



CITY COUNCIL STAFF REPORT

DATE: May 1, 2013

LEGISLATIVE

SUBJECT: PROPOSED ORDINANCE AMENDING SECTIONS 5.26.020, 5.26.030 AND 5.26.040 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO THE "HOTEL OPERATIONS INCENTIVE PROGRAM"

FROM: David H. Ready, City Manager

BY: Community & Economic Development

SUMMARY

The City Council will consider introduction of an ordinance amending Sections 5.26.020, 5.26.030 and 5.26.040 of the Palm Springs Municipal Code relating to the "Hotel Operations Incentive Program," deleting the categories of Quality, Deluxe and Boutique hotels and merging those designations, extending the deadlines for participation in all categories, and modifying the incentives for new First Class New Hotels.

RECOMMENDATION:

1. Waive reading of the text and introduce by title only Ordinance No. _____ "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA AMENDING SECTIONS 5.26.020, 5.26.030 AND 5.26.040 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO THE "HOTEL OPERATIONS INCENTIVE PROGRAM"

STAFF ANALYSIS:

The City of Palm Springs adopted Chapter 5.26 of its Municipal Code in December, 2007 (Ordinance 1730, effective January 2008) to provide an incentive program for the operation and maintenance of quality and first class hotel facilities which enhance the tourist and travel experience for visitors to the city of Palm Springs, maximize the use of the city's convention center, provide attractive and desirable visitor serving facilities and experiences, and assist the city in achieving its tourism goals.

The renovation aspect of the Incentive Program has been extraordinary successful, generating in excess of a \$180 million investment in the renovation and upgrading of hotel properties throughout the City. This type of development has had a positive and significant effect on tourism in the City, with other positive spillover effects, and continues at a strong pace, even today.

For most categories of hotel improvements, the Hotel Incentive Program expired at the end of December 2012, having stimulated an incredible renovation of more than 1,600 Palm Springs hotel rooms. The ordinance had previously been amended to grant First Class New Hotels an additional year, with the expiration due to occur in December, 2013.

Subsequent to the original program's expiration, Council directed staff to negotiate additional agreements with hotel owners or developers on other renovations on an individual project basis uniquely designed to accommodate each property. Specifically, negotiations were based on factors which included: (1) the need for the particular hotel product in the City's inventory; (2) the demonstrated financial need for the incentive by the Developer; and (3) the public benefit provided through the development or redevelopment of the hotel. This resulted in agreements with the owners of The Spanish Inn, the developer of a potential new Doubletree, and developers of the Arrive Hotel under similar terms that existed in the previous ordinance.

Given the continuing interest in renovation, as well as the ongoing efforts in the area of developing new hotels, staff recommends renewing the original TOT incentive ordinance with the following modifications: (1) that the categories of Deluxe New Hotels, New Quality Hotels and Boutique Hotels be combined into a "Comfort New Hotels" classification with different incentives for hotel under 125 rooms and 125 rooms and above; (2) the definition of "Hotel" be amended to mean any property containing eight (8) or more guest rooms; (3) the deadline for participating in a "qualified renovation program" be amended from December 31, 2012 to December 31, 2015; and (4) the deadline for all new Hotels to be extended to December 31, 2017.

It is recommended that Section 5.26.020 be modified to delete the following definitions:

- "Boutique Hotel"
- "Deluxe Hotel"
- "New Quality Hotel"
- "Qualified Boutique Hotel Renovation Program"

References to those items have been removed or replaced with "Comfort New hotels" in several places in the Ordinance.

Therefore, it is recommended that Section 5.26.020, "Definitions," be modified to add the following:

"Comfort New hotel" means a hotel which provides the minimum standards of physical features and operational services established for hotels by the American Automobile Association, J.D. Power & Associates, Forbes, or Smith's Travel Research Service.

"Fully entitled" means that a hotel has received and/or been issued all discretionary permits and entitlements from the City required for the construction of a new hotel.

It is also recommended that Section 5.26.020 be modified to amend the following definitions:

"Hotel" means any property containing eight (8) or more guest rooms used by eight (8) or more guests for compensation and where the guest rooms are designed and intended as transient occupancy accommodations.

"Qualified renovation program" means a property improvement program undertaken by an existing hotel which invests no less than fifteen thousand dollars per room, or invests no less than one million dollars in ancillary non-hotel room facilities and/or space. The property improvement program shall be comprehensively executed in a single renovation project on the property and be under construction no later than December 31, 2014 and completed no later than December 31, 2015.

It is recommended that Section 5.26.030(d), referring to the obligations of Boutique Hotels, be deleted.

Further, it is recommended that the first paragraph of Section 5.26.040(a), "First Class New Hotels," be modified as follows:

(a) First Class New Hotels. The city shall pay to an operator of a first class new hotel an amount equal to seventy-five percent (75%) of the adjusted tax rate. Such payments shall be made for thirty years or until the operator has been paid fifty million dollars, whichever event occurs first.

It is recommended that Section 5.26.040(b) be modified as follows:

(b) Comfort New Hotels. The City shall pay to an operator of a comfort new hotel with 125 or more rooms an amount equal to fifty percent of the adjusted tax rate and such payments shall be made for twenty years or until the operator has received twenty-five million dollars, whichever event occurs first. The City shall pay to an operator of a comfort new hotel with 50 to 124 rooms an amount equal to fifty percent of the adjusted tax rate and such payments shall be made for ten years or until the operator has received twenty million dollars, whichever event occurs first. The City shall pay to an operator of a comfort new hotel with 49 or fewer rooms an amount equal to fifty percent of the adjusted tax rate and such payments shall be made for five years or until the operator has received fifteen million dollars, whichever event occurs first. Without regard to any preceding conditions of this section, the program shall terminate at any point the hotel is not operated as a comfort hotel.

It is also recommended that Section 5.26.040(c) and Section 5.26.040(e) be deleted.

It is also recommended that Section 5.26.040(d) be modified to allow for payments made under the Ordinance to Existing Hotels to be made, as follows:

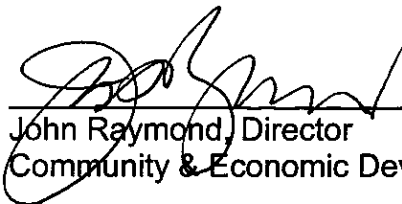
(d) Existing Hotels. The city shall pay to an operator of an existing hotel an amount equal to fifty percent of the transient occupancy tax increment collected and remitted to the city pursuant to Chapter 3.24 of this code. For existing hotels with 125 or more rooms such payments shall be made for ten years or until the operator has been received twenty-five million dollars, whichever event occurs first.

For existing hotels with between 51-124 rooms such payments shall be made for five years, or until the operator has been received twenty million dollars, whichever event occurs first. For existing hotels with fewer than 50 rooms such payments shall be made for five years or until the operator has been received fifteen million dollars, whichever event occurs first. Without regard to any preceding conditions of this section, the program shall terminate at any point the existing hotel is not operated as a hotel.


All other provisions of the Ordinance would remain unmodified.

FISCAL IMPACT:

The fiscal impact of each hotel project varies depending on the size and whether the project is receiving increment or a portion of (new) base TOT. Since it is an incentive program, the presumption is that the funds the City does receive is new and would not have existed but for the incentive. Furthermore, the additional investment made by the hotel developers or operators creates property tax revenue and makes Palm Springs more competitive in the tourism market, improving the performance of the Convention Center and generating more sales tax as well.



John Raymond, Director
Community & Economic Development



David H. Ready, City Manager

Attachment:

Proposed Ordinance Amending Sections 5.26.020, 5.26.030 and 5.26.040 of the Palm Springs Municipal Code.

ORDINANCE NO. ____

**AN ORDINANCE OF CITY OF PALM SPRINGS, CALIFORNIA,
AMENDING SECTION 5.26.020, 5.26.030, AND SECTION 5.26.040 OF
THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE HOTEL
OPERATIONS INCENTIVE PROGRAM**

City Attorney's Summary

This Ordinance amends the existing incentive program for hotel operations in the City of Palm Springs by combining certain classifications of hotels into a new general "Comfort Hotel" classification and extending the incentive periods for defined classifications of hotels.

The City Council of the City of Palm Springs ordains:

Section 1. Section 5.26.020 of the Palm Springs Municipal Code is amended to read:

5.26.020 Definitions.

For the provisions of this Chapter, the following definitions shall apply:

"Adjusted tax rate" means the hotel operations incentive program tax rates which shall be exclusively utilized for the calculation of the operating assistance to be paid by the City to qualified operators of hotels participating in the hotel performance incentive program. For hotels of one hundred twenty-four rooms or less, the adjusted tax rate shall be ten and nine-tenths percent of the rent charged by the operator of the hotel for transient occupancies. For hotels of one hundred twenty-five rooms or more, the adjusted tax rate shall be twelve and one-tenths percent of the rent charged by the operator of the hotel for transient occupancies. The adjusted tax rate set forth in this Section shall exclusively apply for the calculation of any and all operating assistance for the term of the hotel performance incentive program without regard to any increases at any time in the City of Palm Springs' transient occupancy tax rates.

"Committable rooms program" means the Palm Springs convention center's committable rooms program which provides the convention center with a list of hotel properties and a count of hotel rooms available, one year in advance or more, for potential reservation by meeting groups and/or conventions in the City.

"Comfort hotel" means a hotel which provides the minimum standards of physical features and operational services established for hotels by the American Automobile Association, J.D. Power & Associates, Forbes, or Smith's Travel Research Service.

"Existing hotel" means a property that was constructed, occupied, and used as a hotel on or before January 1, 2006.

“First class hotel” means a hotel which provides standards of physical features and operational services which meet or exceed the higher rating criteria established for hotels by the American Automobile Association, J.D. Power & Associates, Forbes, or Smith’s Travel Research Service.

“First class hotel standard” means standards of physical features and operation which qualify a hotel as a first class hotel and which include operation of the hotel on a twenty-four hours per day/seven day a week basis with housekeeping services, food and beverage services, room services, banquet and meeting services, concierge and bellman services, and parking services.

“Fully entitled” means a hotel that has received and/or been issued all discretionary permits and entitlements from the City required for the construction of a new hotel.

“Hotel” means any property containing eight (8) or more guest rooms used by eight (8) or more guests for compensation and where the guest rooms are designed and intended as transient occupancy accommodations.

“New hotel,” “first class new hotel,” and “comfort new hotel” means a hotel or first class hotel or comfort hotel that is or was fully entitled as a hotel after January 1, 2008, but before December 31, 2014 and which is under construction prior to December 31, 2017. The term “new hotel” does not include all, or any portion of, or addition to, an existing hotel.

“Operating covenants” means the covenants described in Section 5.26.050 of this Code.

“Operator” means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, franchisee, or any other capacity, or the assignee or designee of such proprietor.

“Qualified renovation program” means a property improvement program undertaken by an existing hotel which invests no less than fifteen thousand dollars per room, or invests no less than one million dollars in ancillary non-hotel room facilities and/or space. The property improvement program shall be comprehensively executed in a single renovation project on the property and be under construction no later than December 31, 2014 and completed no later than December 31, 2015.

“Transient occupancy” means an uninterrupted stay of no more than twenty-eight consecutive calendar days.

“Transient occupancy tax base” means the average of the last thirty-six months of annualized transient occupancy tax owed to the City by an existing hotel prior to the commencement of a qualified renovation program.

“Transient occupancy tax increment” means the difference between the transient occupancy tax base and the amount of transient occupancy tax owed to the City by an existing hotel after the recordation of the operating covenants by the City.

“Under construction” means that all necessary discretionary entitlements have been approved by the City of Palm Springs, grading and building permits have been issued, and that inspection approvals by the City of Palm Springs of grading and foundations to grade level have been obtained, vertical construction of hotel rooms has begun, and the operating covenants have been recorded.

Section 2. Section 5.26.020 of the Palm Springs Municipal Code is amended to read:

5.26.030 Eligibility for Incentive Program.

(a) To qualify for the hotel operations incentive program for new first class hotels, the operator shall:

- (1) Complete and submit to the City Manager, the City’s application for the hotel operations incentive program;
- (2) Subscribe to the Palm Springs convention center’s committable rooms program;
- (3) Provide independent, third-party, certification acceptable to the City of the level of quality of the new hotel as a first class hotel as defined in Section 5.26.020;
- (4) Participate in the City’s convention center hotel shuttle service on a proportional basis equal to the number of total hotel, or condo-hotel rooms in the first class new hotel;
- (5) Execute the operating covenants which shall include provisions regarding continuing use, maintenance, non-discrimination, and such other provisions as the City Council in its sole discretion, may reasonably determine are necessary or appropriate to preserve the goals and intent of this chapter.

(b) To qualify for the hotel operations incentive program for new comfort hotels, the operator of each new comfort hotel shall:

- (1) Complete and submit to the City Manager, the City’s application for participation in the hotel operations incentive program;
- (2) If requested by the City, subscribe to the Palm Springs convention center’s committable rooms program;

(3) Execute the operating covenants which shall include provisions regarding continuing use, maintenance, non-discrimination, and such other provisions as the City Council in its sole discretion, may reasonably determine are necessary or appropriate to preserve the goals and intent of this chapter.

(c) To qualify for the hotel operations incentive program for existing hotels, the operator of each existing hotel shall:

(1) Complete and submit to the City Manager, the City's application for participation in the hotel operations incentive program, including documentation satisfactory to the City certifying the renovation project for an existing hotel as a qualified renovation program;

(2) If requested by the City, subscribe to the Palm Springs Convention Center's committable rooms program;

(3) Execute the operating covenants which shall include provisions regarding continuing use, maintenance, non-discrimination, and such other provisions as the City Council in its sole discretion, may reasonably determine are necessary or appropriate to preserve the goals and intent of this Chapter.

Section 2. Section 5.26.040 of the Palm Springs Municipal Code is amended to read:

5.26.040 Incentive Program.

(a) First Class New Hotels. The City shall pay to an operator of a first class new hotel an amount equal to seventy-five percent (75%) of the adjusted tax rate. Such payments shall be made for thirty years or until the operator has been paid fifty million dollars, whichever event occurs first.

The City and a qualified participant under this Section may enter into an agreement, at the sole discretion of the City, to receive an increase in the percent of the adjusted tax rate, for no longer than the first two years of the qualified participant's Incentive program.

Without regard to any preceding conditions of this Section, the program shall terminate at any point the first class new hotel is not operated as a first class hotel.

(b) Comfort New Hotels. The City shall pay to an operator of a comfort hotel with 125 or more rooms an amount equal to fifty percent of the adjusted tax rate and such payments shall be made for twenty years or until the operator has received twenty-five million dollars, whichever event occurs first. The City shall pay to an operator of a comfort hotel with 51 to 124 rooms an amount equal to fifty percent of the adjusted tax rate and such payments shall be made for ten years or until the Operator has received twenty million dollars, whichever event occurs first. The City shall pay to an operator of a comfort hotel with 49 or fewer rooms an amount equal to fifty percent of the adjusted

tax rate and such payments shall be made for five years or until the Operator has received fifteen million dollars, whichever event occurs first. Without regard to any preceding conditions of this Section, the program shall terminate at any point the deluxe hotel is not operated as a comfort hotel.

(c) Existing Hotels. The City shall pay to an operator of an existing hotel with 125 or more rooms an amount equal to fifty percent of the transient occupancy tax increment collected and remitted to the City pursuant to Chapter 3.24 of this Code and such payments shall be made for ten years, or until the operator has received twenty-five million dollars, whichever event occurs first. The City shall pay to an operator of an existing hotel with 51 to 124 rooms an amount equal to fifty percent of the adjusted tax rate and such payments shall be made for ten years or until the Operator has received twenty million dollars, whichever event occurs first. The City shall pay to an operator of an existing hotel with 49 or fewer rooms an amount equal to fifty percent of the adjusted tax rate and such payments shall be made for five years or until the Operator has received fifteen million dollars, whichever event occurs first. Without regard to any preceding conditions of this Section, the program shall terminate at any point the existing hotel is not operated as a hotel.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2013.

AYES:
NOES:
ABSTAIN:
ABSENT:

STEVE PUGNET, MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM



City Attorney

CERTIFICATION:

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. ____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on _____ and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California