

Jan Truscott

From: Douglas C. Holland [DHolland@wss-law.com]
Sent: Tuesday, May 06, 2008 12:23 PM
To: David Ready; Jan Truscott
Subject: Vacation Rental Ordinance
Attachments: 575269_1.DOC

Attached is a revised draft of the Vacation Rental Ordinance.

David: Give me a call at your convenience if you have any questions.

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ORDINANCE NO. (Draft: 05.06.2008)

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTERS 5.25 AND 5.75 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO VACATION RENTALS AND EVENT HOUSES.

City Attorney Summary

This Ordinance adds Chapter 5.25 to the Palm Springs Municipal Code to provide regulations applicable to the rental of single-family or multi-family residential units for twenty-eight consecutive days or less and Chapter 5.75 to the Palm Springs Municipal Code to provide regulations applicable to Event Houses.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:

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

**Chapter 5.25
Vacation Rentals**

Sections:

5.25.010	Title
5.25.020	Findings
5.25.030	Definitions
5.25.040	Registration Certificate Required
5.25.050	Agency
5.25.060	Vacation Rental Registration Requirements
5.25.070	Operational Requirements and Standard Conditions
5.25.080	Audit
5.25.090	Violations
5.25.100	Amnesty Period
5.25.110	Requirements Not Exclusive

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 use of single and multiple family dwelling units for vacation rental lodging purposes provides alternate visitor serving lodging opportunities in the City; however, such uses in certain single-family neighborhoods may have effects that can best be addressed through an appropriate City regulatory program.

(b) The establishment of a regulatory program for vacation rental lodging will provide an administrative procedure to preserve existing visitor serving opportunities and increase and enhance public access to areas of the City and other visitor destinations.

(c) The purpose of this Chapter is to establish regulations for such use of residential property thereby enabling the City to preserve the public health, safety, and welfare.

(e) This Chapter is not intended to regulate hotels, motels, inns, time-share units, or non-vacation type rental arrangements including, but not limited to, lodging houses, rooming houses, convalescent homes, rest homes, halfway homes, or rehabilitation homes.

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:

"Applicant" means the Owner or in the event the Vacation Rental unit is covered by an Exclusive Listing Arrangement, the agent or representative of the Owner.

"City Manager" means that person acting in the capacity of the City Manager of the City of Palm Springs or the City Manager's designee.

"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.

"Local Contact Person" means a local property manager, Owner or agent of the Owner, who is available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding promptly 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 respond to any violation of this Chapter.

"Owner" means the person(s) or entity(ies) that hold(s) legal and/or equitable title to a Vacation Rental.

"Responsible Person" means an occupant of a Vacation Rental who is at least eighteen (18) 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 one or more residential dwellings, including either a single-family detached or multiple-family attached unit, or any portion of such a dwelling, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of 28 consecutive days or less, other than ongoing month-to-month tenancy granted to the same renter for the same unit, occupancy on a time-share basis, or a condominium hotel as defined in Ordinance No. 1521 as such ordinance may be amended from time to time.

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

5.25.040 Registration Certificate Required.

No Owner of a Vacation Rental shall rent that unit for a period of twenty-eight consecutive (28) days or less without a Vacation Rental Registration Certificate for a Vacation Rental pursuant to this Chapter for that unit.

5.25.050 Agency.

(a) An Owner may retain an agent or a representative to comply 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. 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 remain responsible for compliance with the provisions of this Chapter and 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. In addition, in the event an Owner enters into an Exclusive Listing Arrangement, the Owner will not be required to secure a separate business license for the business of operating a Vacation Rental.

5.25.060 Vacation Rental Registration Requirements.

(a) Prior to use of a property as a Vacation Rental, the Applicant shall register the property as a Vacation Rental with the City annually 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 permit 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 24-hour telephone number of the Local Contact Person.
- (4) The number of bedrooms and the applicable overnight and daytime occupancy limit of the unit.
- (5) 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.
- (6) Evidence of a valid transient occupancy registration certificate issued by the City for the Vacation Rental unit.
- (7) Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of a Vacation Rental.
- (8) 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 may 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, agent, or other material facts 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 14 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) The Owner shall limit overnight occupancy of the Vacation Rental unit to a specific number of occupants, with the maximum number of overnight occupants as two persons plus an amount that will not exceed two persons per bedroom within each Vacation Rental unit. The Owner shall also limit the daytime occupancy of the Vacation Rental unit to a specific number of occupants not to exceed an amount determined by adding the total overnight occupants to a number equal to 50% of the overnight occupants.

(c) The Owner, his or her agent, and/or the local contact person designated by the Owner shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding promptly to 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 or 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 an enclosed Vacation Rental unit.

(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 obtain the name, address, and driver's license number of the Responsible Person and shall require such Responsible Person to execute a formal acknowledgement 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. This information shall be readily available upon request of any officer of the City responsible for the enforcement of this Chapter.

(g) The Owner, or his or her agent, shall, upon notification that the occupants and/or guests of the Vacation Rental Unit have 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. 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.

(h) 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).

(i) The Owner of the Vacation Rental Unit shall post a copy of the permit and a copy of the conditions set forth in this section in a conspicuous place within the unit.

(j) 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 24-hour basis.
- (2) The maximum number of overnight 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 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.

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

(l) 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 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.

(m) The City Manager shall have the authority to impose additional standard conditions, applicable to all Vacation Rental units, 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.

(n) 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.

5.25.080 Audit.

Each Owner and agent or representative of any Owner shall provide access to each Vacation Rental and any records related to the use and occupancy of the Vacation Rental to the City Manager at any time during normal business hours, for the purpose of inspection or audit to determine that the objectives and conditions of this Chapter are being fulfilled.

5.25.090 Violations.

(a) 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. Violations are punishable pursuant to Section 1.01.140 and 1.01.150 and the administrative citation provisions of Chapter 1.06 of the Municipal Code.

(b) Notwithstanding the provisions of Chapter 1.06, any pre-citation or courtesy notice issued for violations specified in this Section may provide for a reasonable compliance date less than fifteen (15) calendar days from the date the pre-citation notice is given if, due to the nature of the violation, a shorter compliance period is necessary, as determined in the reasonable judgment of the City official issuing the notice.

(c) Upon the fourth or subsequent violation in any twenty-four month period, the City Manager may suspend or revoke the Vacation Rental Registration Certificate for a Vacation Rental unit. The appeal and hearing provisions of Chapter 1.06 shall apply to any revocation or suspension of a Permit.

(d) The remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code or other public nuisance.

5.25.100 Amnesty Period.

Owners of Vacation Rentals shall make application for Vacation Rental Registration Certificate pursuant to this Chapter within sixty (60) days after the effective date of this Chapter. Owners of Vacation Rentals who, prior to the effective date of this Chapter, failed to obtain a transient occupancy registration certificate pursuant to Chapter 3.24 of the Municipal Code, may do so without penalty notwithstanding the provisions of Chapter 3.24, if an application for the certificate is filed no later than sixty (60) days after the effective date of this Chapter.

5.25.110 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 the Vacation Rental unit or the property on which it is located.

SECTION 2. Chapter 5.75 is hereby added to the Palm Springs Municipal Code to read as follows:

**Chapter 5.75
Event Houses**

Sections:

- 5.75.010 Purpose and Intent
- 5.75.020 Definitions
- 5.75.030 Permit Required
- 5.75.040 Exception
- 5.75.050 Application for Permit
- 5.75.060 Application Approval Conditions
- 5.75.080. Term of Permit
- 5.75.090. Reimbursement of Costs to the City
- 5.75.100. Authority to Promulgate Rules and Regulations
- 5.75.110. Suspension or Revocation of Permit
- 5.75.120. Appeal

5.75.010 Purpose and Intent.

The City recognizes that there are houses and related residential facilities within the community that due to their location, design, size, or status as a home that may have been occupied by a celebrity or other famous person, are desirable for the staging of special events. The City allows such events to be staged in residential areas of the City so long as such events do not unreasonably interfere with the public health and safety of the residents or unreasonably endanger any property within the City.

It is the purpose and intent of this Chapter to provide the means by which such Events may be reasonably regulated to preserve the public health and safety, provide for the protection of property, and to maintain harmonious relations between the community or neighborhood and those engaged in such activities.

5.75.020 Definitions.

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

"Applicant" means the Owner of the Event House.

"City Manager" means that person acting in the capacity of the City Manager of the City of Palm Springs or the City Manager's designee.

"Event" means an occurrence or social occasion or other activity that involves a gathering of persons, including without limitation, a reception or party.

"Event House" means one or more residential dwellings, including either a single-family detached or multiple-family attached unit, or any portion of such a dwelling, rented for occupancy for the purpose of staging an Event.

"Event House Permit" means an annual registration submitted to the City pursuant to this Chapter.

"Local Contact Person" means a local property manager, Owner or agent of the Owner, who is available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding promptly 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 respond to any violation of this Chapter.

"Owner" means the person(s) or entity(ies) that hold(s) legal and/or equitable title to an Event House. The term "Owner" includes any lessee of an Owner who has an exclusive lease of the Event House for a term of at least one calendar month.

"Responsible Person" means an occupant of an Event House who is at least eighteen (18) 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.

"Remuneration" means any consideration of any kind, including without limitation money, services, or goods, of any kind or in any amount.

5.75.030 Permit required.

Except as otherwise provided herein, it is unlawful for any person to stage an Event at any residential property unless such person has first been issued an Event House Permit from the City Manager.

5.75.040 Exception.

The provisions of this Chapter shall not apply to any event for which the Owner does not receive any remuneration for the Event or the use of the Owner's property as an Event House.

5.75.050 Application for permit.

(a) Prior to use of a property as an Event House, the Applicant shall annually submit an application filed with the City Manager on an application 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 permit 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 24-hour telephone number of the Local Contact Person.
- (4) The address of the residential property proposed to be used as an Event House, a description of the kinds of Events that may be staged at the Event House, the anticipated hours of operation, the maximum number of guests or invitees, proposed plan for the parking of vehicles and/or transportation of guest or invitees to and from the Event House, and a list of all facilities which applicant desires to use in conjunction with the use of the property as an event House.
- (5) Evidence of a valid business license issued by the City for the separate business of operating an Event House or similar business activity 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.
- (6) Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of an Event House.

- (7) Evidence that conclusively shows that the applicant has provided the owners and occupants of each residential dwelling unit within three hundred (300) feet of the property line of the Event House notice of the application.
- (8) Such other information as the City Manager deems reasonably necessary to administer this Chapter.

(b) The application shall be accompanied by a fee established by resolution of the City Council, provided, however, the fee shall be no greater than necessary to cover the full cost incurred by the City in administering the provisions of this Chapter.

(c) An application for an Event Home Permit may be denied if an Event Home Permit for the same unit and issued to the same Owner has previously been revoked pursuant to this Chapter.

5.75.060 Application approval conditions.

Upon a determination by the City Manager that the activities described in the application form, as may be reasonably conditioned or otherwise limited, do not pose a threat to the public health and safety and reasonably provide for the protection of property, the application may be approved. The City Manager may impose such conditions to approval as are necessary or appropriate to make such a determination. If such a determination cannot be made, the application for an Event House shall be denied.

5.75.070 Issuance of Permit.

Upon the approval or conditional approval of the application for an Event House Permit, and after applicant has executed an agreement to indemnify, defend, and save the city harmless from any and all claims and liability of any kind whatsoever resulting from or arising out of the issuance of such permit and agreeing to reimburse the City for any costs the City may incur in the enforcement of the provisions of this Chapter, including any costs of associated with the provision of public safety services, the City Manager shall issue an Event House Permit to applicant. The permit shall be subject to the conditions of the approved application.

5.75.080. Reimbursement of Costs to the City.

The applicant shall reimburse the City for all costs incurred by the City which result from the issuance of the permit and/or the activities authorized therein, including without limitation any costs for public safety services.

5.75.090. Authority to promulgate rules and regulations.

The City Manager is authorized to promulgate such rules and regulations as are necessary to realize the purpose and intent of this chapter and which are not inconsistent therewith.

5.25.100 Violations.

(a) 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. Violations are punishable pursuant to Section 1.01.140 and 1.01.150 and the administrative citation provisions of Chapter 1.06 of the Municipal Code.

(b) Notwithstanding the provisions of Chapter 1.06, any pre-citation or courtesy notice issued for violations specified in this Section may provide for a reasonable compliance date less than fifteen (15) calendar days from the date the pre-citation notice is given if, due to the nature of the violation, a shorter compliance period is necessary, as determined in the reasonable judgment of the City official issuing the notice.

(c) If the applicant violates any of the conditions of approval, performs those activities described in the application for an Event House permit in a manner that poses a threat to the public health and safety, endangers the preservation of property, engages in activities outside the scope of the activities described in the application, or fails to timely reimburse the City for costs incurred as provided in Section 5.75.090, the City Manager may summarily suspend or revoke the permit.

(d) The remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code or other public nuisance.

5.75.110. Appeal.

Any person aggrieved by an action taken by the City Manager may appeal such action pursuant to the provisions of Chapter 2.50 of the Palm Springs Municipal Code.

SECTION 3. If any provision, clause, sentence, or paragraph of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 4. 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

ORDINANCE NO. _____

Page 13

published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED THIS ___ DAY OF _____, 2008.

STEVE POUCKET, MAYOR

ATTEST:

James Thompson, City Clerk

ORDINANCE NO. _____

Page 14

CERTIFICATION

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

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on _____, 2008 and adopted at a regular meeting of the City Council held on the _____ day of _____, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California