

ORDINANCE NO. 1903

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 5.83 TO THE PALM SPRINGS MUNICIPAL CODE, ESTABLISHING THE PALM SPRINGS SMALL HOTEL TOURISM BUSINESS IMPROVEMENT DISTRICT.

City Attorney Summary

This ordinance adds Chapter 5.83 to the Palm Springs Municipal Code and establishes the Palm Springs Small Hotel Tourism Business District.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS AS FOLLOWS:

SECTION 1. Chapter 5.83, titled "Establishment of the Palm Springs Small Hotel Tourism Business Improvement District", is hereby added to Title 5 "Business Regulations" of the Municipal Code to read as follows:

Chapter 5.83

Establishment of the Palm Springs Small Hotel Tourism Business Improvement District

5.83.010 – Chapter title.

This chapter shall be known as the "Palm Springs Small Hotel Tourism Business Improvement District."

5.83.020 - Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Assessment" means the assessment authorized by this chapter.

"Authorized activities" means the activities authorized to be provided in connection with the District, as set forth in this chapter.

"District" means the Palm Springs tourism business improvement district established by this chapter.

"Fiscal year" means the period beginning July 1 of each calendar year and ending June 30 of the following calendar year, except that the fiscal year ending June 30, 2017 shall begin on the later of the effective date of this chapter or January 1, 2017.

"Gross occupancy revenue" means the total rent received from transients by a hotel and motel business.

"Hotel and motel business" means any operator of a hotel other than an operator of a hotel that is owned by a nonprofit corporation and operated as an adjunct to a charitable or educational activity.

"Law" means the Parking and Business Improvement Area Law of 1989, being Sections 36500 et seq. of the California Streets and Highways Code.

"Transient occupancy tax" means the tax imposed by the City as established in the Municipal Code.

5.83.030 - District established/Cost Reimbursement Owing to the City.

(A) A parking and business improvement area designated as the "Palm Springs Small Hotel Tourism Business Improvement District" (referred to as "Assessment District", or "District") is hereby created and established pursuant to the law.

(B) The Assessment District shall reimburse the City of Palm Springs for any and all costs the City has, or will, incur in establishing and otherwise assisting in the administration of the District. Accordingly, such costs shall be deemed a debt of the District which such debt shall be repaid promptly from any District revenue.

5.83.040 - Boundaries.

The boundaries of the Assessment District are the City limits of the City of Palm Springs.

5.83.050 - Activities.

The following activities are authorized to be provided in connection with the District: (i) the promotion of tourism within the District; (ii) the promotion of public events which benefit hotel and motel businesses operating in the District; (ii) furnishing of music in any public place in the District; and (iv) activities which benefit hotel and motel businesses located and operating in the District. The primary purpose of these activities is to promote tourism within the District.

5.83.060 - Assessment.

Except where funds are otherwise available, an assessment shall be levied annually to pay for all authorized activities within the District. The assessment shall be in addition to any other assessments, fees, charges or taxes imposed by the City.

5.83.070 - Assessment—Businesses subject to assessment.

The assessment will be levied against small hotel with 49 rooms or less in the City. No other business shall be subject to the assessment.

5.83.080 - Assessment—New businesses.

Small hotel and motel businesses as defined herein established in the District after the beginning of any fiscal year shall not be exempt from the levy of the assessment for that fiscal year but shall instead be subject to the assessment.

5.83.090 - Assessment—Basis and rate.

The assessment will be calculated as a percentage of each day's gross occupancy revenue. The rate of the assessment effective in any fiscal year shall be set by resolution of the City Council pursuant to California Streets and Highway Code Section 36535.

5.83.100 - Assessment—Collection.

The assessment calculated based on any day's gross occupancy revenues shall be paid to the City no later than the date on which the small hotel and motel business is required to remit to the City the transient occupancy tax collected by the hotel and motel business on that day.

5.83.110 - Assessment—Penalties and interest.

Any small hotel and motel business failing to timely make payment to the City of the assessment shall be subject to the same penalties and interest thereon as set forth in this Code for failure to timely remit to the City transient occupancy tax payments collected by the hotel and motel business.

5.83.120 - Assessment—Debt to City.

The amount of assessment, penalty and interest imposed by the provisions of this chapter shall be deemed a debt to the City. An action may be commenced in any court of competent jurisdiction in the name of the City for the amount of such debt. The conviction and punishment of any person for failure to comply with the provisions of this chapter shall not relieve such person from paying any assessment, penalty or interest due and unpaid at the time of such conviction nor shall payment prevent prosecution of a violation of any of the provisions of this chapter. All remedies shall be cumulative, and the use of one or more remedies by the City to enforce this chapter shall not bar the use of any other remedy.

5.83.130 - Assessment—Election to recover from transient.

The assessment is levied upon each hotel and motel business subject to the assessment, and each such business shall be solely responsible for paying all assessments when due. Without disturbance of the foregoing, a hotel or motel business may elect to recover some or all of the amount of the assessment from transients owning rent to the hotel or motel business. The amount to be recovered from any transient may not exceed the amount of rent owed by that transient to the hotel and motel business, multiplied by the then effective rate of the assessment. The amount recovered shall be identified or itemized (separately or in conjunction with the amount of transient occupancy tax owned by that transient) on a document provided to the transient. Assessments levied on hotel and motel businesses pursuant to this chapter and recovered from transients pursuant to this section are not considered "rent" for the purposes of Section 4.44.020 of this code.

5.83.140 - Special fund.

There is created a special fund designated as "Palm Springs Small Hotel Tourism Business Improvement District Fund" into which all revenue derived from assessments levied pursuant to this chapter shall be placed, and such funds shall be used only for the purposes specified in this chapter. This fund shall be subject to an annual independent audit.

5.83.150 - Use of revenues.

Revenues from the levy of the assessment may be used only for authorized activities, and shall not be used for activities outside of the District.

5.83.160 - Contracting of funds.

The City may contract with a separate public or private agency to administer the authorized activities. Any agency that holds funds in trust for purposes related to the contract shall, at no expense to the City, provide an annual independent audit report by a certified public accountant of these funds. The audit may be funded from assessment proceeds as part of the general administration of the District. At all times the City shall reserve full rights of accounting of these funds.

5.83.170 - Amendments.

Small Hotel and motel businesses within the District shall be subject to any amendments to the law.

5.83.180 - Recordkeeping and inspections.

It shall be the duty of every hotel and motel business to keep all records as may be necessary to determine the amount of assessment due hereunder and shall preserve the same for a period of 4 years. The tax administrator shall have the right to inspect such records at all reasonable times.

The Director of Finance shall determine the mode and method of recordkeeping required to assist the tax administrator to perform the duties required of him under this section. Any audit which must be performed to secure compliance with the terms of this section is to be performed in the City. If for any reason the audit cannot be performed in the City, the hotel and motel business shall reimburse the City for the actual cost of all transportation, lodging, meals, travel time and other incidental costs reasonably incurred by the City in conducting the audit.

SECTION 2. In the event any term or provision of this Ordinance is to any extent invalid or incapable of being enforced, such term or provision shall be excluded to the extent such invalidity, illegality, or unenforceability and all other terms and provisions shall remain in full force and effect.

SECTION 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 16th DAY OF NOVEMBER, 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. 1903 is a full, true and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on the 2nd day of November, 2016, and adopted at a regular meeting of the City Council held on the 16th day of November, 2016, by the following vote:

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

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California