



CITY COUNCIL STAFF REPORT

DATE: NOVEMBER 30, 2016

UNFINISHED BUSINESS

SUBJECT: DISCUSSION AND INTRODUCTION OF MODIFICATIONS TO THE VACATION RENTAL ORDINANCE AND CEQA DETERMINATION, APPROVAL OF AN AMENDMENT TO THE 2016-17 ALLOCATED POSITIONS PLAN CREATING THE DEPARTMENT OF VACATION RENTAL ENFORCEMENT, APPROVAL OF A RESOLUTION MODIFYING USER FEES FOR VACATION RENTAL REGISTRATION AND ANNUAL RENEWALS, AND APPROVING AMENDMENT NO. 2 TO THE AGREEMENT WITH VACATION RENTAL COMPLIANCE

FROM: David H. Ready, City Manager

SUMMARY

The City Council will discuss and introduce an Ordinance modifying the current Vacation Rental Ordinance, and consider creating a new Vacation Rental Enforcement Department. To offset the costs of additional enforcement activities, Staff is also recommending approval of increased permit and annual vacation rental renewal fees, and approving an extension of the contract with Vacation Rental Compliance.

RECOMMENDATION:

1. Waive the reading of the text and introduce by title for first reading Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 5.25 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO VACATION RENTALS";
2. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE ALLOCATED POSITIONS AND COMPENSATION PLAN FOR FISCAL YEAR 2016-17, ADOPTED BY RESOLUTION NO. 24033";
3. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, MODIFYING USER FEES FOR THE VACATION RENTAL REGISTRATION AND RENEWAL FEES AND

ITEM NO. 1.A.

AMENDING THE COMPREHENSIVE FEE SCHEDULE ADOPTED BY RESOLUTION NO. 23854”.

4. Approve Amendment No. 2 to the Agreement with Vacation Rental Compliance extending the agreement to June 30, 2018 and modifying certain terms.

BACKGROUND:

The Vacation Rental Subcommittee (Councilmember Kors and Councilmember Roberts) have conducted seven noticed public meetings, in addition to a full City Council Study Session on October 26, 2016. The purpose of these meetings was to solicit input from residents and stakeholders to discuss modifications to the current vacation rental regulations. The Staff Report and documentation from that Study Session have been included as an attachment to provide background for the discussion and action here. Previously, on October 19, 2016, City Council voted to prohibit the conversion of apartments to vacation rentals.

The Sub-Committee also articulated the following goals and objectives as a guide to making recommendations on proposed ordinance modifications:

- Short-term rentals are a privilege not a right
- Short-term rentals are an ancillary use of residences for full and part-time residents
- Short-term rentals are not a business for the benefit of investors or for real estate speculation
- Priority goal is preserving our neighborhoods for full and part-time residents
- It is a priority to maintain and protect a variety of housing stock that is affordable
- Preserve and maintain long-term rental stock for workers, families and those who cannot afford a down payment to buy a home
- Heightened enforcement of short-term rental goals include eliminating repeat offenders, multiple permits and unregistered and unrepresented short-term rental operators
- Allow some level of short-term rentals as an alternative to other forms of lodging and so full and part-time residents have the option to rent out their homes
- Level the playing field between small hotels and vacation rentals and ensure the health and safety of residents and tourists
- Reduce the use of short-term rentals as party houses for “weekend warriors”

STAFF ANALYSIS

In 2009, Vacation Rental Permits in the City of Palm Springs totaled 960; today, the number of permits is approximately 1,936, in addition to 175 pending applications received. The annual Transient Occupancy Tax (TOT) collected from those permit holders over the previous 12 months was \$6,322,504. Audit findings over the past three years resulted in an additional \$688,661 in TOT which had been collected, or should have been collected, by vacation rental owners and managers from tourists and not remitted to the City as required by law. A recent desk review of two of the larger vacation rental companies resulted in the discovery of an underpayment of vacation rental fees in the amount of \$23,000.

Enforcement of vacation rental complaints are handled generally through the Vacation Rental Hotline, which receives calls of complaints and forwards them to either a vacation rental company handling the home rental, or in the case of an individual home not represented by a vacation rental company, to the designated contact person. These calls are required to be responded to within 15 minutes by telephone or 45 minutes in person by the rental agency or contact person to resolve the complaint. Also, depending upon the circumstance, the Police Department may also respond. If a vacation rental location receives 4 or more violations within a 24-month period, the permit may be suspended.

Enforcement data history from July 2015 to June 2016 (Fiscal Year 2015-16 report attached), indicate 1,090 calls were logged to the hotline and 181 calls were made to the Police Department, resulting in 190 citations; 36 vacation rentals were placed on the "watch list"; and 6 vacation rental homes had their permits suspended for six months. Also, 304 unregistered vacation rentals were brought into compliance and/or cited. Additionally, 646 ads were reviewed which did not contain the permit number as required, and were corrected. It should be noted that noise and similar violations that the owner or manager addresses within 45 minutes are not presently cited, even if they occur numerous times at the same property.

Subcommittee Recommendations:

Subsequent to seven subcommittee meetings, and a City Council Study Session on these issues, the Vacation Rental Subcommittee is recommending the following changes to the current Vacation Rental Ordinance:

- Vacation rentals must be owned by a natural person or the trust of a natural person
- Only one financial interest in a vacation rental
- Permit renewals by owners only – not through an agency
- Provide indemnification and insurance naming the City as additional insured
- Limit number of contracts per year to 28 (non-owner occupancy is considered a contract whether or not there is monetary compensation)
- Substantial increase in Fines for violations
- Fines for violations will be the responsibility of the permit holder
- Two occupants per bedroom (8 maximum) and one car per bedroom (4 maximum)(eliminate daytime occupancy)
- Annual building and safety inspections
- 30 minute response from owner/contact person for evictions or other nuisances
- Agency monthly TOT reports by property location
- Uniform rental contract summary submitted to City and on site at all times
- Signage on inside of rental home doors with notice of regulations
- Proof of HOA consent if applicable
- No “clustering” of more than one vacation rental
- Rental contracts shall have a “right to evict” for violation of regulations
- Failure to comply with enforcement directions will result in revocation of permit
- Increased visibility of permit numbers in all advertising
- Grandfather existing multiple vacation rental permit holders to January 1, 2021
- All current LLC or Corporations to disclose ownership by June 1, 2017
- Three violations in 12 months will result in permit suspension
- Provide for penalties for false complaints

Formation of Vacation Rental Enforcement Department

To provide for the appropriate City enforcement and response, potential new ordinance requirements, and to ensure that violations are reported and addressed, Staff is recommending the creation of a Vacation Rental Enforcement Department to take over all enforcement activities for each “hotline call” or complaint. In this regard, the appropriate city staff will respond and make a determination if a violation exists. Depending upon the nature of the call and circumstances, a citation will be issued if a violation occurred.

Considering the 24/7 nature of this operation, staff is recommending the following organizational structure for the new department:

Vacation Rental Enforcement Department:

Expenses:

Vacation Rental Compliance Official (2)	\$340,000
Code Enforcement Officers (3)	345,000
Building Inspector (1)	115,000
Police Back-up	100,000
Vacation Rental Coordinator (1)	105,000
Vacation Rental Assistants (2)	170,000
Vacation Rental Hotline	120,000
Printing, postage & office supplies	50,000
Legal costs	50,000
Office space	50,000
Cell phones, computers, iPads	50,000
Vehicles (3)	105,000
Vacation Rental Compliance and Misc.	100,000
Approximate Annual Expenses	<u>\$1,700,000</u>

Duties of the new department will be processing and enforcement of all ordinance provisions and regulations, including:

- Issue annual permits
- Conduct annual safety inspections
- Respond to hotline complaints
- Issue and follow up on citations
- Collect and monitor monthly TOT
- Audits of TOT collections
- Rental contract depository
- Enforcement of non-permitted vacation rentals
- Monthly reporting and data analysis

As vacation rentals occur primarily on weekends, most enforcement resources will be allocated in that timeframe. Hence, staff is recommending two Vacation Rental Compliance Officials, to provide complaint response and supervision every weekend and holidays. At other times, the Compliance Officials will handle all aspects of permit procedures, enforcement, and administration.

Responding staff will include three Code Enforcement Officers to immediately address hotline complaint calls – scheduled to cover 7 days per week in staggered times for optimal coverage during peak rental times (generally 1:00 P.M until 1:00 A.M.). When not addressing a specific hotline complaint, these Code Enforcement Officers will be available for general patrols. For very late night coverage, the Police Department will

respond to hotline calls, with an additional Officer assigned for this purpose, particularly on weekends and holidays.

A Building Inspector will be added to the department to perform general building and safety inspections for each new vacation rental permit issued, and for annual permit renewals.

Administrative staff will include three positions to handle the internal permit processing, record keeping, reporting, TOT collections, etc.


The current contract with Vacation Rental Compliance expires on January 2, 2017. Staff is recommending an extension of this contract to June 30, 2018. The extension will provide ample time to recruit and train the new department personnel. The amendment provides that Vacation Rental Compliance will help train the new personnel, and does not guarantee a specific number of hours per month, allowing Staff to scale down the number of hours performed by Vacation Rental Compliance as new staff is hired and trained. The contract may be cancelled, at any time, by the City with 30 day notice to the contractor.

FISCAL ANALYSIS:

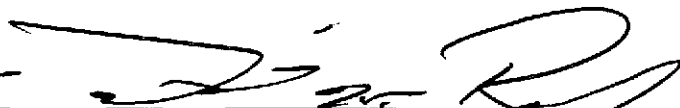
Currently, the vacation rental TOT revenue is approximately \$6 million annually (7% of the General Fund Budget). The annual permit fee is \$234 and generates \$440,000 towards the operating vacation rental enforcement budget of approximately \$475,000.

To accommodate enforcement of these potential new ordinance provisions, staff estimates the Vacation Rental Enforcement Department budget will require \$1.7 million the first year. Hence, staff recommends an increase in the annual permit fee to \$900 – which would be expected to raise \$1,742,000 based on 1,936 permits.

A caveat to these estimated revenue projections is the level of new vacation rental permits and annual renewals.



JAMES THOMPSON
Chief of Staff/City Clerk



DAVID H. READY
City Manager

Attachments:

1. Proposed Ordinance
2. Allocated Positions Resolution
3. Fee Resolution
4. Amendment to Vacation Rental Compliance Contract
5. October 26, 2016 Staff Report
6. Hotline/PD Calls, Fiscal Year 2015-16
7. Vacation Rental Growth Statistics
8. Public Testimony

Attachment 1

Proposed Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PALM SPRINGS,
CALIFORNIA, AMENDING AND RESTATING CHAPTER
5.25 OF THE PALM SPRINGS MUNICIPAL CODE
RELATING TO VACATION RENTALS.**

City Attorney's Summary

This Ordinance amends and restates in full the City's adopted Vacation Rental Ordinance. This Ordinance imposes additional restrictions on occupancy and use of vacation rental properties in Palm Springs and provides additional enforcement oversight.

The City Council of the City of Palm Springs ordains:

SECTION 1. Chapter 5.25 of the Palm Springs Municipal Code is amended to read:

**Chapter 5.25
VACATION RENTALS**

5.25.010 Title.

This Chapter shall be referred to as the "Vacation Rental Ordinance."

5.25.020 Findings.

The City Council finds and determines as follows:

(a) The primary use of single-family and multi-family dwelling units in the City of Palm Springs is the provision of permanent housing for residents of the City who live and work in the City. Vacation Rentals and Homesharing are not uses specifically recognized in the City's Zoning Ordinance. The use of single-family dwelling units for Vacation Rental and Homesharing lodging is a secondary, ancillary use that provides alternate visitor serving lodging opportunities in the City.

(b) Incidents involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal parking, and the accumulation of refuse, require response from police, fire, paramedic, and other City services associated with this secondary, ancillary use escalates the demand for City services, create adverse impacts in the residential areas of the City, and adversely affects the City's residential neighborhoods. Vacation Rentals and Homesharing use in residential neighborhoods may have effects that can best be addressed through an appropriate city regulatory program.

(c) The purpose of this Chapter is to establish a regulatory program for Vacation Rental and Homesharing lodging, with appropriate standards that regulate vacation

rental of residential property, minimize negative secondary effects of vacation rental uses on surrounding residential neighborhoods, preserve the character of neighborhoods in which vacation rental uses occur, and 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.

(d) Limiting Vacation Rental and Homesharing lodging to single-family dwelling units subject to the regulations provided in this Chapter and prohibiting Vacation Rental and Homesharing lodging in apartments will safeguard, preserve, and protect residential housing stock in the City.

(e) The adoption of a comprehensive code to regulate issuance of, and attach conditions to, vacation rental certificates for Vacation Rental and Homesharing lodging within single-family residential neighborhoods and the related use of residential property preserves the public health, safety, and welfare. This Chapter provides a permitting process and imposes operational requirements to minimize the potential adverse impacts of transient uses on residential neighborhoods.

(f) 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.

5.25.030 Definitions.

For purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

“Apartment” means (a) a residential unit in a multi-family development of two (2) dwelling units where both dwelling units are rented or leased for occupancy as a residence for individual families, and (b) a residential unit in a multi-family development of three (3) or more dwelling units.

“Applicant” means the Owner.

“Bedroom” means an area of a Vacation Rental normally occupied and being heated or cooled by any equipment for human habitation, which is 120 square feet and greater in size, consists of four walls to the ceiling, at least one of which is located along an exterior wall with a window, and contains a built-in closet.

“Business Entity” means a corporation, partnership, or other legal entity that is not a natural person or a personal or family trust.

“Cluster or Compound” means any two or more Vacation Rentals that operate on a unified or shared basis where residents of such Vacation Rentals have access to

more than one Vacation Rental and/or the facilities of such Vacation Rentals, including by way of example, a swimming pool, tennis court, or cooking facilities.

“Contract” means an agreement or evidence of any tenancy that allows or provides for the vacation rental of property.

“Exclusive listing arrangement” means a written agreement between an Owner and an agent or representative where the agent or representative has the sole and exclusive right to rent or lease a Vacation Rental unit to any person and the Owner is prohibited from renting or leasing the Vacation Rental unit except through the Owner’s agent or representative.

“Good cause” for the purposes of denial, suspension, revocation, imposition of conditions, placement on or removal from the Property Watch List, renewal, and reinstatement of a Vacation Rental Registration Certificate, means (1) the Applicant, Owner, the Owner’s Agent, or the Local Contact Person has failed to comply with any of the terms, conditions, or provisions of this Chapter or any relevant provision of this Code, State law, or any rule or regulation promulgated thereunder; (2) the Applicant, Owner, Owner’s Agent, or Local Contact Person has failed to comply with any special conditions that were placed upon the Vacation Rental Registration Certificate by the City Manager; or (3) the Vacation Rental has been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the Vacation Rental is located.

“Good Neighbor Brochure” means a document prepared by the City Manager in consultation with the office of neighborhood involvement and representatives of Owners that summarizes general rules of conduct, consideration, and respect, including without limitation provisions of the Palm Springs Municipal Code applicable to or expected of residents of the City.

“Homeshare Interest” means a portion of an Owner’s home that is subject to homesharing as provided in this Chapter.

“Homesharing” means an activity whereby the Owner hosts visitors in the Owner’s home, for compensation, for periods of twenty-eight (28) consecutive days or less, while the Owner lives on-site and in the home, throughout the visitor’s stay.

“Hotline” means the telephonic service operated by or for the City for the purpose of receiving complaints regarding the operation of any Vacation Rental and the forwarding of such complaints to the appropriate Local Contact Person and/or city enforcement officials. For the purposes of this Chapter, the term “Hotline” also includes any contact in person or by telephone, email, digital or electronic communication, or correspondence of any kind to and/or from any city official, officer, or employee, including without limitation any police officer or a representative of the City Manager.

“Local contact person” means the Owner, a local property manager, or agent of the Owner, who is available twenty-four hours per day, seven days per week for the purpose of responding in-person within thirty (30) minutes to complaints regarding the condition, operation, or conduct of occupants of the Vacation Rental, or any agent of the Owner authorized by the Owner to take remedial action and who responds to any violation of this code.

“Owner” means the natural person or persons who is/are the owner of record of the Property. The term “Owner” also includes a personal or family trust consisting solely of natural persons and the trustees of such trust. The term “Owner” does not include a Business Entity.

“Property” means a residential legal lot of record on which a Vacation Rental is located.

“Property Watch List” means one or more Vacation Rentals the City Manager has identified on the basis of good cause as properties that warrant a higher level of oversight, scrutiny, review, or monitoring.

“Rental Term” means the period of time a Responsible Person rents or leases a Vacation Rental.

“Responsible Person” means an occupant of a Vacation Rental who is at least twenty-five (25) years of age and who shall be legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of this Chapter and/or this code.

“Vacation Rental” means a single-family dwelling, or any portion thereof, utilized for occupancy for dwelling, lodging, or sleeping purposes without the Owner being present for a period of twenty-eight (28) 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 Section 91.00.10 of this Code. The term “vacation rental” is synonymous with “short term rental” and “transient use” and does not include homesharing.

“Vacation Rental Registration Certificate” or “Registration Certificate” means an annual registration issued by the City pursuant to this Chapter.

5.25.040 Registration Certificate Required.

(a) The operation of a Vacation Rental without a Vacation Rental Registration Certificate is prohibited. A Vacation Rental Certificate shall not be issued to any Business Entity. A natural person shall only be issued, and can only maintain, one Vacation Rental Registration Certificate at any time. Renewals of Vacation Rental Registration Certificates issued on or after November 24, 2016 to a Business Entity

shall terminate on March 1, 2017; a renewal of a second Vacation Rental Registration Certificate, or more, issued to a natural person shall terminate on March 1, 2017.

(b) The provisions of Subsection (a) of this Section shall not apply to or be enforced against any natural person who operates a Vacation Rental pursuant to a valid Vacation Rental Registration Certificate issued prior to November 24, 2016 for the period of time between November 24, 2016 through January 1, 2021. The provisions of Subsection (a) of this section shall not apply to or be enforced against any business entity, or its successor natural person that operates a Vacation Rental pursuant to a valid Vacation Rental Registration Certificate issued prior to November 24, 2016 for the period of time between November 24, 2016 through January 1, 2021 so long as such business entity for each Vacation Rental complies with the provisions of Section 5.25.085. The purpose of this deferral of the enforcement of the provisions of Subsection (a) is for persons or entities issued valid vacation rental certificates prior to November 24, 2016 to be afforded a reasonable opportunity to recoup costs reasonably invested for vacation rental use and which may not have been recouped during the period of vacation rental use and which cannot be recouped once the vacation rental use is terminated.

(c) Each Owner of a Vacation Rental who rents, exchanges, trades, gifts, or grants such Vacation Rental for a period of twenty-eight consecutive days or less shall fully comply with all provisions of this Chapter related to the use and occupancy of a Vacation Rental, and the operational requirements, provided in this Chapter. Each rental, exchange, trade, gift, and grant of a stay of less than twenty-eight (28) days shall count as one contract.

(d) No Owner of residential property in the City shall rent any Homeshare Interest for a period of twenty-eight consecutive days or less without a valid Rental Registration Certificate for Homesharing pursuant to this Chapter for such Homesharing Unit.

(e) A copy of the current Registration Certificate as issued by the City and the maximum number of guests allowed on the premises shall be displayed in a clear and legible manner in a conspicuous and easily accessible location on all advertising related to each Vacation Rental or Homesharing Unit, including without limitation, web based advertising, hosting platform, print media, and television.

5.25.050 Agency.

(a) An Owner may retain an agent or a representative to assist in the compliance with the requirements of this Chapter, including, without limitation, the filing of a complete Vacation Rental registration, the management of the Vacation Rental unit or units, and the compliance with the requirements of this Chapter. The Owner and any agent or representative of Owner must have the authority to evict any tenant, resident, or guest permitted to reside at the Vacation Rental for violation of any provision of this Chapter or regulation thereof. Except as provided in Subsection (b) of this Section and notwithstanding any agency relationships between an Owner and an agent or

representative, the Owner of the Vacation Rental unit or units shall execute all applications and documentary requirements as provided in this Chapter and shall remain responsible for compliance with the provisions of this Chapter. The failure of an agent to comply with this Chapter shall not relieve the Owner of the Owner's obligations under the provisions of this Chapter.

(b) In the event an Owner enters into an exclusive listing arrangement, the Vacation Rental registration certificate may be secured, and the transient occupancy registration certificate requirements provided in this Chapter may be performed, by the agent or representative and not by the Owner.

5.25.060 Vacation Rental Registration Requirements.

(a) Prior to use of a property as a Vacation Rental, and annually thereafter, the applicant shall register the property as a Vacation Rental with the City on a registration form furnished by or acceptable to the City Manager and signed by the applicant under penalty of perjury. Each application shall contain the following information:

(1) The name, address, and telephone number of the Owner of the unit for which the Vacation Rental registration certificate is to be issued.

(2) The name, address, and telephone number of the agent, if any, of the Owner of the unit.

(3) The name, address, and twenty-four-hour telephone number of the local contact person and verification that the Local Contact Person can respond in-person to the site of the Vacation Rental within thirty (30) minutes.

(4) The address of the residential property proposed to be used as a Vacation Rental.

(5) The number of bedrooms and the applicable overnight and daytime occupancy limit of the unit consistent with the provisions of Section 5.25.070 (b).

(6) Evidence of a valid business license issued by the City for the separate business of operating Vacation Rentals or submission of a certificate that Owner is exempt or otherwise not covered by the City's Business Tax Ordinance (Division II, Title 3 of the Palm Springs Municipal Code) for such activity.

(7) Evidence of a valid transient occupancy registration certificate issued by the City for the Vacation Rental unit.

(8) Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of a Vacation Rental.

(9) Executed indemnification and hold harmless agreement in a form approved by the City Attorney, agreeing to indemnify, save, protect, hold harmless, and defend the City of Palm Springs, the City Council of the City of Palm Springs, individually and collectively, and the City of Palm Springs representatives, officers, officials, employees, agents, and volunteers from any and all claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, or costs at any time received, incurred, or accrued as a result of, or arising out of Owner's actions or inaction in the operation, occupancy, use, and/or maintenance of the Property.

(10) Completion of building, fire, and safety inspection and completion of any corrections identified by the Building Official and/or Fire Marshall. Such inspections shall include a review of the premises for compliance with the operational requirements of this Chapter, including without limitation determining the total number of qualified bedrooms.

(11) Written acknowledgement in a form approved by the City Manager that there are no covenants or other deed restrictions on the property that prohibit or limit the use of the property as a Vacation Rental. The City Manager may accept a written consent from the governing board of a homeowners' association with jurisdiction over the property in satisfaction of this requirement.

(12) Such other information as the City Manager deems reasonably necessary to administer this Chapter.

(b) The registration of a Vacation Rental shall be accompanied by a fee established by resolution of the City Council; provided, however, the fee shall be no greater than necessary to defer the cost incurred by the City in administering the provisions of this Section.

(c) A Vacation Rental registration certificate shall be denied if a registration certificate for the same unit and issued to the same Owner has previously been revoked pursuant to Section 5.25.090. The denial of a registration certificate for any reason may be appealed in accordance with to the provisions of Chapter 2.50 of the Municipal Code.

(d) Upon change of property Ownership, the permit shall expire and the property shall not be used as a Vacation Rental until the new or successor Owner is issued a Vacation Rental Certificate for the property. In the event of a change in agent or the

occurrence of any other material fact set forth in the annual registration, a new registration for a Vacation Rental shall be required to continue operation of the Vacation Rental and within fourteen days of said change the Owner or his or her agent shall submit the required registration and fee.

5.25.070 Operational Requirements and Standard Conditions.

(a) The Owner shall use reasonably prudent business practices to ensure that the Vacation Rental unit complies with all applicable codes regarding fire, building and safety, health and safety, and all other relevant laws.

(b) No more than twenty-eight (28) contracts for Vacation Rental use of a property shall be allowed or provided in any calendar year. A contract includes any occupancy of a property subject to a Vacation Rental registration certificate by persons other than the Owner when the Owner is not present during such occupancy, regardless of whether compensation is paid for such occupancy or whether occupancy is evidenced in an agreement or document.

(c) The Owner shall limit overnight occupancy of the Vacation Rental unit to a specific number of occupants, with the maximum number of occupants as no more than two (2) persons per bedroom within each Vacation Rental unit and a maximum of no more than eight (8) persons total within the Vacation Rental unit. The number of bedrooms in a Vacation Rental shall be verified by the City Manager using County Assessor and/or City Building records, prior to the issuance of a certificate. No more than one (1) automobile per bedroom shall be allowed for each Vacation Rental unit and no more than four (4) automobiles shall be allowed for each Vacation Rental unit. Advertising and/or renting one or more Vacation Rentals as part of a cluster or compound is prohibited.

(c) During the Rental Term each Vacation Rental unit is rented, the Owner, his or her agent, and/or the local contact person designated by the Owner, shall be available twenty-four hours per day, seven days per week, for the purpose of (1) responding by telephone within fifteen (15) minutes of complaints from or through the Hotline and (2) responding in-person within thirty (30) minutes to any additional or successive complaints regarding the condition, operation, or conduct of occupants of the Vacation Rental.

(d) The Owner shall use reasonably prudent business practices to ensure that the occupants and/or guests of the Vacation Rental unit do not create unreasonable noise disturbances, engage in disorderly conduct, or violate provisions of the Municipal Code or any state law.

(e) Notwithstanding the provisions of Section 11.74.043, any radio receiver, musical instrument, phonograph, loudspeaker, sound amplifier, or any machine or device for the producing or reproducing of any sound shall be conducted within a fully enclosed Vacation Rental unit and shall not be audible at the property line of the Vacation Rental.

(f) Prior to occupancy pursuant to each separate occasion of rental of a Vacation Rental, the Owner or the Owner's agent or representative shall enter into a written rental agreement with a Responsible Person where (1) the Responsible Person will provide the Responsible Person's name, age, address, and a copy of a government issued identification; (2) establishes and sets out the terms and conditions of the rental agreement, including without limitation occupancy limits, noise prohibitions, and vehicle parking requirements; (3) requires the Responsible Person to acknowledge and agree that he or she is legally responsible for compliance of all occupants of the Vacation Rental or their guests with all provisions of this Chapter and/or the Municipal Code; (4) the Owner or the Owner's Agent provides a copy of the "Good Neighbor Brochure" to the Responsible Person; (5) the Responsible Person provides a list of all guests by name; and (6) the Responsible Person provides a list of all guests' vehicles, including license plate numbers. Each rental agreement shall be maintained by the Owner or the Owner's Agent for a minimum of four (4) years and shall be readily available for inspection upon request of the City Manager. A summary or abstract of the written agreement, in a form approved by the City Manager, shall be filed with the City Manager prior to occupancy, in a manner approved by the City Manager, and shall be posted in a conspicuous location on the Vacation Rental property.

(g) The Owner, or his or her agent, shall, upon notification that the responsible person, including any occupant and/or guest of the Vacation Rental unit, has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of provisions of the Municipal Code or any state law, shall promptly respond in a timely and appropriate manner to prevent a recurrence of such conduct by those occupants or guests, and when requested by the City City Manager, evict one or more of the guests. For the purpose of this Subsection and Subsection (h) below, the phrase "in a timely and appropriate manner" shall mean in-person contact within thirty (30) minutes for any call from the Hotline if contact with the Responsible Person is not made by telephone and for each subsequent or successive incident during a Rental Term;.

(h) Failure of the Owner or his or her agent to respond to calls or complaints regarding the condition, operation, or conduct of occupants of the Vacation Rental in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this Chapter. It is not intended that an Owner, agent, or local contact person act as a peace officer or place himself or herself in an at-risk situation.

(i) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the collectors and between the hours of five a.m. and eight p.m. on scheduled trash collection days. The Owner of the Vacation Rental unit shall use reasonably prudent business practices to ensure compliance with all the provisions of Chapter 6.04 of the Municipal Code (Waste Disposal and Diversion), and shall provide "walk-in service" or as may otherwise be approved by the City Manager.

(j) The Owner of the Vacation Rental unit shall post a copy of the Registration Certificate and a copy of the conditions set forth in this Section, including all rules and

regulations applicable to the use of the property as a Vacation Rental, on the inside of each entry door on the Vacation Rental.

(k) The Owner shall provide each occupant of a Vacation Rental with the following information prior to occupancy of the unit and/or post such information in a conspicuous place within the unit:

(1) The name of the managing agency, agent, rental manager, local contact person, or Owner of the unit, and a telephone number at which that party may be reached on a twenty-four-hour basis;

(2) The maximum number of occupants permitted to stay in the unit;

(3) The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property;

(4) Notification that the amplification of music outside of the dwelling unit or otherwise audible at the property line is a violation of this Chapter;

(5) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the Owner pursuant to state law, in addition to any other remedies available at law, for creating a disturbance or for violating other provisions of this Chapter;

(6) Notification that failure to conform to the occupancy requirements of the Vacation Rental unit is a violation of this Chapter;

(7) A copy of this Chapter of the Palm Springs Municipal Code, as may be amended from time to time.

(l) The use of a Vacation Rental unit shall not violate any applicable conditions, covenants, or other restrictions on real property.

(m) The Owner shall comply with all provisions of Chapter 3.24 of the Municipal Code concerning transient occupancy taxes, including, but not limited to, submission of a monthly return for each Vacation Rental in accordance with Section 3.24.080. The monthly return shall be filed each month regardless of whether the Vacation Rental unit was rented or not during each such month.

(n) The City Manager shall have the authority to impose additional standard conditions, applicable to all Vacation Rental units or identifiable classes of Vacation Rentals, as necessary, to achieve the objectives of this Chapter. A list of all such

additional standard conditions shall be maintained and on file in the Office of the City Clerk and such offices as the City Manager designates.

(o) Notwithstanding the provisions of Subsection (n) above, upon a determination of good cause, the City Manager may impose additional or special standards or requirements for (1) the determination or placement of properties on the Property Watch List; (2) placement or imposition of special conditions or performance standards for Owners, Owner's Agents, Local Contact Persons, and their affected Vacation Rentals on the Property Watch List; and (3) and removal of a Vacation Rental from the Property Watch List.

(p) The standard conditions may be modified by the City Manager upon request of the Owner or his or her agent based on site-specific circumstances for the purpose of allowing reasonable accommodation of a Vacation Rental. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a Vacation Rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site and shall not be self-induced or economic. Any modifications of to the standard conditions shall not further exacerbate an already existing problem.

(q) The City Manager shall have the authority to establish administrative rules and regulations, which may include, but are not limited to, registration conditions, reporting requirements, inspection frequencies, enforcement procedures, advertising restrictions, disclosure requirements, or insurance requirements, consistent with the provisions of this Chapter, for the purpose of implementing, interpreting, clarifying, carrying out, furthering, and enforcing the requirements and the provisions of this Chapter. No person shall fail to comply with any such regulation. A copy of such administrative rules and regulations shall be on file in the Office of the City Clerk.

(r) Owner shall procure, maintain, and pay premiums for insurance policies with minimum limits as may be established by the City Manager from time to time. The insurance company or companies underwriting the required policies shall be licensed (with a Best rating of A-7) and authorized to write such insurance in the State of California. All insurance, which Owner is required to carry and keep in force, shall name City of Palm Springs, the Palm Springs City Council, individually and collectively, and the City's representatives, officers, officials, employees, agents, and volunteers as additional insured. Any insurance maintained by the City of Palm Springs for the City and/or the Palm Springs City Council, individually and collectively, and the City's representatives, officers, officials, employees, agents, and volunteers shall be excess of Owners and shall not contribute with it. Coverage shall not be suspended, voided, or cancelled by either party or reduced in coverage or in limits except after thirty days prior written notice by certified mail, return receipt requested, has been given to the City of Palm Springs. Current proof of insurance shall be continually provided to the City throughout the term of the Agreement or Permit.

(s) Owner shall annually secure a building and fire and safety inspection prior to renewal of the Vacation Rental Certificate.

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 Vacation Rental that is in violation of any provision of this Chapter.

(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.

(d) The provisions of Subsection (a) of this Section shall not apply to or be enforced against any person or entity who rents an apartment or portion thereof pursuant to a valid vacation rental certificate issued prior to April 15, 2016 for the period of time between April 15, 2016 through January 1, 2019. The purpose of this deferral of the enforcement of the provisions of this Section is for persons or entities issued valid vacation rental certificates prior to April 15, 2016 to be afforded a reasonable opportunity to recoup costs reasonably invested for vacation rental use of apartments and which may not have been recouped during the period of vacation rental use of the the apartment and which cannot be be recouped once the vacation rental use is terminated.

(e) The provisions of Subsection (a) of this Section shall also not apply to any building in which an apartment is located that meets all requirements of an R-1 occupancy under the City's building and fire code and for which such apartment has a valid vacation rental permit issued prior to April 15, 2016.

Ed. Note. Subsection (d) of Section 5.25.075 shall be deemed repealed and no longer in effect as of 12:01 am on January 1, 2019 and all persons and entities shall fully comply with the provisions of Subsection (a) of Section 5.25.075 of this Code. See § 4 of Ord. 1902 (2016).

5.25.078 Homesharing Authorization.

(a) The Notwithstanding any provision of this chapter to the contrary, homesharing shall be authorized in the City, provided that the Owner complies with each of the following requirements:

- (1) Obtains and maintains at all times a Rental Registration Certificate for Homesharing;
- (2) Operates the homesharing activity in compliance with all Rental Certificate for Homesharing conditions, which may be imposed by the City Manager to effectuate the purpose of this Chapter;
- (3) Collects and remits Transient Occupancy Tax to the City and complies with all City Transient Occupancy Tax requirements as set forth in this Code;
- (4) Takes responsibility for and actively prevents any nuisance activities that may take place as a result of homesharing activities;
- (5) Complies with all applicable laws, including all health, safety, building, and fire protections laws;
- (6) Complies with the regulations promulgated pursuant to this Chapter.

(b) In the event the Owner of a Homeshare Interest does not live on-site, in the home, and is not able to respond within thirty (30) minutes to complaints regarding the condition, operation, or conduct of occupants of the Homesharing Interest, the property shall be deemed a Vacation Rental and Owner shall be required to fully comply with the provisions of this Chapter relating to Vacation Rentals, including without limitation, securing a Vacation Rental Certificate.

5.25.080. Audit.

Each Owner and agent or representative of any Owner shall provide the City Manager with access to each Vacation Rental and the books, records, documents, papers, tax returns, and bank accounts at any time during normal business hours as the City Manager may determine are necessary or convenient for the purpose of inspection or audit to determine that the objectives and conditions of this Chapter are being fulfilled.

5.25.085 Disclosure of Business Entities

On or before June 1, 2017, all Business Entities owning one or more Vacation Rentals shall disclose to the City Manager the names, relevant contact information, and any such other information as may be requested by the City Manager of each natural person holding the legal, equitable, and/or beneficial interest of each such Business Entity and the address of each Vacation Rental owned by each such Business Entity. Each Business Entity that complies with the provisions of this Section prior to June 1, 2017, shall, prior to June 1, 2018 transfer each Vacation Rental to a natural person who can otherwise comply with the provisions of this Chapter or cease operating any Vacation Rental properties owned by the Business Entity as Vacation Rentals. Any Business Entity that fails to comply with the disclosure requirements provided in this Subsection, shall cease operating all Vacation Rental properties owned by the Business Entity as Vacation Rentals no later than June 1, 2017.

5.25.090 Violations.

(a) Any person who violates a provision of this Chapter is subject to criminal sanctions and administrative penalties pursuant to Chapters 1.01 and 1.06 of this Code and the specific penalties as provided in this Chapter. Any person who uses, or allows the use of, residential property in violation of the provisions in this Chapter is guilty of a misdemeanor for each day in which such residential property is used, or allowed to be used, in violation of this Chapter. An administrative citation issued pursuant to Chapter 1.06 for a first violation shall be five hundred dollars (\$500.00) and each subsequent violation shall be one thousand (\$1,000.00) dollars. Each administrative citation for a violation of any provision of this Chapter shall be levied or assessed against the Owner.

(b) Upon the third violation in any twelve month period, the City Manager shall suspend the Vacation Rental Certificate for two (2) years.

(c) Any person who operates a Vacation Rental without a Vacation Rental Certificate, shall be liable to the City for the payment of transient occupancy tax pursuant to the provisions of the Palm Springs Municipal Code Chapter 3.24, including without limitation penalties and interest, payment of an administrative fine in the amount of Five Thousand Dollars (\$5,000.00), and permanent ineligibility to operate a Vacation Rental in the City. In the event the person continues to operate a Vacation Rental without a Vacation Rental Certificate, the person shall be a liable for administrative fine in the amount of Ten Thousand Dollars (\$10,000.00) and any successive violations shall be subject to fines provided in an escalation formula established by the City Council by resolution.

(d) Any person who advertises a Vacation Rental without including the Vacation Rental Certificate in any advertising for such Vacation Rental, or operates a Vacation Rental without a contract, or without providing the City with a summary or abstract of such contract, or without timely tendering full monthly payments of transient occupancy tax, shall pay a fine in the amount of Two Thousand, Five Hundred Dollars (\$2,500.00)

and the Owner's Vacation Rental Certificate shall be suspended for six (6) months for a first offense and shall pay a fine in the amount of Five Thousand Dollars (\$5,000.00) and the Owner's Vacation Rental Certificate shall be revoked for a second offense. Any subsequent violations will be subject to the provisions of Subsection (c) of this Section.

(e) The failure of an Owner or the Owner's agent or representative to comply with an order of any police officer shall result in the revocation of the Vacation Rental Certificate.

(f) The appeal and hearing provisions of Chapter 1.06 shall apply to any revocation or suspension of a permit.

(g) Any person who fails to pay any fee or charge provided in this Chapter within the time required, shall pay a penalty in the amounts established by the City Council by resolution. Such penalty may also include interest from the date on which the fee or charge became due and payable to the City until the date of payment.

(h) The filing of false claims against a Vacation Rental or the guests staying in a Vacation Rental is prohibited and shall be punishable by administrative fines as provided in Chapter 1.08 of this Code.

(i) In addition to, and not in lieu of, any other remedy allowed by law, all remedies prescribed under this Chapter are cumulative and the election of one or more remedies does not bar the City from the pursuit of any other remedy, criminal, civil, or administrative which may be pursued by the City to enforce this Chapter and/or address any violation of this Code or to remedy any other public nuisance.

5.25.100 Requirements Not Exclusive.

The requirements of this Chapter shall be in addition to any license, permit, or fee required under any other provision of this Code. The issuance of any permit pursuant to this Chapter shall not relieve any person of the obligation to comply with all other provisions of this Code pertaining to the use and occupancy of Vacation Rental or the property on which it is located.

SECTION 2. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) pursuant to Section 15060(c)(2) and 15060(c)(3) of the State Guidelines, because the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a "project," as that term is defined in Section 15378 of the State Guidelines.

SECTION 3. 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 thirty (30) days after passage.

**PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL
THIS 7TH DAY OF DECEMBER, 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 Ordinance No. _____ is a full, true and correct copy, and was introduced at an adjourned regular meeting of the Palm Springs City Council on the 30th day of November, 2016, and adopted at a regular meeting of the City Council held on the 7th day of December, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

Attachment 2

Allocated Positions Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS APPROVING AMENDMENT NO. 1 TO THE ALLOCATED POSITIONS AND COMPENSATION PLAN FOR FISCAL YEAR 2016-2017, ADOPTED BY RESOLUTION 24033.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the Allocated Positions and Compensation Plan for positions in the City Service is hereby amended as follows:

Department	Action	Classification	Unit/Range
City Clerk	Add	Vacation Rental Compliance Official	EX2/60
City Clerk	Add	Account Clerk II (2)	GU/31
City Clerk	Add	Code Compliance Officer (3)	GU/41
City Clerk	Add	Building Inspector	GU/45
City Clerk	Reclass	Account Specialist to Senior Account Technician <i>Subject to meet and confer</i>	GU/35 to MX/45

SECTION 2. The Director of Human Resources is authorized and directed to modify the Fiscal Year Allocated Positions Plan.

SECTION 3. The position change approved by this resolution shall be effective on November 30, 2016.

Total Authorized positions 2016-2017 (As Adopted)	439.50
Total Authorized positions 2016-2017 (Amendment 1)	446.50

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 30th DAY OF NOVEMBER, 2016.

David H. Ready, City Manager

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 Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

Attachment 3

Fee Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, MODIFYING USER FEES FOR VACATION RENTAL REGISTRATION AND RENEWAL FEES AND AMENDING THE COMPREHENSIVE FEE SCHEDULE ADOPTED BY RESOLUTION NO. 23854.

WHEREAS, the City, under various statutory provisions under California Government Code, may set and collect fees for the costs of providing a particular service; and

WHEREAS, the City Council on July 15, 2015, the City Council adopted Resolution No. 23854 approving a user fee study and approving the Comprehensive Fess Schedule; and

WHEREAS, the City Council desires to adopt Vacation Rental Registration and Renewal Fees to reflect the reasonable costs of the vacation rental administration program.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. FINDINGS.

a. City staff has completed an analysis of fees for Vacation Rental Registration and Renewal Fees.

b. The Vacation Rental Registration and Renewal fees shall be adopted to cover some the City's costs and expenses associated with providing administration of the Vacation Rental Program.

c. The cost of such services should be borne by those who are the special beneficiaries rather than the citizenry at large.

d. There is a reasonable relationship between the amount of the fee and the estimated reasonable cost of providing the type of service for which the fee is imposed.

e. The fees do not exceed estimated reasonable cost of providing the service for which the fee is charged.

SECTION 2. FEES IMPOSED.

a. The City Council adopted and imposes Vacation Rental Registration and Renewal fees as provided in Exhibit A, attached hereto and incorporated by reference.

b. Each person requesting to receive either a new registration or a registration renewal on a vacation rental home shall pay the fee at the time they apply for either registration or renewal.

c. On July 1st of each year, the fees and charges shall be automatically adjusted by an amount equal to the percentage of increase or decrease in total employee compensation for the current fiscal year's adopted budget versus the new fiscal year's adopt budget as last computed at the budget public hearing, to reflect the cost-of-living changes and to ensure that changing economic conditions do no impair the real value of the fees and charges.

SECTION 3. SEVERABILITY.

Each component of the fees and all portions of this Resolution are severable. Should any individual component of the fee or other provision of this Resolution be adjudged to as invalid, the remaining provisions shall be fully effective, and the fee shall be fully effective except as to that portion that has been judged to be invalid.

SECTION 4. EFFECTIVE DATE.

The fees imposed by Section 2 of this Resolution shall be effective on December 1, 2016 for new registration applications, and shall be effective on January 1, 2017 for renewals.

SECTION 5. COMPREHENSIVE FEE SCHEDULE.

The Director of Finance is hereby authorized and directed to incorporate said modifications and fees into the Comprehensive Fee Schedule, adopted by Resolution No. 23854.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 30TH DAY OF NOVEMBER, 2016.

DAVID H. READY, CITY MANAGER

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 Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the 30th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

EXHIBIT A
VACATION RENTAL REGISTRATION AND RENEWAL FEES

Vacation Rental Fees:

New Registration.	\$ 900.
Renewal.	\$ 900.

Attachment 4

Amendment to Vacation Rental Compliance Contract

AMENDMENT NO. 2 TO CONSULTING SERVICES AGREEMENT
Vacation Rental Compliance

This Amendment No. 2 to the Consulting Services Agreement ("Amendment") is made and entered into this 1st day of December, 2016, by and between the City of Palm Springs, California, a California Charter City ("City"), and Vacation Rental Compliance, ("Consultant").

RECITALS

A. City and Consultant have entered into a Consulting Services Agreement, for the services of vacation rental ordinance compliance and enforcement ("Agreement").

B. City and Consultant are agreeable to modifying certain terms and conditions to the Agreement pursuant to the terms of this Amendment.

AGREEMENT

In consideration of the promises and covenants contained in this Amendment and other good and valuable consideration, the City and the Consultant agree:

SECTION 1. Section 4.4 of the Agreement (titled "Term"), is amended to read:

4.4 Term. Unless earlier terminated in accordance with Section 4.5 of this Agreement, this Agreement shall continue in full force and effect commencing on January 2, 2017, and ending on June 30, 2018, unless extended by mutual written agreement of the parties.

SECTION 2. Section 10.2 of the Agreement (titled "Conflict of Interest"), is amended to read:

10.2 Conflict of Interest. Consultant acknowledges that no officer or employee of the City has or shall have any direct or indirect financial interest in this Agreement, nor shall Consultant enter into any Agreement of any kind with any such officer or employee during the term of this Agreement and for one year thereafter. Consultant warrants that Consultant has not paid or given, and will not pay or given, any third party any money or other consideration in exchange for obtaining this Agreement.

SECTION 3. Section 11.9 is added to the Agreement to read:

11.9 Non-Discrimination Certification.

- a) Consultant certifies and represents that, during the performance of the Agreement, the Consultant and any other parties with whom it may contract shall adhere to the City's non-discrimination and equal benefits as provided in the Section to assure that applicants and employees are treated equally and are not discriminated against

because of their actual or perceived race, color, religion, ancestry, national origin, disability, medical condition, marital status, domestic partner status, sex, gender, gender identity, gender expression, national origin, ancestry, or sexual orientation. Consultant further certifies that it will not maintain any segregated facilities.

- b) Consultant shall, in all solicitations or advertisements for applicants for employment placed by or on behalf of this Agreement, state that it is an "equal opportunity employer" or that all qualified applicants will receive consideration for employment without regard to their actual or perceived race, color, religion, ancestry, national origin, disability, medical condition, marital status, domestic partner status, sex, gender, gender identity, gender expression, or sexual orientation.
- c) Consultant shall certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their actual or perceived race, color, religion, ancestry, national origin, disability, medical condition, marital status, domestic partner status, sex, gender, gender identity, gender expression, or sexual orientation.
- d) If requested to do so by the Contract Officer, Consultant shall provide the City with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
- e) Consultant agrees to recruit Coachella Valley residents initially and to give them preference, if all other factors are equal, for any new positions which result from the performance of this Agreement and which are performed within the city. The Contract Officer may agree to modify requirement where it is in conflict with federal or state laws or regulations.
- f) Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

SECTION 4. Exhibit A (titled Scope of Services/Work including Schedule of Fees and Schedule of Performance) is amended by adding the following:

Consultant shall, if requested by the City Manager, assist in the training of the new personnel of the City's Vacation Rental Compliance Department.

Perform all mutually-agreed upon tasks by the agreed upon schedule. This contract does not guarantee a certain amount of hours per month and tasks can be scaled up or scaled down as directed by the City Manager.

SECTION 5. City and Consultant agree that the terms of the Agreement, shall remain unchanged and in full force and effect, except as specifically provided in this Amendment.

Attachment 5

October 26, 2016

Staff Report
(without attachments)



CITY COUNCIL STAFF REPORT

DATE: OCTOBER 26, 2016

STUDY SESSION

SUBJECT: DISCUSSION OF VACATION RENTAL GOALS AND OBJECTIVES, REGULATIONS, FEES AND PENALTIES, AND PALM SPRINGS MUNICIPAL CODE CHAPTER 5.25 PERTAINING TO THE REGULATION OF SHORT TERM RENTALS

FROM: David H. Ready, City Manager

BY: Chief of Staff/City Clerk

SUMMARY

The City Council will discuss preliminary concepts received by the community and stakeholders, for the enhanced regulation of vacation rentals, accept public comment, and direct the Vacation Rental Subcommittee and Staff as appropriate.

RECOMMENDATION:

1) City Council discussion on Vacation Rental regulatory conceptual regulations; 2) Receive public testimony; 3) City Council Discussion; and 4) Direct the Vacation Rental Subcommittee and Staff as appropriate.

STAFF ANALYSIS:

The Vacation Rental Subcommittee (Councilmember Kors and Councilmember Roberts) have conducted six noticed public meetings to discuss enhancements to the current vacation rental regulations. The public meetings have been well attended, and the Subcommittee has received public testimony covering a wide spectrum for further regulations (Exhibit 1 ONEPS, Exhibit 2 Protect our Neighborhoods, Exhibit 3 Vacation Rental Managers Association). The Subcommittee also reviewed how other cities have addressed the issue of vacation rentals and reviewed suggestions they received by email.

The Subcommittee previously provided a recommendation pertaining to the conversion of apartments to vacation rentals, which was adopted by the City Council.

The purpose of this study session is to present information received by the Subcommittee, receive public testimony and provide direction to the Subcommittee and City Staff.

The Subcommittee will conduct one or more additional public meetings based on the Council direction, further refine the concepts, and direct Staff which Items to include in a draft ordinance. The goal of the Subcommittee is for a draft ordinance to be prepared for the City Council special meeting for short term rentals scheduled for Wednesday, November 30, 2016.

The City Council Subcommittee has discussed proposed goals and objectives to consider while examining short term rentals and the governing ordinance. The proposed goals and objectives are as follows:

- Short-term rentals are a privilege not a right.
- Short-term rentals are an ancillary use of residences for full and part-time residents.
- Short-term rentals are not a business for the benefit of investors or for real estate speculation.
- Priority goal is preserving our neighborhoods for full and part-time residents.
- It is a priority to maintain and protect a variety of housing stock that is affordable.
- Preserve and maintain long-term rental stock for workers, families and those who cannot afford a down payment to buy a home.
- Heightened enforcement of short-term rental goals include eliminating repeat offenders, multiple permits and unregistered and unrepresented short-term rental operators.
- Allow some level of short-term rentals as an alternative to other forms of lodging and so full and part-time residents have the option to rent out their homes.
- Level the playing field between small hotels and vacation rentals and ensure the health and safety of residents and tourists.

While the City has always allowed short term rentals, in 2008 the City Council adopted comprehensive regulations for vacation rentals including a requirement to register a vacation rental with the City. In 2014, the City Council, comprehensively reviewed the program and rules, and adopted further regulations, City response, and enhanced enforcement mechanisms.

With the rapid expansion of permitted vacation rentals in the City, 100% from 2009 to present (see Exhibit 4), and an increase in reported noise/nuisance complaints to the hotline and the Police Department (see Exhibit 5), the current regulations need further review and potential modification to ensure consistency with the stated goals.

The Vacation Rental Subcommittee presents the following potential regulatory changes received by the community and stakeholders for discussion by the City Council and further direction to the Subcommittee:

- Phase out all short term vacation rentals.
- Prohibit permits in the R-1 zone.
- Limit the total number of permits.
- Limit the number of permits by neighborhood.
- Limit new permits within certain distance from existing permitted properties.
- Limit permits to full or part-time residents who reside in the property a certain number of days.
- Limit the total number of days that a home can be rented short term.
- Limit the length of short term rentals.
- Limit the number of allowed short term contracts per month or per year.
- Limit permits so that one per person (or the trust of a natural person) may have a financial interest in one vacation rental and permit.
- Limit a use of a vacation rental permit to every other year.
- Prohibit permits by business entities.
- Establish a separate category and fee structure for "traditional" house sharing where only one room of the property is used for short term rentals and the owner is present during the rental and full time resident at the property.
- Require neighborhood notification of the submission of a vacation rental permit application.
- Require an inspection prior to the issuance of a permit and/or an annual inspection for life/safety measures and compliance with the code. May include

smoke/carbon monoxide detectors, pool and pool light GFI, fire extinguisher, signage, etc.

The Vacation Rental Subcommittee presents the following potential enforcement modifications received by the community and stakeholders, for discussion by the City Council and further direction to the Subcommittee.

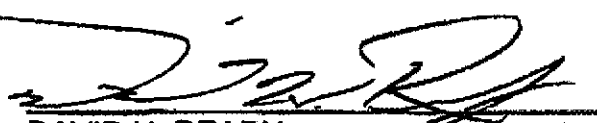
- Calls to hotline go to City code enforcement personnel, not the vacation rental managers or owners.
- Increase in code enforcement personnel and dedicated Police Officers.
- Require Owner/Agent to report to the property if requested to do so by City code enforcement personnel within 30 minutes.
- Require Owner/Agent to have a text enabled telephone that is available 24 hours per day and seven days per week for notification by the City.
- Require emergency access to the property behind a locked gate or within a gated community shall provide gate code or a "Knox Box" with key for exclusive use of fire and law enforcement personnel.
- Three violations in any rolling 12 month period results in immediate revocation of the permit.
- Illegal rentals will result in the immediate revocation of a permit.
- Reduction in the maximum occupancy overnight and during the day.
- Establish the maximum number of vehicles allowed at the property, or further limit the maximum occupancy based on the number of off-street parking spaces at the property.
- Further establish the maximum occupancy by lot size.
- Use of decibel meters for noise.
- Require the installation of some type noise alert system at the property (see Exhibit 6)
- Zero tolerance for unpermitted vacation rental, pay a significant fine, and lose the privilege of obtaining any vacation rental permit.
- Significant increases in fines for violations.

- Require the rental agreement to be sent to the City prior to the rental.
- Require the rental agreement to be on-site during the term of the rental and presented to City enforcement staff upon request.
- Require rental contracts to be signed by all occupants.
- Require rental contracts to contain a right to evict and notice.
- Require front yard signage be place at the property and/or the publication of vacation rental addresses on the City's website.
- Require interior and/or backyard signage providing notice of noise, etc.
- Reduce maximum level of noise at night and/or prohibit the use of outdoor accommodations such as pools, spas, BBQs at night.
- Strengthen language requirements for rental contracts, advertising, websites, rental property.
- Require all guests be met in person at the rental prior to occupancy and rules be signed by all occupants.
- Prohibit clustering of adjacent properties and connecting gates/access.
- Require any property with HOA restrictions to provide a letter from the HOA to be submitted with the permit application.
- If rented without a permit the owner shall cause the renter and all occupants of a non-registered unit to vacate and immediately be relocated and provide an alternative rental location at the owners expense.
- Consider Joint and Several liability to both guest and owner for certain violations.

As noted above, the Vacation Rental Subcommittee is seeking Council discussion and direction on all these conceptual ideas, for further discussion and consideration by the Subcommittee.



JAMES THOMPSON
Chief of Staff/City Clerk



DAVID H. READY
City Manager

Attachments:

1. ONEPS Recommendations
2. Protect our Neighborhood Recommendations
3. Vacation Rental Managers' Association Recommendation
4. Vacation Rental Growth Statistics
5. Hotline/PD Calls Fiscal Year 2015-16
6. Noise Monitoring Example
7. Public Testimony

Attachment 6

Hotline/PD Calls, Fiscal Year 2015-16

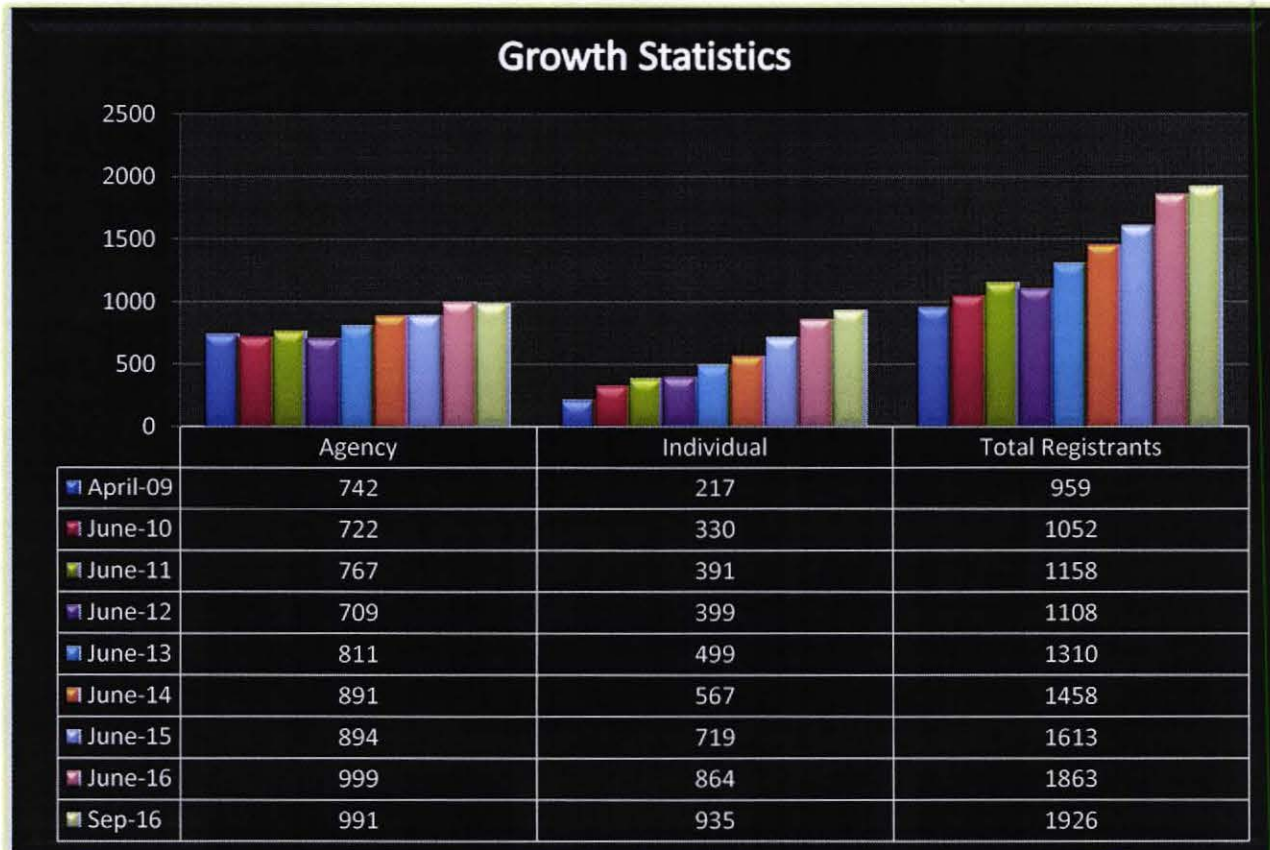
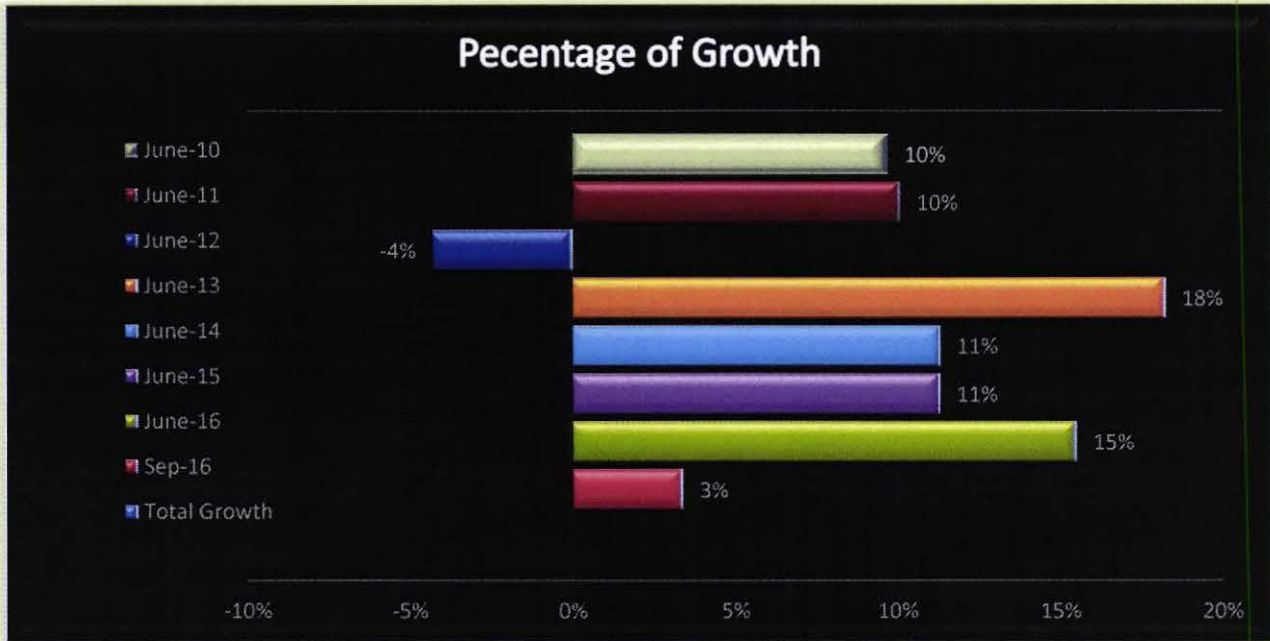
MONTH	TOTAL HOUSES REPORTED	TOTAL CALLS REPORTED	HOTLINE	POLICE	VR VIOLATION CALLS	NON-ORDINANCE CALLS	TOTAL CITATIONS	FINES	TOTAL VACATION RENTAL HOMES	VACATION RENTAL TOT REVENUE
JULY	100	152	121	31	117	4	27	\$ 6,750.00	1622	\$ 402,963.00
AUGUST	68	111	95	16	87	8	22	\$ 6,500.00	1635	\$ 356,762.00
SEPTEMBER	77	126	116	10	107	9	10	\$ 2,850.00	1624	\$ 308,108.00
AVERAGE QTR	82	129.67	110.67	19.00	103.67	7.00	19.67	\$ 5,366.67	1627.00	\$ 355,944.33
OCTOBER	66	100	87	13	78	9	6	\$ 1,500.00	1661	\$ 334,036.00
NOVEMBER	47	58	52	6	36	16	8	\$ 2,250.00	1697	\$ 466,340.00
DECEMBER	13	16	16	0	11	5	1	\$ 500.00	1689	\$ 412,202.00
AVERAGE QTR	42	58.00	51.67	6.33	41.67	10.00	5.00	\$ 1,416.67	1682.33	\$ 404,192.67
JANUARY	39	47	41	6	38	3	8	\$ 2,750.00	1694	\$ 447,651.00
FEBRUARY	47	67	58	9	55	3	6	\$ 1,750.00	1727	\$ 537,911.00
MARCH	86	136	119	17	109	10	28	\$ 9,000.00	1788	\$ 883,092.00
AVERAGE QTR	57	83.33	72.67	10.67	67.33	5.33	14.00	\$ 4,500.00	1736.33	\$ 622,884.67
APRIL	100	151	126	25	118	8	24	\$ 6,000.00	1823	\$ 1,038,025.00
MAY	59	158	141	17	134	7	29	\$ 8,500.00	1819	\$ 569,001.00
JUNE	92	149	118	31	113	5	21	\$ 5,750.00	1843	\$ 362,513.00
AVERAGE QTR	84	152.67	128.33	24.33	121.67	6.67	24.67	\$ 6,750.00	1828	\$ 656,513.00
TOTAL	794	1271	1090	181	1003	87	190	\$ 54,100.00		\$ 6,118,604.00
AVERAGE YTD	66.17	105.9167	90.83	15.08	83.58	7.25	15.83	\$4,508.33		\$ 509,883.67

Attachment 7

Vacation Rental Growth Statistics

CITY OF PALM SPRINGS

Vacation Rental Growth from April 2009 to September 2016



Attachment 8

Public Testimony On File in the Office of the City Clerk