

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2015**

No. 50

Introduced by Council Members Johnson, Chin, Torres, Reynoso, Richards, Levine, Miller, Van Bramer, Kallos, Rodriguez, Dromm, Lander, Ferreras, Lancman, Rose, Constantinides, Deutsch, Espinal, Eugene, Gentile, Gibson, King, Levin, Maisel, Cumbo, Rosenthal, Mendez, Menchaca, Cohen, Treyger, Arroyo, Cabrera, Koslowitz and Wills.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the preservation of certain hotels, a moratorium and report relating to such preservation, and the expiration and repeal of such amendments.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. a. The council finds and declares that:

1. As one of the world's premier travel destinations, the city depends on a diverse group of visitors for its economic health and wellbeing, and spending by such visitors, which generates over \$3.7 billion in taxes annually, provides a crucial source of revenue for the city and supports 360,000 jobs.

2. Larger hotels, which often provide additional services to guests, are a vital component of the city's hospitality industry. These hotels are a critical source of quality jobs for city residents and are essential for attracting business and convention travelers and affluent visitors. Several such hotels have converted to residential condominiums in recent years, resulting in, among other impacts, a significant loss of quality jobs. Because of this recent conversion history and current market conditions, the council is concerned that more such hotels will convert to residential

condominiums or other non-hotel uses in the near future; in fact, the owners of several such hotels in Manhattan have already announced their intention to undertake conversion of at least some of their hotel rooms to residential apartments.

4. Once undertaken, such conversions are potentially irreversible, and the loss of even a small number of such hotels, coupled with the inability to reliably predict that the jobs and tourism-related revenues and economic activity generated by these hotels will be replaced in their particular communities, poses a significant risk to the city's economy, its tourism, its market for quality jobs and the quality of life for city residents and visitors. It is unclear whether the impact of such losses may be counteracted through development of smaller hotels.

5. Determining the full extent of such risks, and the appropriate responses thereto, requires further study.

b. The council finds that it is necessary and appropriate to place limited, short-term restrictions on the conversion of larger hotels in Manhattan to other uses to facilitate the preparation and consideration of a comprehensive report to be completed by appropriate city offices or agencies, and to maintain the city's inventory of these critical hotels pending the development and implementation of the recommendations of such report.

§ 2. Title 25 of the administrative code of the city of New York is amended by adding a new chapter 7 to read as follows:

CHAPTER 7
CONVERSION OF HOTEL SPACE

§ 25-701 Definitions.

§ 25-702 Hotel conversions.

§ 25-703 Waiver; board of standards and appeals.

§ 25-701 Definitions. As used in this chapter:

Accessory hotel space. The term “accessory hotel space” means any space within a hotel other than primary hotel space. Accessory hotel space includes, but is not limited to, retail space, lobby areas, reception areas, administrative offices, storage areas, laundries, food and beverage facilities and banquet and conference facilities.

Board. The term “board” means the board of standards and appeals.

Covered hotel conversion. The term “covered hotel conversion” means a conversion of any amount of primary hotel space, or covered timeshare space, on a covered lot to space used for purposes other than primary hotel space, or covered timeshare space, where applications for approval of construction documents relating to such conversion have been filed with the department of buildings on or after the effective date of the local law that added this chapter. Covered hotel conversion does not include a conversion of primary hotel space on a covered lot to space used under a timesharing plan. Covered hotel conversion does not include a conversion of primary hotel space where (A) the covered lot containing such primary hotel space was subject to an agreement for the purchase and sale of such lot entered into within 24 months preceding the effective date of the local law that added this chapter and (B) the purchaser exhibited a demonstrated interest in converting the covered lot from primary hotel space at the time of the purchase.

Covered lot. The term “covered lot” means a zoning lot that, at any time on or after the effective date of the local law that added this chapter, contains primary hotel space or covered timeshare space with 150 or more sleeping units in aggregate.

Covered timeshare space. The term “covered timeshare space” means space subject to a timesharing plan where such space was converted from primary hotel space on or after the effective date of the local law that added this chapter.

Cumulative hotel conversion factor. The term “cumulative hotel conversion factor” means, for a zoning lot, the sum of the hotel conversion factors for each covered hotel conversion occurring on a covered lot.

Floor area. The term “floor area” means floor area as defined in section 12-10 of the New York city zoning resolution.

Hotel. The term “hotel” means a transient hotel as defined in section 12-10 of the New York city zoning resolution that is located in the borough of Manhattan.

Hotel conversion factor. The term “hotel conversion factor” means, for a covered hotel conversion, the greater of zero or the number obtained by subtracting the post-conversion area from the pre-conversion area, divided by the pre-conversion area, multiplied by 100.

Pre-conversion area. The term “pre-conversion area” means, for a covered hotel conversion, the floor area contained within primary hotel space or covered timeshare space on a covered lot immediately before such conversion.

Post-conversion area. The term “post-conversion area” means, for a covered hotel conversion, the floor area contained within primary hotel space or covered timeshare space on a covered lot immediately after such conversion.

Primary hotel space. The term “primary hotel space” means space within a hotel where such space consists of living or sleeping accommodations that are used or designed to be used primarily for transient occupancy. Primary hotel space does not include accessory hotel space.

Timesharing plan. The term “timesharing plan” means any arrangement, excluding exchange programs as such phrase is used in part 24 of subchapter B of chapter II of title 13 of the New York code of rules and regulations, the primary purpose of which is to provide each of three or more purchasers with the right to use and occupy a unit or units for a period of time

which is less than 30 consecutive days at any particular location, and which continues for a period of more than three years, or which, for nominal consideration, may be renewed to continue for a period of more than three years.

§ 25-702 Hotel conversions. Except as provided in section 25-703:

a. No covered lot may have a cumulative hotel conversion factor of greater than 20.

b. No permit from the department of buildings may be issued for work in connection with a covered hotel conversion at a covered lot unless the owner of primary hotel space or covered timeshare space on such covered lot demonstrates to the satisfaction of the commissioner of buildings that such conversion would not increase the cumulative hotel conversion factor for such lot to greater than 20, or provides evidence of a waiver granted pursuant to section 25-703.

§ 25-703 Waiver; board of standards and appeals. a. The board shall review applications for waivers pursuant to this section.

b. An owner of primary hotel space or covered timeshare space on a covered lot may apply to the board for a waiver of the provisions of section 25-702 in order to carry out a covered hotel conversion that would increase the cumulative hotel conversion factor for the zoning lot containing such hotel space to greater than 20.

c. The board shall conduct one or more public hearings on each application for a waiver under this section.

d. In determining whether to issue a waiver under this section allowing the cumulative hotel conversion factor for the lot where such primary hotel space or covered timeshare space is situated to exceed 20, the board shall assess whether the application of section 25-702 permits a reasonable rate of return, while also taking into account practical difficulties or unnecessary hardship in the way of strict application of such section, so that the spirit of the law shall be

observed, the public safety and welfare secured and substantial justice done. In evaluating the ability of the applicant to earn a reasonable financial return, the board shall consider the financial state of the existing primary hotel space or covered timeshare space, including but not limited to revenue, income, expenses, profit, revenue per available room, average daily room rate, occupancy levels, any information presented at the public hearing on the application and any other information deemed relevant by the board; provided that the board shall not consider returns expected from converting such primary hotel space or covered timeshare space to a use other than primary hotel space or covered timeshare space except when determining the extent of the waiver that would allow the applicant to earn a reasonable financial return.

e. The board may grant a waiver pursuant to this section only to the minimum extent necessary to afford relief, in accordance with the intent and purposes of this chapter. In granting such a waiver, the board shall make an express finding that it is the minimum waiver necessary to afford relief.

f. Applications for waivers under this section and subsequent related submissions that the board determines are complete and sufficiently responsive to permit board consideration of the criteria set forth in subdivision d of this section shall be considered and acted upon without undue delay.

§ 3. Hotel industry report. a. Not later than six months after the enactment of this local law, one or more offices or agencies designated by the mayor shall complete a report analyzing the cumulative impact of the hotel industry and particular sectors thereof, including hotels as defined in section 25-701 of the administrative code of the city of New York, on the economy of the city. Such report shall include, but need not be limited to:

1. An analysis of recent and projected conversions of primary hotel space, as such term is defined in section 25-701 of the administrative code of the city of New York, and other hotel space to other uses, and the short-term and long-term impacts of such conversions on the city's economy, including tourism and the availability of quality jobs for city residents, and the potential economic, land use and other impacts of restrictions on such conversions; and

2. Recommendations for the preservation and enhancement of the hotel industry and particular sectors thereof, including hotels as defined in section 25-701 of the administrative code of the city of New York, and of tourism more broadly, including, but not limited to, recommendations relating to legislation, zoning text or map amendments, regulatory actions and financial or other incentives; provided that such recommendations shall not seek to prohibit any conversion of primary hotel space or covered timeshare space exempted by the definition of "covered hotel conversion" in section 25-701 of the administrative code of the city of New York.

b. In preparing such report, the designated offices or agencies shall consult with stakeholders, including representatives of the hotel industry, elected officials, community groups, labor, real estate investors and the real estate industry, and others, and may hold public hearings to obtain comments and testimony.

§ 4. This local law takes effect immediately, and expires and is deemed repealed two years after its effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on May 14, 2015 and approved by the Mayor on June 2, 2015.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 50 of 2015, Council Int. No. 592-A of 2014) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.