifically wherein it is claimed there was error or abuse of discretion by the Director or wherein the decision is not supported by substantial evidence, and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to make a timely appeal will preclude an Appellant from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all arguments and evidence in the record which supports the basis for the appeal. Failure to do so will preclude an Appellant from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented in the appeal.

**17.153.080 Administrative regulations.**

The Director is hereby authorized to adopt administrative regulations consistent with this Chapter as needed to implement this Chapter, subject to the review and approval of the Office of the City Attorney, and to develop all related forms and/or other materials and take other steps as needed to implement this Chapter, and make such interpretations of this Chapter as he or she may consider necessary to achieve the purposes of this Chapter.

**17.153.090 Conflicting provisions.**

Where a conflict exists between the requirements in this Chapter and applicable requirements contained in other Chapters of this Code, the applicable requirements of this Chapter shall prevail.

Residential Hotel or Single Room Occupancy (SRO) Ordinance Case Studies

	Replacement	Tenant Relocation	SRO Status	Incentives	Exemptions	Other
San Francisco	<ul style="list-style-type: none"> <li>• Requires one-for-one replacement at comparable rent</li> <li>• Alternatively, can pay site acquisition costs plus 80% of cost of construction</li> <li>• Replacement could mean less than one-to-one rehabilitated units for elderly, disabled or low-income persons, transitional or emergency housing</li> <li>• To convert, the permit application requires:                             <ul style="list-style-type: none"> <li>• Current rental rates</li> <li>• Length of tenancy of permanent residents affected</li> <li>• Statement of one-for-one replacement</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Permanent resident (min 32 days) have 60 days after issuance of permit</li> <li>• Permanent residents shall receive up to \$300 moving assistance</li> <li>• Displaced permanent resident given first right of refusal for replacement units</li> <li>• \$1,000 per displaced person</li> </ul>	<ul style="list-style-type: none"> <li>• Required filing of initial status determination within 30 days of ordinance (exemption claim or initial unit usage report) – building inspectors make initial determination)</li> <li>• Residential hotels maintain daily logs, submit weekly and annual reports (required to maintain hotel license and certificate of use)</li> <li>• Building dept. prepares annual status report on conversions; SRO operators advisory committee meets every 3 months</li> </ul>		<ul style="list-style-type: none"> <li>• 95% tourist hotel</li> <li>• Rents over \$1,000</li> <li>• Unlawful conversions to rooming house</li> <li>• Partially converted</li> <li>• 100% low-income housing</li> <li>• Public or nonprofit housing such as jail, residential care facility, convent, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Penalties are at least 3x the daily rate, per day for each unlawfully converted unit</li> <li>• Weekly rentals are allowed to SF residents, but not to tourists</li> </ul>
Chicago		<ul style="list-style-type: none"> <li>• Displaced tenants (residents of min 32 days) given a lump sum between \$2,000 and \$10,600 depending on reasons for displacement (sold, unsafe).</li> <li>• Prohibits retaliation</li> </ul>				<ul style="list-style-type: none"> <li>• Requires affordable housing nonprofits be offered right of first refusal (with good faith negotiations) for 180 days to keep it affordable to very low income families (or 1 for 1 low-income) for 15 years, before selling, OR pay \$20,000 per unit</li> <li>• Fines for violation are \$200-500 per day, plus payment of preservation fee</li> </ul>

	<b>Replacement</b>	<b>Tenant Relocation</b>	<b>SRO Status</b>	<b>Incentives</b>	<b>Exemptions</b>	<b>Other</b>
Los Angeles	<ul style="list-style-type: none"> <li>• Must be replaced within two miles or pay the City for land acquisition costs and 80% of construction costs</li> <li>• Applicant has to file application for clearance with Housing department – includes rental rates and length of tenancy</li> <li>• Permit cannot be issued until COC has been issued for replacement issues</li> <li>• Can choose to replace existing residential units with deed-restricted low-income SRO units with 55 regulatory agreement with at least:               <ul style="list-style-type: none"> <li>• 10% - 30% AMI</li> <li>• 40% - 40% AMI</li> <li>• 30% - 50% AMI</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Tenants given right of first refusal within 60 days of COC</li> <li>• Relocation assistance</li> </ul>	<ul style="list-style-type: none"> <li>• Housing Department mails notification; owner can appeal within 60 days to prove that it contains tourist units or is not a residential hotel</li> </ul>	<p>Can be replaced at less than one-to-one if: a) The replacement units provide amenities, such as bathrooms and kitchens, not present in the units to be withdrawn, b) The needs of the current residents of the Residential Hotel would be served by the better amenities and larger units; and the reduction in the number of units would not significantly decrease the number of available Residential Units in the City.</p>	<ul style="list-style-type: none"> <li>• Continuously unoccupied since 2005 (or new building on site of a demolished SRO)</li> <li>• Has been turned into an affordable housing project</li> <li>• Project was first approved after 1990</li> <li>• Plans are vested</li> <li>• Applicant provided notice of intent to withdraw all of the building's accommodations from rent or lease before moratorium</li> <li>• Buildings under 55 units that rent all rooms only for 30 days or longer</li> </ul>	<ul style="list-style-type: none"> <li>• Annual review of residential hotels</li> </ul>
New York City	<ul style="list-style-type: none"> <li>• Regulations focus on preventing harassment of tenants and facilitating new development</li> </ul>	<p>Tenants are considered “stabilized” if they have lived there for six months or if they have requested a six-month lease</p> <p>Cannot be evicted if they have lived somewhere for 30 days or requested a six-month lease</p>		<ul style="list-style-type: none"> <li>• Variety of incentives for rehabilitation</li> <li>• Technical assistance (financial counseling, referrals, training) to landlords and managers (not specifically for SROs).</li> <li>• SRO support subsidy program to renovate and preserve</li> </ul>		<ul style="list-style-type: none"> <li>• To get building permit, must prove they haven’t harassed or neglected their tenants in the last three years</li> <li>• Many brownstones converted to SROs, now gentrifying and converting back.</li> <li>• City buys and sells or donates (interest-free loans that aren’t repaid) SROs to nonprofits</li> <li>• Requires that rehabbed and newly constructed replacement units be sold or leased to a nonprofit organization</li> </ul>

ATTACHMENT C

	<b>Replacement</b>	<b>Tenant Relocation</b>	<b>SRO Status</b>	<b>Incentives</b>	<b>Exemptions</b>	<b>Other</b>
San Diego	<ul style="list-style-type: none"> <li>• One-for-one replacement (new construction or conversion) – capital cost only</li> <li>• 50% of replacement cost (hotel area x current development cost/sf)</li> <li>• Must be in the same community plan area</li> <li>• Exempted from replacement requirement:               <ul style="list-style-type: none"> <li>• Conversion to VLI housing project</li> <li>• Demolition with agreement to construct VLI within two years</li> <li>• Demo or conversion for LI senior citizens, operated by nonprofit</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• As of 2004, required that they be made available to VLI households at 30% of household income</li> <li>• Gives 60-day notice</li> <li>• Housing Commission, not building owner, provides assistance in locating housing</li> <li>• Monetary compensation for residents of over 90 days (small rent rebate per month + one year rent for rehab, 2x one year rent for demolition)</li> </ul>	<ul style="list-style-type: none"> <li>• Not clear</li> </ul>	<ul style="list-style-type: none"> <li>• No local funds for financial incentives (state tax credit rehab only)</li> </ul>	<ul style="list-style-type: none"> <li>• If necessary to implement a redevelopment project; will contribute to public health, safety and welfare; and that contribution exceeds negative impact on the supply of SROs</li> </ul>	<ul style="list-style-type: none"> <li>• Denies permits if any tenant was evicted within the past 180 days for anything other than breach of lease, nuisance or illegal activity</li> <li>• Built new SROs in 1980s-90s: incentives to increase production</li> </ul>
Sacramento	<p>Residential hotel units may be replaced through:</p> <ol style="list-style-type: none"> <li>1. Construction of new housing;</li> <li>2. Rehabilitation of existing nonregulated property</li> <li>3. Acquisition or purchase of covenants of existing housing.</li> </ol> <p>Replacement units must have rental costs not exceeding 40% of the Sacramento metropolitan area median income, be located close to transportation and services; recorded affordability covenants for at least 55 years.</p>	<p>Relocation payments - \$2,400 per person. If no current tenant, payment made to an eligible past tenant. If there is a tenant eligible for relocation benefits who cannot be located by the owner, (80) percent of benefits go to Sacramento housing agency. If not claimed within one year, the funds in housing trust fund.</p>	<p>Four hotels identified (712 units)</p>		<p>Still applies to withdrawal of units as the result of abatement by public authorities or other involuntary circumstances, unless the condition causing the withdrawal was beyond the control of the owner.</p>	<p>The city recently allowed more rentals to qualify toward the required room count</p>