

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, nor are these uses identified as uses permitted in single-family or multi-family zones. Vacation Rentals and Homesharing are similar in character and use as hotels and other commercial short term uses and can only be permitted in single-family or multi-family zones if such uses are ancillary and secondary to the residential use of property.

(b) Incidents involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, parking congestion, and the accumulation of refuse, require response from police, fire, paramedic, and other City services associated with this secondary, ancillary, commercial 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 adverse effects of vacation rental uses on surrounding residential neighborhoods, ensure that vacation rentals and homesharing are ancillary and secondary uses of residential property consistent with the provisions of the City's Zoning Ordinance, preserve the character of neighborhoods in which Vacation Rental and Homesharing 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 Registration 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 consistent with the ancillary and secondary status of Vacation Rentals and Homesharing, for the purpose of minimizing 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 or a limited liability company consisting solely of natural persons.

“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 exclusive 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.

“Daytime occupancy” means the hours between 10:00 am and 10:00 pm. “Daytime occupants” mean the guests who may occupy a Vacation Rental during a daytime occupancy.

“Enforcement Official” means the City Manager, the Police Chief, the Fire Marshall, the Building Official, or one or more of their respective designees.

“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.

“Estate Home” means a single family dwelling with five or more bedrooms located on property zoned R-1-B, R-1-A, R-1-AH, or G-R-5.

“Good cause” for the purposes of denial, suspension, revocation, imposition of conditions, 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 Enforcement Official; 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 Enforcement Official that summarizes general rules of conduct, consideration, and respect, including without limitation provisions of the Palm Springs Municipal Code applicable to or expected of guests to 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 city enforcement officials or, if applicable, the Local Contact Person. 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 Enforcement Official.

“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 or a limited liability company and the members of such company, insofar as the disclosure requirements pursuant to Section 5.25.085 are satisfied. The term “Owner” does not include a Business Entity.

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

“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 the annual permit and/or a registration for a Vacation Rental or a Homeshare Interest issued by the City pursuant to this Chapter.

5.25.040 Registration Certificate Required.

(a) The operation of a Vacation Rental or a Homeshare Interest without a Vacation Rental Registration Certificate is prohibited.

(b) A Vacation Rental Registration Certificate shall not be issued to any Business Entity. A natural person, limited liability company, or personal or family trust shall not maintain any financial interest in more than one Vacation Rental. For this purpose, financial interest includes both legal and beneficial ownership as well as any arrangement that provides for receipt of any portion of the revenues generated by the Vacation Rental. An Owner 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 (other than a limited liability company) shall terminate on March 1, 2017; a renewal of a second Vacation Rental Registration Certificate, or more, issued to an Owner shall terminate on March 1, 2017. Notwithstanding any provision to the contrary in Subsection (a) or Subsection (c) of this Section, any Owner who has a financial interest in two or more Vacation Rentals subject to current and valid Vacation Rental Registration Certificates as of November 30, 2016, may continue to operate and maintain no more than two (2) of such Vacation Rentals so long as such Vacation Rentals are operated and maintained in full compliance with this Chapter.

(c) The provisions of Subsection (b) of this Section shall not apply to or be enforced against any Owner 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 Registration 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.

(d) Each Owner of a Vacation Rental who rents, exchanges, trades, gifts, or grants such Vacation Rental for a period of twenty-eight (28) 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.

(e) 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 Interest.

(f) 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 in the unit and on all advertising related to each Vacation Rental or Homesharing Interest, including without limitation, web based advertising, hosting platform, print media, and television.

5.25.050 Agency.

(a) An Owner may retain an agent with an exclusive listing arrangement 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 compliance with the requirements of this Chapter including the collection and payment to the City of all transient occupancy taxes due and payable on the Vacation Rental unit. The Owner and any such 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 Enforcement Official 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. The name,

address and telephone numbers of any other natural persons, limited liability companies or personal or family trusts that hold any financial interests in the Vacation Rental as well as copies of legal documents creating such financial interests.

(2) The name, address, and telephone number of the exclusive listing 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. The Local Contact Person may only use the address of the Vacation Rental if the Local Contact Person will be present at the unit for the duration of each Contract.

(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 (c).

(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) Evidence of insurance coverage as required under Section 5.25.070(t) of this Chapter.

(11) Completion of building, fire, and safety inspection and completion of any corrections identified by an Enforcement Official. 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.

(12) Written acknowledgement in a form approved by the Enforcement Official 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 Enforcement Official may accept a written consent from the governing board of a homeowners' association with jurisdiction over the property in satisfaction of this requirement.

(13) Such other information as the Enforcement Official 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 Chapter.

(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 Registration Certificate shall expire and the property shall not be used as a Vacation Rental until the new or successor Owner is issued a Vacation Registration 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 seven days of said change the Owner or his or her exclusive listing agent shall submit the required registration and fee.

(e) The Owner or his or her exclusive listing agent shall cancel the Vacation Rental Registration Certificate within seven (7) days of the date the Vacation Rental is sold or otherwise disposed of or after an event that results in the unit no longer in use as a Vacation Rental.

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 thirty-two (32) 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.

(i) For the first year a Vacation Registration Certificate is in effect, the thirty-two (32) contract limit shall be prorated based on the number of months that elapse prior to the subsequent calendar year.

(ii) Notwithstanding the restrictions imposed by this Subparagraph, the Owner can designate and file with the Enforcement Official the names of up to five (5) persons who may occupy the Vacation Rental unit at no cost and without requiring the presence of the Owner on the premises of the Vacation Rental. Each such occupancy shall fully comply with all other provisions of this Chapter.

(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, except that Owner may allow up to two (2) minor children, age 12 or under, to occupy the Vacation Rental in addition to the maximum number of occupants otherwise provided in this Subsection. The number of bedrooms in a Vacation Rental shall be verified by the Enforcement Official using County Assessor and/or City Building records and/or a physical inspection of the premises, prior to the issuance of a Registration Certificate. The Owner may also allow up to four (4) daytime occupants in addition to the total number of guests allowed for overnight occupancy pursuant to this Subsection. No more than one (1) automobile per bedroom shall be allowed to park on the street for each Vacation Rental unit and no more than two (2) additional automobiles may be parked in the street during daytime occupancy for daytime occupants. Advertising and/or renting one or more Vacation Rentals as part of a cluster or compound is prohibited.

(d) The Owner of an Estate Home may apply to the City Manager for an Exemption from the limitations of Subsection (c) of this Section for up to two (2) additional bedrooms for housing to accommodate no more than two (2) persons for each additional bedroom approved pursuant to the Exemption up to a maximum of twelve (12) guests and up to two (2) minors age twelve (12) and under.. The City Manager shall provide notice to all owners of property within two hundred and fifty (250) feet of the boundaries of Vacation Rental Exemption site at least ten (10) days prior to

rendering a decision on the application. . The City Manager shall review the application for an Exemption and may approve such Exemption if the City Manager finds such additional occupancy is consistent with the purpose, intent, and goals of this Chapter and any guidelines as may be adopted by the City Council. Such Exemption, if granted, may be subject to conditions and will be subject to annual review and renewal consideration after providing notice as required in this Subsection.

(e) 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, after being contacted by the Enforcement Official, 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.

(f) 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.

(g) 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.

(h) 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 Contract 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 Contract, 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 Contract 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 Enforcement Official. A summary or abstract of the written Contract, in a form approved by the Enforcement Official, shall be filed with the Enforcement Official prior to occupancy, in a manner approved by the Enforcement Official, and shall be posted in a conspicuous location on the Vacation Rental property and shall be made available on site at the request of an Enforcement Official.

(i) The Owner, or his or her agent, shall, upon notification by the Enforcement Official 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 Enforcement Official, evict one or more of the guests. For the purpose of this Subsection and Subsection (j) below, the phrase “in a timely and appropriate manner” shall mean in-person contact within thirty (30) minutes for any call from the Enforcement Official.

(j) 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.

(k) 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 Enforcement Official.

(l) 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 or in a conspicuous location near each entry door on the Vacation Rental.

(m) 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 any provision 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.

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

(o) 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.

(p) 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.

(q) Notwithstanding the provisions of Subsection (p) above, upon a determination of Good Cause, the City Manager may impose additional or special standards or requirements for placement or imposition of special conditions or performance standards for Owners, Owner's Agents, Local Contact Persons, and their affected Vacation Rentals. (r) The standard conditions may be modified by the Enforcement Official 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.

(r) 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.

(s) Owner shall procure, maintain, and pay premiums for commercial insurance policies that cover short term rental of property for each Vacation Rental with minimum limits as may be established by the City Manager from time to time.

(t) Owner shall annually secure a building and fire and safety inspection prior to renewal of the Vacation Registration 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 Registration 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 registration 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 recouped once the vacation rental use is terminated.

(e) The provisions of Subsection (a) of this Section, Subsection 5.25.040(b) [limits on number of units], and Subsection 5.25.070(b) [limits on number of Contracts] 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 Registration Certificate 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 Vacation Rental Registration Certificate for Homesharing;
- (2) Operates the Homesharing Interest in compliance with all Vacation Registration Certificate for Homesharing conditions, which may be imposed by the Enforcement Official 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 Registration Certificate.

5.25.080. Audit.

Each Owner and agent or representative of any Owner shall provide the Enforcement Official 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 Enforcement Official 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, Limited Liability Companies, and Personal or Family Trusts

On or before June 1, 2017, all Business Entities, limited liability companies, and personal or family trusts owning one or more Vacation Rentals shall disclose to the Enforcement Official the names, relevant contact information, and any such other information as may be requested by the Enforcement Official of each natural person holding the legal, equitable, and/or beneficial interest of each such Business Entity, limited liability company, or personal or family trust and the address of each Vacation Rental owned by each such Business Entity, limited liability company, or personal or family trust. 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 Registration Certificate for two (2) years.

(c) Any person who operates a Vacation Rental without a Vacation Registration 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 Registration Certificate, the person shall be liable for an 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 Registration 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 Registration 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 Registration 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 Registration Certificate.

(f) The appeal and hearing provisions of Chapter 2.50 shall apply to any revocation or suspension of a Registration Certificate.

(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 knowingly 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 1.06 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. In addition, The City Council also determines this Ordinance consists of regulations intended to ensure that commercial short term rental use of residential property remains an ancillary and secondary use of residential property in the City and thereby preserve the residential character of the City’s single-family and multi-family neighborhoods as identified in the City’s adopted General Plan, and its concomitant Environmental Impact Report. Thus, to the extent there is any environmental impact from the adoption of this Ordinance, the City Council finds that the Environmental Impact Report for the adopted General Plan is the controlling environmental document.

SECTION 3. The City Manager is authorized to exercise reasonable administrative discretion in the implementation of this Ordinance during the first year this Ordinance is in effect, including without limitation phasing in of programs, policies, and practices consistent with the business needs of the City, any department, division, bureau, or section designated to enforce this Ordinance, and the overall responsibilities and priorities of the City Manager as provided by the City Council.

SECTION 4. Any valid rental agreement for a Vacation Rental with occupancies in terms of number of guests and/or vehicles in excess of the requirements of Section 5.25.070(c) of this Ordinance, entered into between an Owner or an Agent with a renter and the renter has paid a deposit for such rental prior to November 30, 2016, shall be deemed consistent with the provisions of this Ordinance so long as such rental agreement and the Vacation Rental otherwise complies with the requirements of this Ordinance.

SECTION 5. The provisions of this Ordinance are severable. If any portion, section, subsection, paragraph, clause, sentence, phrase, work, or application of this Ordinance is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each and every portion, section, subsection, paragraph, clause, sentence, phrase, word, and

application not declared invalid or unconstitutional without regard to whether any portion of this Ordinance or application thereof would be subsequently declared invalid.

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 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