



CITY COUNCIL STAFF REPORT

DATE: JULY 6, 2016 LEGISLATIVE

SUBJECT: PROPOSED URGENCY ORDINANCE IMPOSING A MORATORIUM ON THE ISSUANCE OF VACATION RENTAL CERTIFICATES AND THE IMPOSITION OF FINES AND PENALTIES FOR VIOLATIONS AND/OR CONTINUING URGENCY ORDINANCE NO. 1891.

FROM: David H. Ready, City Manager

BY: City Clerk and City Attorney

SUMMARY

The City Council will consider adopting an urgency ordinance imposing a moratorium on the issuance of vacation rental certificates. The moratorium does not affect any person or entity that currently holds a lawful vacation rental certificate pursuant to Chapter 5.25 of the Palm Springs Municipal Code, and allows the City Manager to process vacation rental applications received on or before June 29, 2016.

RECOMMENDATION:

Adopt Urgency Ordinance No. _____, "AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, IMPOSING A MORATORIUM ON THE ISSUANCE OF VACATION RENTAL REGISTRATION CERTIFICATES OR ANY OTHER ENTITLEMENTS OR PERMITS PROVIDING FOR THE USE, COMMENCEMENT, ESTABLISHMENT, OR OPERATION OF VACATION RENTALS WITHIN THE CITY OF PALM SPRINGS FOR A PERIOD OF TIME ENDING ON MARCH 31, 2017." (4/5THS VOTE REQUIRED.)

STAFF ANALYSIS:

The City currently allows and has adopted extensive regulations for vacation rental properties. In 2008, the City Council enacted Chapter 5.25 of the Palm Springs Municipal Code, requiring vacation rentals to register and mandated regulations for the conduct of vacation rentals.

In February 2014, the City Council reviewed the regulations, based on input from the Palm Springs Neighborhood Involvement Committee (now ONE-PS), which believed

would address issues that arose since the original ordinance was enacted. This resulted in substantial amendments to the vacation rental regulations.

This year ONE-PS continued their review and submitted further recommendations, which are being studied by Staff and the City Council Subcommittee (Mayor Pro Tem Mills and Councilmember Roberts).

ONE-PS recommended the City Council prohibit apartments from being used as vacation rentals, and on April 20, 2016, the City Council adopted Urgency Ordinance No. 1891, temporarily prohibiting the rental of apartments as vacation rentals. Ordinance No. 1891 expires on July 31, 2016. The regulation did not affect any apartment or apartment unit that has a valid vacation rental certificate.

Since April 2009, when the City started maintaining statistics on vacation rental properties, the City has experienced a 94% increase in the number of registered vacation rental properties, as shown in the tables below.

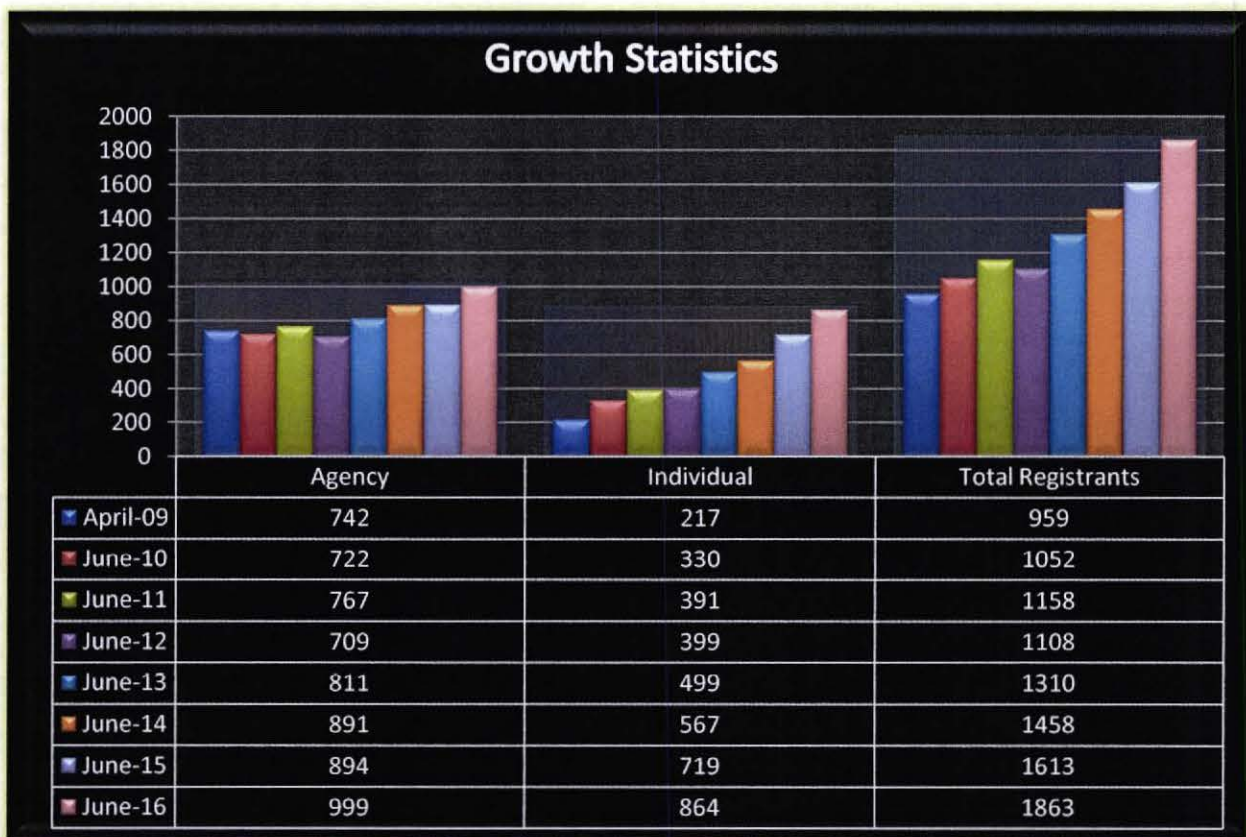


Table 1

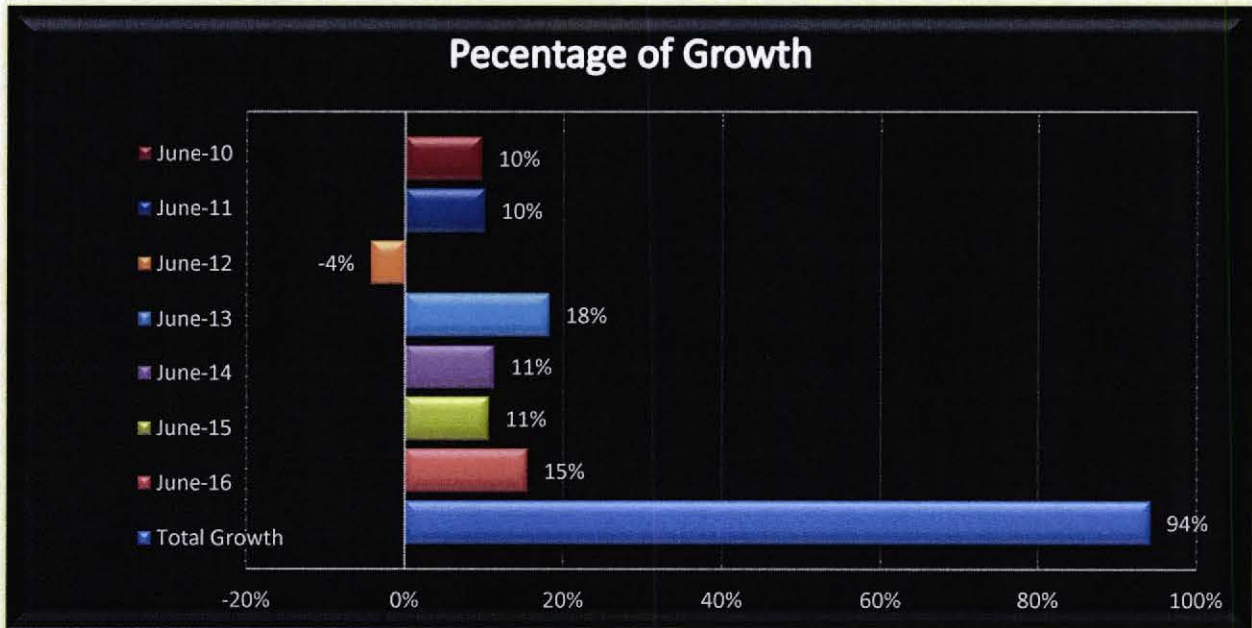


Table 2

The City estimates the total number of “roof-tops” in the City of Palm Springs at approximately 22,000. Based on the number of “roof-tops”, it could be estimated that the City is approaching 10% of the housing units with vacation rental permits.

The Palm Springs City Council Subcommittee recommends the adoption of a temporary moratorium on the issuance of any new vacation rental certificates, allowing the City to study the potential impacts.

The urgency ordinance presented prohibits the issuance of any new vacation rental certificates received on or after June 30, 2016. The ordinance does not affect any property that currently has a legal vacation rental certificate. All legal vacation rental certificates continue to remain in effect and will be renewed upon their expiration date. No new vacation rental certificates would be issued until the City Council approves a revised Vacation Rental Ordinance prior to the expiration of this temporary moratorium.

Moreover, the urgency ordinance places severe fines for offering or using a property in the City of Palm Springs as a vacation rental (28-consecutive days or less) or advertising a property as a vacation rental, including civil penalties of \$1,000 per violation, per day.

While the urgency ordinance expires on March 31, 2017, it is the goal of the City Council Subcommittee and City Staff to meet with interested parties and stakeholders and bring any further recommendations much sooner than the expiration date.

ALTERNATIVES:

Upon further review and discussion, should the City Council choose not to enact a moratorium on the issuance of any new vacation rental certificates, the current moratorium prohibiting the rental of apartments as vacation rentals expires on July 31, 2016, and Staff would recommend the City Council consider adopting an alternative urgency ordinance to extend Urgency Ordinance No. 1891 to March 31, 2017.

The proposed extension would continue to allow an apartment, or an apartment unit, as a vacation rental if it was covered under a valid vacation rental certificate issued prior the adoption of the Urgency Ordinance.

Adopt Urgency Ordinance No. _____, "AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, EXTENDING URGENCY ORDINANCE NO. 1891 PROHIBITING THE RENTAL OF APARTMENTS AS VACATION RENTALS TO MARCH 31, 2017."

Should the City Council determine to enact the full moratorium ordinance, no action is needed by the City Council to extend the current urgency ordinance prohibiting the rental of apartments as vacation rentals, as no new vacation rental certificates can be used. The full moratorium ordinance does contain the consumer protections for tenants of apartment buildings regarding potential eviction for the purpose of using the apartment as a vacation rental.

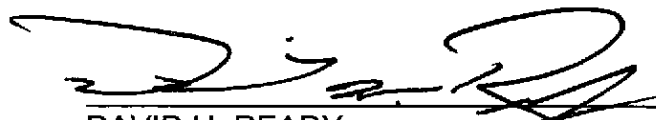
FISCAL IMPACT:

In fiscal year 2014-15, the City collected \$5.2 million in Transient Occupancy Taxes (TOT) for vacation rentals. Through April of 2015-16, the City has already collected over \$5.1 million in TOT, a 16.5% increase year-over-year, and the current estimate for the total TOT for vacation rentals in the full 2015-16 fiscal year could reach nearly \$6 million.

The fiscal effect of a moratorium will be the loss of Vacation Rental fees and Transient Occupancy Tax that could be generated by additional vacation rental units for less than 28-days.



JAMES THOMPSON
Chief of Staff/City Clerk



DAVID H. READY
City Manager



DOUGLAS C. HOLLAND
City Attorney

Attachments:

- Proposed Urgency Ordinance Moratorium
- Alternative Ordinance Extending Ordinance No. 1891
- Ordinance No. 1891

ORDINANCE NO. ____

AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, IMPOSING A MORATORIUM ON THE ISSUANCE OF VACATION RENTAL REGISTRATION CERTIFICATES OR ANY OTHER ENTITLEMENTS OR PERMITS PROVIDING FOR THE USE, COMMENCEMENT, ESTABLISHMENT, OR OPERATION OF VACATION RENTALS WITHIN THE CITY OF PALM SPRINGS FOR A PERIOD OF TIME ENDING ON MARCH 31, 2017. (4/5THS VOTE REQUIRED.)

City Attorney Summary

This Urgency Ordinance temporarily prohibits the issuance of any new Vacation Rental Registration Certificates in the City of Palm Springs through March 31, 2017, and provides for fines and penalties for violation of this Urgency Ordinance. This Ordinance goes into effect upon adoption by 4/5ths vote of the City Council. The Ordinance will not apply to applications filed with the City on or before June 29, 2016.

The City Council of the City of Palm Springs finds:

A. The City Council of the City of Palm Springs has adopted a Land Use Element and a Housing Element of its General Plan. The Land Use Element sets forth policies and goals consistent with sound, consistent land use planning, recognition of the social impacts of various land uses on residential neighborhoods, and adherence to the Housing Element goals consistent with City policies and goals that are intended to provide and preserve a wide and diverse supply and range of housing opportunities throughout the City.

B. The City Council has expressed concern regarding the potentially adverse impacts that the conversion of housing units to vacation rental uses may have on the City's housing stock and resident socio-economic population mix.

C. The consideration, adoption, and implementation of comprehensive modifications to the regulatory program for vacation rentals is necessary to balance the potential adverse effects that could be caused by the growing proliferation of vacation rentals certificates against the potential benefits the community could derive from alternative visitor lodging opportunities such as vacation rentals.

D. The City Council further recognizes that vacation rentals raise issues of public policy and whether visitor serving uses within residential zones are compatible with residential uses that enhance and further neighborhoods and communities, and that additional standards and implementation regulations for vacation rentals require careful consideration and thorough study.

E. To address these issues, as well as the community concerns regarding the proliferation and operation of vacation rentals, it is necessary for the City to study the potential impacts such uses may have on the public health, safety, and welfare; provided, however, that this City Council finds and determines that it would be fair and equitable to allow applications received by the City prior to a specified date before the Council considered this Ordinance to be processed and vacation rental registration certificates may issued for such pending applications provided that such pending applications were submitted on or before June 29, 2016 and reviewed and issued in full compliance with the procedures, terms, conditions, and requirements of the Vacation Rental Ordinance.

F. Absent the adoption of this Urgency Ordinance, an increase in the number and location of vacation rentals may increase the burden upon City services due to enforcement of the established standards and regulations relating to the issuance of permits for vacation rentals.

G. In addition, except for (a) vacation rentals lawfully existing as of the effective date of this Ordinance and (b) vacation rental registration certificates that may be issued under and in compliance with the procedures, terms, conditions and requirements of the Vacation Rental Ordinance in response to pending applications that were received by the City on or before June 29, 2016, it is necessary to prohibit, as a public nuisance, the use of property in any zone of the City for purposes of vacation rentals for the duration of this Ordinance, or any extension thereof.

H. The purpose of this Urgency Ordinance is to: (1) ensure a balance in the availability of rental and ownership housing in the City and to maintain opportunities for individual choice in the tenure, type, cost and location of housing; (2) maintain an adequate supply of housing; and (3) avoid displacement of and undue hardship to residents of the City affected by the conversion of additional housing units to vacation rentals.

I. The City Council determines, by at least a four-fifths (4/5) vote, that this Urgency Ordinance is a matter of City-wide importance, is a reasonable and necessary measure designed for the immediate preservation and protection of the public health, safety, or welfare of the community, and is in accord with the public purposes and provisions of applicable State and local laws and requirements.

The City Council of the City of Palm Springs, California, ordains:

SECTION 1. Specific Prohibitions.

(a) No person, owner, or other entity shall offer or provide a Vacation Rental, as defined in Chapter 5.25 of the Palm Springs Municipal Code, for a period of less than twenty-eight (28) consecutive days to any person unless the person, owner, or other entity has been issued a lawful and current vacation rental registration certificate pursuant to Chapter 5.25 of the Palm Springs Municipal Code.

(b) No person, owner, or entity shall maintain any advertisement of a rental that is in violation of any provision of this Ordinance and Chapter 5.25 of the Palm Springs Municipal Code.

(c) No person, including without limitation, an apartment owner, an apartment manager, or a representative of the apartment owner or manager, shall evict any tenant or otherwise terminate a lease for the purpose of converting an apartment to a vacation rental or in anticipation of converting an apartment to a vacation rental. In addition to any other remedy provided under the Palm Springs Municipal Code, failure to comply with this provision may be asserted as an affirmative defense in an action brought by or on behalf of the apartment owner, apartment manager, or representative to recover possession of the unit. Any attempt to recover possession of a unit in violation of this Ordinance shall render the apartment owner, apartment manager, or representative liable to the tenant for actual or punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant may seek injunctive relief and money damages for wrongful eviction and the prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

SECTION 2. Public Nuisance Declared.

(a) Any person, owner, or entity offering or providing a Vacation Rental or maintaining any advertisement of a Vacation Rental within the City without a valid Vacation Rental Certificate issued pursuant to Chapter 5.25 of the Palm Springs Municipal Code, is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

(b) Civil penalties in the amount of one thousand dollars (\$1,000) per violation for each day, payable to the City, against any person who commits, continues, operates, allows or maintains any violation of any provision of this Ordinance.

SECTION 3. Notwithstanding the provisions of Palm Springs Municipal Code Chapter 5.25, the City Manager shall not process or issue any new Vacation Rental Certificates for any application received on or after June 30, 2016.

SECTION 4. In the event any term or provision of this Ordinance is to any extent invalid or incapable of being enforced, such term or provision shall be excluded to the extent such invalidity, illegality, or unenforceability and all other terms or provisions shall remain in full force and effect.

SECTION 5. The City Council finds that it can be seen with certainty that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15060(c)(3) [the activity is not a project as defined in Section 15378], Title 14 of the California Code of Regulations because it has no potential for resulting in physical change to the

environment, directly or indirectly; it prevents changes in the environment pending the completion of contemplated Municipal Code review.

SECTION 6. The adoption of this Urgency Ordinance is necessary for the immediate protection of the public peace, health, and safety by ensuring the timely and orderly consideration, adoption, and implementation of further regulations for the permitting of Vacation Rental certificates. In accordance with Section 312 of the City Charter of the City of Palm Springs, the City Council of the City of Palm Springs finds and determines that the adoption of this Urgency Ordinance is necessary to ensure the immediate protection of the public peace, health and safety.

SECTION 7. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law, and this Ordinance shall take effect immediately and shall expire on March 31, 2017.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 6th DAY OF JULY, 2016.

ROBERT MOON, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Urgency Ordinance No. _____ is a full, true and correct copy, and was introduced and adopted at a regular meeting of the Palm Springs City Council on the 6th day of July, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

ORDINANCE NO. ____

AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, EXTENDING ' URGENCY ORDINANCE NO. 1891 PROHIBITING THE RENTAL OF APARTMENTS AS VACATION RENTALS TO MARCH 31, 2017.

City Attorney Summary

This Urgency Ordinance extends Urgency Ordinance No. 1891 to March 31, 2017, which prohibits the conversion of apartments (as defined) to vacation rentals in the City, excepting apartments covered by vacation rental certificates issued prior to April 15, 2016. This Ordinance goes into effect upon adoption by 4/5ths vote.

The City Council of the City of Palm Springs finds:

A. On April 20, 2016 the City Council, by unanimous vote, adopted Urgency Ordinance No. 1891, amending Palm Springs Municipal Code Sections 5.25.020 and 5.25.030 and added Section 5.25.075, prohibiting the rental of apartments as vacation rentals.

B. Urgency Ordinance No. 1891 expires on July 31, 2016, unless otherwise extended by the City Council.

C. The City Council reaffirms its previous findings and purposes in enacting and implementing Urgency Ordinance No. 1891 prohibiting the rental of apartments, or any portion thereof, for rental for 28 consecutive days or less.

The City Council of the City of Palm Springs, California, ordains:

SECTION 1. Section 6 of Ordinance No. 1891 is amended to read.

The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law, and this Ordinance shall take effect immediately and shall expire on March 31, 2017.

SECTION 2. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law, and this Ordinance shall take effect immediately.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 6th DAY OF JULY, 2016.

ROBERT MOON, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Urgency Ordinance No. _____ is a full, true and correct copy, and was introduced and adopted at a regular meeting of the Palm Springs City Council on the 6th day of July, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

ORDINANCE NO. 1891

AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 5.25.020 AND 5.25.030 OF, AND ADDING SECTION 5.25.075 TO, THE PALM SPRINGS MUNICIPAL CODE PROHIBITING THE RENTAL OF APARTMENTS AS VACATION RENTALS.

City Attorney Summary

This Urgency Ordinance amends the City's Vacation Rental ordinance to prohibit the conversion of apartments (as defined) to vacation rentals in the City, excepting apartments covered by vacation rental certificates issued prior to April 15, 2016. This Ordinance goes into effect upon adoption by 4/5ths vote.

The City Council of the City of Palm Springs finds:

- A. The City Council of the City of Palm Springs has adopted a Land Use Element and a Housing Element of its General Plan. The Land Use Element sets forth policies and goals toward the protection of land use planning that is protective of the social impacts of land uses and the Housing Element sets forth the City's policies and goals towards providing a supply and range of housing opportunities throughout the City.
- B. The City Council has expressed concern regarding the potentially adverse impacts that the conversion of rental apartment units to vacation rental uses may have on the City's rental housing stock and resident socio-economic population mix.
- C. There is a current and immediate threat to the public health, safety, and welfare because conversions of apartment units to vacation rentals could displace apartment residents and drive these residents out of Palm Springs, eroding the City's resident socio-economic population mix but also adversely impact City business that rely on residents in that mix as a valuable employee pool.
- D. The City Council specifically finds there is a reasonable relationship between the conversion of apartment units to vacation rentals and the diminution in the supply of housing affordable to low income families by eliminating units formerly affordable to low income families will create undue hardships for low income residents displaced by the conversion to vacation rentals and will otherwise adversely affect the availability and cost of housing affordable to low income families throughout the City.
- E. The purpose of this ordinance is to (1) ensure a reasonable balance in the availability of rental and ownership housing in the City and to maintain opportunities for individual choice in the tenure, type, cost, and location of housing; (2) maintain an adequate supply of housing affordable to low income residents; and (3) avoid displacement of and undue hardship to residents of the City who may be required to

move from the community due to a shortage of low income housing caused in part by conversions of apartment units to vacation rentals.

The City Council of the City of Palm Springs, California, ordains:

SECTION 1. Section 5.25.020 of the Palm Springs Municipal Code is amended to read:

5.25.020 Findings.

The City Council finds and determines as follows:

- (a) The use of single-family dwelling units for Vacation Rental lodging purposes provides alternate visitor serving lodging opportunities in the City; however, such uses in certain single-family neighborhoods may have effects that can best be addressed through an appropriate city regulatory program.
- (b) The establishment of a regulatory program for Vacation Rental lodging will provide an administrative procedure to preserve existing visitor serving opportunities and increase and enhance public access to areas of the City and other visitor destinations.
- (c) Limiting Vacation Rental lodging to single-family dwelling units and prohibiting Vacation Rental lodging in multi-family or apartments will preserve and protect residential housing stock in the City.
- (d) The purpose of this Chapter is to establish regulations for Vacation Rental lodging within single-family residential neighborhoods and the related use of residential property thereby enabling the City to preserve the public health, safety, and welfare.
- (e) This Chapter is not intended to regulate hotels, motels, inns, time-share units, or non-vacation type rental arrangements including, but not limited to, lodging houses, rooming houses, convalescent homes, rest homes, halfway homes, or rehabilitation homes.

SECTION 2. Section 5.25.030 of the Palm Springs Municipal Code is amended to add the following definitions and amend the definition of "Vacation Rental:"

"Apartment" means a residential unit in a multi-family development of two (2) or more dwelling units where each unit is rented or leased for occupancy as a residence for one individual or family.

“Single-family dwelling” means a detached building designed primarily for the use of a single family and no portion which is to be rented out separately.

“Vacation Rental” means a single-family dwelling, or any portion thereof, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of twenty-eight consecutive days or less, other than ongoing month-to-month tenancy granted to the same renter for the same unit, occupancy of a time-share basis, or a condominium hotel as defined in Ordinance No. 1521 as such ordinance may be amended from time to time.

SECTION 3. Section 5.25.075 is added to the Palm Springs Municipal Code to read:

5.25.075 Specific Prohibitions.

- (a) No person or entity shall offer or provide an apartment, or any portion thereof, for rent for 28 consecutive days or less to any person.
- (b) No person or entity shall maintain any advertisement of a rental that is in violation of any provision of Chapter 5.25 of this Code.
- (c) No person, including without limitation, an apartment owner, an apartment manager, or a representative of the apartment owner or manager, shall evict any tenant or otherwise terminate a lease for the purpose of converting an apartment to a vacation rental or in anticipation of converting an apartment to a vacation rental. In addition to any other remedy provided under the Palm Springs Municipal Code, failure to comply with this provision may be asserted as an affirmative defense in an action brought by or on behalf of the apartment owner, apartment manager, or representative to recover possession of the unit. Any attempt to recover possession of a unit in violation of this Ordinance shall render the apartment owner, apartment manager, or representative liable to the tenant for actual or punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant may seek injunctive relief and money damages for wrongful eviction and the prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

SECTION 4. The provisions of this Ordinance shall not apply to any person or entity who rents an apartment or portion thereof pursuant to a valid vacation rental certificate issued prior to April 15, 2016.

SECTION 5. In the event any term or provision of this Ordinance is to any extent invalid or incapable of being enforced, such term or provision shall be excluded to the extent such invalidity, illegality, or unenforceability and all other terms and provisions shall remain in full force and effect.

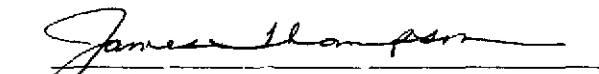
SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law, and this Ordinance shall take effect immediately and shall expire on July 31, 2016.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 20th DAY OF APRIL, 2016.



ROBERT MOON, MAYOR

ATTEST:

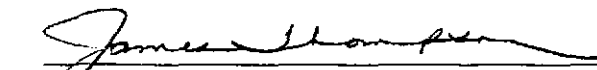

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Urgency Ordinance No. 1891 is a full, true and correct copy, and was introduced and adopted at a regular meeting of the Palm Springs City Council on the 20th day of April, 2016, by the following vote:

- AYES: Councilmember Foat, Councilmember Kors, Councilmember Roberts, Mayor Pro Tem Mills, and Mayor Moon.
NOES: None.
ABSENT: None.
ABSTAIN: None.


JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

04/26/2016