



CITY COUNCIL STAFF REPORT

DATE: January 24, 2018 NEW BUSINESS

SUBJECT: CITIZENS' INITIATIVE FOR THE PROHIBITION OF VACATION RENTAL OF SINGLE FAMILY RESIDENCES IN THE CITY – SUFFICIENCY OF PETITIONS

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY

This is a request for the City Council to receive and file the Certificate of Sufficiency of Initiative Petition for the prohibition of vacation rental of single family residences within the City. Due to the unknown impacts of the proposed ordinance, staff is recommending that the City Council direct staff to prepare a report on the impacts of the ordinance and to present the report within 30 days, as provided under California Elections Code (EC) Section 9212. Furthermore, staff is seeking direction from the City Council as to whether the City Council desires for staff to bring forward resolutions calling for a standalone Special Election (either all-mail ballot or polling places) or for the consolidation with the Statewide Primary Election to be held on June 5, 2018.

RECOMMENDATION:

1. Receive, file, and accept the Certificate of Sufficiency of Initiative Petition for the prohibition of vacation rental of single family residences in the City.
2. Order a report on the initiative measure pursuant to California Elections Code Section 9212 to be presented to the City Council no later than February 23, 2018.
3. Provide direction to staff as to whether to bring forward resolutions calling for a standalone Special Municipal Election or for the consolidation with the Statewide Primary Election.

BACKGROUND:

On May 17, 2017, Stephen M. Rose and Walter "Hugh" Vance (Proponents) filed a "Notice of Intent to Circulate Petition" for the purpose of prohibiting vacation rental of single family residences in the City (Attachment 1). In accordance with EC Section 9203, the City Attorney prepared a Ballot Title and Summary (Attachment 2). On June 12, 2017, the Proponents filed proof of publication of a "Notice of Intent to Circulate Petition" with the City Clerk's Office. The Proponents had 180 days from receipt of the Ballot Title and Summary to circulate the petition and obtain the requisite amount of signatures.

ITEM NO. 4.B.

Pursuant to EC Section 9215, to qualify the petition for the next regular municipal election, the Proponents needed to obtain a minimum of 10% (2,524) of the voters' signatures of the City. Pursuant to EC Section 9214, to qualify the petition for a special municipal election, the Proponents needed to obtain a minimum of 15% (3,786) of the voters' signatures of the City.

On November 20, 2017, the Proponents submitted their petitions and the City Clerk's Office conducted a prima facie review of submitted petitions. In accordance with EC Section 9210(b), it was determined that said petition contained 5,320 signatures; therefore, said petition was accepted.

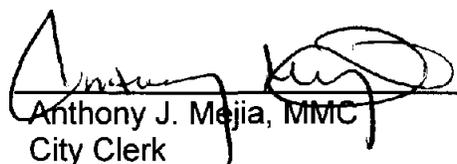
Pursuant to EC Section 9114, the City Clerk has 30 days; excluding Saturdays, Sundays, and holidays, in which to verify signatures on the initiative petition. The signatures on said petition are to be verified and/or rejected as to whether or not the signers are registered voters within city limits based on Affidavits of Registration on file with the County of Riverside Registrar of Voters (ROV). On November 21, 2017, the City Clerk's Office transmitted the petitions to the ROV to verify the signatures on the initiative petition. On January 3, 2018, the ROV advised that a sufficient number of signatures were submitted to qualify the initiative petition for a special election (Attachment 3).

Pursuant to EC Section 9214, upon certification of sufficiency of signatures, the City Council must either:

- Option 1: Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.
- Option 2: Pursuant to EC Section 1405(a), submit the initiative measure, without alteration, to the voters at a standalone or all-mail ballot Special Municipal Election to be held on a Tuesday during April 22-May 7, 2018; and direct the City Clerk to cause publication of the entire text of the proposed ordinance in the sample ballot.
- Option 3: Pursuant to EC Section 1405(a)(1), submit the initiative measure, without alteration, to the voters at the Statewide Primary Election to be held on June 5, 2018, and direct the City Clerk to cause publication of the entire text of the proposed ordinance in the sample ballot.
- Option 4: Pursuant to EC Section 9212, order a report analyzing the impact of the initiative measure. Staff must present the report no later than 30 days after it is ordered by the City Council. When the report is presented to the City Council, the City Council shall either adopt the ordinance within 10 days or submit the initiative measure to the voters.

FISCAL IMPACT:

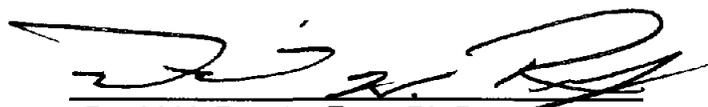
Should the City Council choose to submit the initiative measure to the voters at the Statewide Primary Election and consolidate said election with the County of Riverside it is estimated to cost \$19,000-\$29,000 to add the initiative measure to the ballot. Should the City Council desire to submit the initiative measure to the voters at a standalone Special Municipal Election, it is estimated to cost \$68,000-\$78,000 for an all-mail ballot election or \$99,000-\$109,000 for a polling place election. There are insufficient funds budgeted for a special election in the adopted Fiscal Year 2017-18 Budget. At the time of calling the election, the City Council will be requested to provide supplemental funding.



Anthony J. Mejia, MMC
City Clerk



Edward Kotkin
City Attorney



David H. Ready, Esq., Ph.D.
City Manager

Attachments:

1. Notice of Intent to Circulate Petition
2. Ballot Title and Summary Prepared by the City Attorney
3. Certificate of Sufficiency of Initiative Petition

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ATTACHMENT 1
Notice of Intent to Circulate Petition

chose instead to coddle and capitulate to the vacation rental industry. We are the outliers; Palm Springs has more short-term vacation rentals in R1 neighborhoods per capita than any city in the United States. Profit and tax revenue have been placed before people in our city.

This initiative repeals City codes that allow short term vacation rentals in R-1 zones. It continues to allow home sharing in all residential zones and home sharing and short term vacation rentals in multi-family zones. It gives the voters of Palm Springs a direct voice in the future of our neighborhoods.

Let us end the madness and restore our historic single-family neighborhoods to their rightful and intended purpose.

Proponents:



Stephen M. Rose
1195 East Sunny Dunes Road
Palm Springs, CA 92265
Dated: May 17, 2017



Walter "Hugh" Vance
266 East Palo Verde
Palm Springs, CA 92264
Dated: May 17, 2017

**THE FULL TEXT OF THE INITIATIVE MEASURE IS SET FORTH BELOW
(Amendments to provisions of the
Palm Springs Municipal Code are shown in underline)**

AN INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

In accord with applicable California law and Section 803 of the Charter of the City of Palm Springs, the People of the City of Palm Springs hereby ordain as follows:

SECTION 1: Business Regulations Code Amendment. Sections 5.25.020, 5.25.030 and 5.25.075 of Chapter 5.25 of the Palm Springs Municipal Code are hereby amended to read in their entirety as set forth below with changes shown in ~~strikeout~~ and underline :

A. Section 5.25.020 of Chapter 5.25 of the Palm Springs Municipal Code is hereby amended in its entirety to read as follows:

"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 full time and part time residents of the City who live and/or work in the City. Vacation Rentals and Homesharing are not uses specifically recognized in the City's Zoning Ordinance, nor are these uses expressly identified as uses permitted in single-family or multi-family zones. Vacation Rental 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 multi-family residential use of property. This Ordinance confirms Vacation Rentals and Homesharing as ancillary and secondary uses of for privately owned individual multi-family dwelling units, including without limitation Condominiums, and prohibits them for R-1 zoned Single Family and rental Apartment residential property in the City.

(b) The purpose of this Chapter is to establish a regulatory program for short term 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 rental~~ Vacation Rentals and Homesharing are ancillary and secondary uses of privately owned multi-family residential dwelling units, including without limitation Condominium units, 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.

(c) Limiting Vacation Rental and Homesharing lodging to Single Family privately owned multi-family dwelling units, including without limitation Condominium units subject to the regulations provided in this Chapter and prohibiting Vacation Rental in rental Apartments and but allowing Homesharing lodging in R-1 Single Family residences will safeguard, preserve, and protect residential housing stock in the City.

(d) The adoption of a comprehensive code to regulate issuance of, and attach conditions to, Registration Certificates for Vacation Rental and Home Sharing lodging in privately owned multi-family residential dwelling units and to Registration Certificates for Homesharing lodging within Single Family residential neighborhoods and for rental Apartments 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 in R-1 Single Family residential neighborhoods.

(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.”

B. Section 5.25.030 of Chapter 5.25 of the Palm Springs Municipal Code is hereby amended in its entirety to read as follows:

“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 subject to rent or lease by the owner of in a multi-family development structure 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 subject to rent or lease by the owner of in a multi-family development structure of three (3) or more dwelling units. A privately owned individual dwelling unit in a Condominium project or other multi-family development shall not constitute an “Apartment.”

“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.

"Change of Property Ownership" means the transfer of title from one person to another.

"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.

"Condominium unit" means an individual dwelling unit in a multi-family structure that is individually owned, where each owner receives a recordable deed to each individual unit purchased, including the right to sell or mortgage each unit and sharing in joint ownership of any common grounds and passageways.

"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, and 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 privately owned multi-family residential legal lot of record, including without limitation Condominiums, 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.

"Single Family Residence" means a Single Family dwelling unit located on property zoned R-1-B, R1-A, R-1-B, R-1-C, R-1-D or R-1-AH or any other R-1 classification."

"Third Quarter" means the entire months of July, August, and September in one calendar year.

"Vacation Rental" means an Single-Family individually rented unit in a multi-family structure , including without limitation Condominium units, 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."

C. Section 5.25.075 of Chapter 5.25 of the Palm Springs Municipal Code is hereby amended in its entirety to read as follows:

***5.25.075 Specific Prohibitions.**

(a) No person or entity shall offer or provide a Single Family Residence or an a rental 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, the owner of a Single Family Residence or the owner of a rental Apartment structure , an a rental Apartment manager, or a representative of the rental Apartment owner or manager, shall evict any tenant or otherwise terminate a lease for the purpose of converting an a rental Apartment to a Vacation rental or in anticipation of converting an a rental 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 owner of a Single Family Residence or an owner of an- a rental Apartment structure, rental 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 rental Apartment structure owner, rental 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~~ a rental Apartment or portion thereof pursuant to a valid ~~vacation~~ 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 rental Apartments and which may not have been recouped during the period of Vacation Rental use of the rental 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.

(f) The provisions of Subsection (a) of this Section shall not apply to or be enforced against any person or entity who rents a Single Family Residence or portion thereof pursuant to a valid Vacation Registration Certificate issued prior to the effective date of this ordinance for a period of twenty-four months. 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 the effective date of this ordinance to be afforded a reasonable opportunity to recoup costs reasonably invested for Vacation Rental use of Single Family residences and which may not have been recouped during the period of Vacation Rental use of the Single Family residence and which cannot be recouped once the Vacation Rental use is terminated.

(g) The provisions of Subsection (a) of this Section, Subsection 5.25.040(b) [limits on number of units], shall also not apply for a period of twenty-four months after the effective date of this ordinance to any Single Family Residence that meets all requirements of an R-1 occupancy under the City's building and fire code and for which such Single Family Residence has a valid Vacation Rental Registration Certificate issued prior to the effective date of this ordinance."

SECTION 2. Severability

A. In interpreting this initiative measure or resolving any ambiguity thereof, the City Council and all other City entities charged with implementing or enforcing this initiative measure or any part of it, as well as any reviewing court, shall interpret this initiative measure in the manner which most vigorously and effectively accomplishes its purposes and operative provisions.

B. If any portion of this initiative measure is hereafter determined to be invalid by a court of competent jurisdiction, all remaining portions of this initiative measure shall remain in full force and effect. Each section, subsection, sentence, phrase, part or portion of this initiative measure would have been adopted and passed irrespective of the fact that any one or more sections, subsections, sentences, phrases, parts or portions be declared invalid or unconstitutional.

Section 3. Implementation

A. On the effective date of this initiative measure as provided by California law (the "Effective Date"), all provisions this initiative measure are inserted into and become part of the City of Palm Springs Code.

B. No provision of the City of Palm Springs Code that is inconsistent with this initiative measure shall be enforced after the Effective Date.

C. Adoption of this initiative measure is essential to the preservation of the quality of life, property values and the health, safety and general welfare interests of residents and property owners within the City.

Section 4. Amendment and Repeal

This initiative measure and all of its provisions may be amended or repealed only by a majority vote of the electorate.

ATTACHMENT 2
Ballot Title and Summary Prepared
by the City Attorney

BALLOT TITLE

**AN INITIATIVE MEASURE PROHIBITING THE VACATION RENTAL
OF SINGLE FAMILY RESIDENCES IN THE CITY**

BALLOT SUMMARY

Under Chapter 5.25 of the Palm Springs Municipal Code, the term "vacation rental" is generally defined as occupancy for dwelling, lodging, or sleeping purposes without the presence of the Owner for a period of twenty-eight (28) consecutive days or less. Chapter 5.25 of the Code (i) prohibits the vacation rental of apartments, in the City, effective January 1, 2019, (ii) neither prohibits nor allows the vacation rental of condominiums as a separate category of residence, (iii) allows the vacation rental of single family dwellings, subject to certain limitations. This Initiative Measure modifies the definition of "apartment," and creates new definitions of the terms "condominium" and "single family residence." The Initiative Measure maintains the prohibition on the vacation rental of apartments in the City, effective January 1, 2019, permits the vacation rental of condominiums, but amends Chapter 5.25 of the Code to prohibit the vacation rental of single family residences (defined as single family dwelling units located on property zoned R-1-B, R-1-A, R-1-C, R-1-D, R-1AH, or any other R-1 classification) in the City. This new prohibition against vacation rental of all single family residences shall be effective twenty-four (24) months after the Initiative Measure's effective date.

In the event the Initiative Measure is adopted by the voters, the provisions of Chapter 5.25 expressly amended by the Initiative Measure can only be amended or repealed by a vote of the voters of the City at a special or general election.

CERTIFICATION

This ballot title and summary are hereby submitted to the elections official in conformance with California Elections Code Section 9203.

Dated: May 30, 2017



Edward Kotkin
City Attorney

Attest:



Kathleen Hart
Interim City Clerk

ATTACHMENT 3
Certificate of Sufficiency of Initiative Petition



City of Palm Springs

Office of the City Clerk

CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION

I, Anthony J. Mejia, City Clerk of the City of Palm Springs, County of Riverside, State of California, do hereby certify that pursuant to the provisions of Section 9114 of the California Elections Code, I caused the examination of the aforementioned petition, and from the records of registration, ascertain that the petition has been signed by the requisite number of voters.

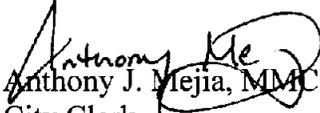
California Elections Code Section 9214 establishes the signature requirement for the calling of a special election at "not less than 15 percent of the voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187..." According to the County of Riverside Registrar of Voters Office, there were 25,239 registered voters in the City of Palm Springs. Therefore, 3,786 valid signatures are required for the initiative petition to be deemed sufficient for the calling of a special election.

I FURTHER CERTIFY that on November 20, 2017, the Proponents filed this initiative petition; and, based on the County of Riverside Registrar of Voters Signature Verification Certificate, I have determined the following facts regarding this initiative petition:

Number of signatures filed by proponent raw count.....	5,320
Number of signatures verified.....	5,320
Number of signatures found sufficient.....	4,601
Number of signatures found insufficient.....	719

Based on the above facts, the initiative petition is deemed to be sufficient.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Springs this 3rd day of January 2018.


Anthony J. Mejia, MMC
City Clerk