



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 – REVISED ON 01/23/2018

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 thirty (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 voter consideration of this initiative at the time of the City's next regular election on November 5, 2019, or for the consideration upon 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 at the Council's regular meeting on February 21, 2018.
3. Provide direction to staff as to whether to bring forward a resolution calling for a vote on November 5, 2019 at the City's next regular election, or calling for a vote in a consolidated election concurrent with the Statewide Primary on June 5, 2018.

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 one hundred eighty (180) days from receipt of the Ballot Title and Summary to circulate the petition and obtain the requisite amount of signatures.

Item 4.B.

1/24/18

Revised Staff Report

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.

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 thirty (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, acting as the City Clerk's agent under contract, advised that a sufficient number of signatures were submitted to qualify the initiative petition for a special election. The City Clerk has prepared a certificate as to this sufficiency (Attachment 3).

Assembly Bill 765 (Low)

Existing law prior to January 1, 2018 ("Pre-2018 Law") permitted a proposed municipal ordinance to be submitted to the governing body of the city by filing an initiative petition signed by a specified number of voters. If a municipal initiative measure qualified for the ballot, Pre-2018 Law required that the election for the measure be either at a special election or at the next regular election, depending on the percentage of signatures received on the initiative petition.

On October 13, 2017, Governor Brown signed Assembly Bill 765 (Low). The new law, effective January 1, 2018, requires that the election for an initiative measure that qualifies for the ballot shall be held at the next regular municipal election, unless the governing body calls for a special election. As it applies to the subject petition, below is a summary of applicable Election Code sections as modified in Assembly Bill 765:

- EC Section 9214 was **repealed** in its entirety, thus eliminating the requirement for a municipality to submit an initiative measure at a special election when reaching the 15% signature threshold.

- EC Section 9215 states that if an initiative petition is signed by not less than ten percent (10%) of the city's voters, the legislative body shall take one (1) of the following three (3) actions:
 - Adopt the ordinance without alteration.
 - Submit the ordinance to the voters pursuant to EC Section 1405.
 - Order an impact analysis report pursuant to EC Section 9212.

- EC Section 1405 was amended to state that: 1) the election for a municipal initiative that qualifies pursuant to Section 9215 shall be held at the jurisdiction's next regular election; or that in the alternative, the governing body may call a special election for the purpose of submitting an initiative to the voters before the date in which the initiative measure would have otherwise appeared on the ballot.

The choice as to whether to call a special election or not belongs to the legislative body, not the proponents of a ballot measure. According to the Legislative Bill Analysis, the public policy behind AB 765 is to address the reality that standalone special elections for a local ballot measure are considerably more expensive for a local jurisdiction than addition of an initiative to the ballot during a regularly scheduled election. In addition, the legislature noted the recent trend toward consolidation of elections due to concerns about low and non-representative voter turnout, observing that this bill could be expected to reduce the number of local initiative measures that are voted on at special elections, and increase the number of measures that appear on the ballot at regularly scheduled elections. (Attachment 4)

Revised Options for the City Council's Consideration

Pursuant to AB 765, 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), the election for a municipal initiative that qualifies pursuant to Section 9215 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election. In this case, the election when this initiative will be considered by the voters will be on November 5, 2019.
- Option 3: Pursuant to EC Section 1405(b), the governing body may call a special election for the purpose of submitting an initiative measure to the voters before the date on which the initiative measure would have otherwise appeared on the ballot pursuant to subdivision 1405(a). If the governing body calls a special election pursuant to this subdivision, the election shall be held not less than 88 days nor more than 103 days after the order of the election. In this case, the election when this initiative will be considered by the voters will be on June 5, 2018.
- 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 ten (10) days or submit the initiative measure to the voters.

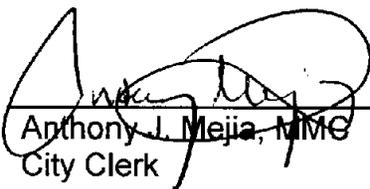
In accordance with the City's Charter, the next regular municipal election is scheduled for November 5, 2019. An additional ballot measure to be added to the next regular municipal election is estimated to cost \$19,000-\$29,000.

Alternatively, the City Council may choose to submit the initiative measure at a special election to be held not less than 88 days or more than 103 days after the order of the election. If the City Council chooses to order the impact analysis report, it is anticipated that the report will be presented to the City Council at its meeting on February 21, 2018. If the City Council determines to call for a special election at that meeting, the special election would occur on a Tuesday between May 22, 2018 and June 5, 2018. In the event that the Council wants this initiative considered at a special election, the City Council may choose to request consolidation with the Statewide Primary Election occurring on June 5, 2018. It is estimated to cost \$19,000-\$29,000 to add the initiative to the Statewide Primary Election. If the City Council determines to conduct a standalone special election on a date other than June 5, 2018, it is estimated to cost \$99,000-\$109,000.

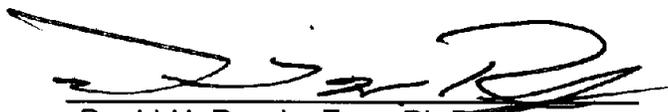
As a further correction to the previous report on this issue, the City cannot call for an all-mail ballot for the subject initiative measure.

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 \$99,000-\$109,000. 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 Z. 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
4. Assembly Bill 765 and Legislative Analysis

ATTACHMENT 1
Notice of Intent to Circulate Petition

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Palm Springs for the purpose of submitting an initiative measure to a vote of the people.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

This initiative is intended to stop the proliferation of commercial short-term vacation rentals in R-1 single family residential neighborhoods in the City of Palm Springs.

Single-family residential neighborhoods are the heart and soul of any city. Our General Plan and our Municipal Code explicitly require our city officials to protect R-1 neighborhoods from the encroachment of commercial uses. The permanent residents of a city are the stabilizing force that keeps a city going in good times and bad times. Without stable, healthy residential neighborhoods, a city is doomed.

Palm Springs is a year-round city with 45,000 full-time residents who live real lives of value. We cannot, by law, live in a storefront on Palm Canyon. We cannot set up a home in a warehouse in an industrial zone. Why should we be compelled to tolerate commercial hotel and resort uses in our own backyards?

Quaint 'mom and pop' vacation rentals of 1971 bear little resemblance to the product with the same name in 2017. One or two residents occupy most homes in Palm Springs, regardless of the size of the home. Vacation rentals can inject groups of 12 or more partying tourists next door to family housing. That is an intolerable situation.

A block that has been overrun with vacation rentals is no longer a neighborhood, it is a commercial enterprise zone consisting of unsupervised hotels. People come, drop their bags, vacation, pack and leave. A cleaning crew follows them and then the next client comes. Turnover is the watchword.

Make no mistake - tourism is important industry in Palm Springs, and we cherish it. The residents support their airport, convention center, and downtown, all designed to cater to this important industry. We support our hospitality industry indirectly through our taxes and directly by patronizing restaurants, hotels and spas. We roll out the red carpet for visitors throughout the city, but they do not have a right to our single-family neighborhoods!

The overheated, under-regulated state of the short-term vacation business has happened for many reasons, not the least of which is the explosive growth of the Internet-based 'sharing economy.' No city was able to anticipate the effect that this product would have on neighborhoods. But, while elected officials from many tourist-oriented towns acted decisively to protect their residents, our elected officials

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.

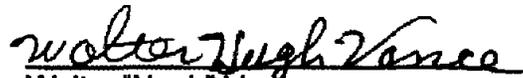
This initiative repeals City codes that allow short term vacation rentals in R-1 zones. It continues to allow home sharing in all residential zones and home sharing and short term vacation rentals in multi-family zones. It gives the voters of Palm Springs a direct voice in the future of our neighborhoods.

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" Varice
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 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.

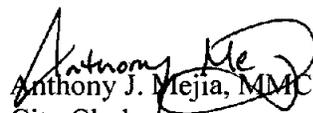
California Elections Code Section 9215 establishes the signature requirement for the calling of a special election at "not less than 10 percent of the voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187..." According to the County of Riverside Registrar of Voters Office, there were 25,239 registered voters in the City of Palm Springs. Therefore, 2,524 valid signatures are required for the initiative petition to be deemed sufficient.

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

ATTACHMENT 4
Assembly Bill 765

**AB-765 Local initiative measures: submission to the voters.** (2017-2018)

SHARE THIS:



Date Published: 10/13/2017 09:00 PM

Assembly Bill No. 765**CHAPTER 748**

An act to amend Sections 1405, 9111, 9118, 9212, 9215, and 9310 of, and to repeal Sections 9116, 9214, and 9311 of, the Elections Code, relating to elections.

[Approved by Governor October 13, 2017. Filed with Secretary of State
October 13, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 765, Low. Local initiative measures: submission to the voters.

Existing law permits a proposed county, municipal, or district ordinance to be submitted to the governing body of the county, city, or district by filing an initiative petition signed by a specified number of voters. If a county or municipal initiative measure qualifies for the ballot, existing law requires that the election for the measure be either at a special election or at the next statewide or regular election, depending on the percentage of signatures received on the initiative petition. If a district initiative measure qualifies for the ballot, existing law requires that the election for the measure be either at a special election or at the next regular election, depending on whether the initiative petition contains a specified request.

This bill instead would require that the election for a county, municipal, or district initiative measure that qualifies for the ballot be the next statewide or regular election, as applicable, unless the governing body of the county, city, or district calls a special election. The bill also would make conforming changes.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1405 of the Elections Code is amended to read:

1405. (a) Except as provided in subdivision (b), the election for a county initiative that qualifies pursuant to Section 9118 shall be held at the next statewide election occurring not less than 88 days after the date of the order of election. The election for a municipal or district initiative that qualifies pursuant to Section 9215 or 9310 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election.

(b) The governing body of a county, city, or district may call a special election for the purpose of submitting an initiative measure to the voters before the date on which the initiative measure would appear on the ballot pursuant to subdivision (a). If the governing body calls a special election pursuant to this subdivision, the election shall be held not less than 88 days nor more than 103 days after the order of the election.

SEC. 2. Section 9111 of the Elections Code is amended to read:

9111. (a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 9118, the board of supervisors may refer the proposed initiative measure to a county agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
- (2) Its effect on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
- (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs.
- (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
- (5) Its impact on the community's ability to attract and retain business and employment.
- (6) Its impact on the uses of vacant parcels of land.
- (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
- (8) Any other matters the board of supervisors request to be in the report.

(b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors, but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition.

SEC. 3. Section 9116 of the Elections Code is repealed.

SEC. 4. Section 9118 of the Elections Code is amended to read:

9118. If the initiative petition is signed by voters not less in number than 10 percent of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, the board of supervisors shall do one of the following:

- (a) 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.
- (b) Submit the ordinance, without alteration, to the voters pursuant to Section 1405.
- (c) Order a report pursuant to Section 9111 at the regular meeting at which the certification of the petition is presented. When the report is presented to the board of supervisors, the board shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

SEC. 5. Section 9212 of the Elections Code is amended to read:

9212. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9215, the legislative body may refer the proposed initiative measure to a city agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
- (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
- (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
- (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools,

parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the legislative body requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

SEC. 6. Section 9214 of the Elections Code is repealed.

SEC. 7. Section 9215 of the Elections Code is amended to read:

9215. If the initiative petition is signed by not less than 10 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, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, the legislative body shall do one of the following:

(a) 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.

(b) Submit the ordinance, without alteration, to the voters pursuant to Section 1405.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

SEC. 8. Section 9310 of the Elections Code is amended to read:

9310. (a) If the initiative petition is signed by voters not less in number than 10 percent of the voters in the district, where the total number of registered voters is less than 500,000, or not less in number than 5 percent of the voters in the district, where the total number of registered voters is 500,000 or more, the district board shall do either of the following:

(1) Adopt the ordinance, without alteration, either at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(2) Submit the ordinance, without alteration, to the voters pursuant to Section 1405.

(b) The number of registered voters referred to in subdivision (a) shall be calculated as of the time of the last report of registration by the county elections official to the Secretary of State made before publication or posting of the notice of intention to circulate the initiative petition.

SEC. 9. Section 9311 of the Elections Code is repealed.

THIRD READING

Bill No: AB 765
Author: Low (D)
Amended: 5/11/17 in Assembly
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 6/20/17

AYES: Stern, Allen, Hertzberg, Leyva

NOES: Anderson

ASSEMBLY FLOOR: 49-28, 5/22/17 - See last page for vote

SUBJECT: Local initiative measures: submission to the voters

SOURCE: Author

DIGEST: This bill eliminates the requirement that a special election be held to vote on a local initiative measure if certain conditions are met, and instead generally provides for the measure to be submitted to voters at a regularly scheduled election.

ANALYSIS:

Existing law:

- 1) Requires a county or a city, when it receives an initiative petition that is signed by a specified number of voters, to do one of the following:
 - a) Adopt the initiative without alteration;
 - b) Submit the initiative to the voters, as specified; or,

- c) Order a report on the initiative, to be completed within 30 days, before deciding whether to adopt it or submit it to the voters.
- 2) Requires a special district, when it receives an initiative petition that is signed by a specified number of voters, to do one of the following:
 - a) Adopt the initiative without alteration; or,
 - b) Submit the initiative to the voters, as specified.
 - 3) Permits a local governing body to submit an initiative measure to the voters, rather than adopting the initiative without alteration, at a special election for the voters to consider that initiative measure, if certain conditions are met.
 - 4) Requires a local governing body to submit an initiative measure to the voters, if they choose not to adopt the initiative without alteration, at a special election if the initiative petition was signed by a greater specified number of voters than otherwise required for qualification to necessitate appearance at a regularly scheduled election.
 - 5) Requires the election for a county, municipal, or district initiative that is submitted to voters at a special election, as detailed above, to be held not less than 88 nor more than 103 days after the date of the order of the election, except as follows:
 - a) Permits the special election on the initiative measure to be held on the same date as and consolidated with a regular or special election occurring wholly or partially within the same territory, if it was otherwise legally possible to hold the special election within 180 days prior to the regular or special election.
 - b) Permits the special election on the initiative measure to be held on the same date as and consolidated with a regularly scheduled statewide general election if it was otherwise legally possible to hold the special election on the measure during the period between the statewide primary election and the statewide general election.
 - c) Permits the special election to be held more than 103 days after the date of the order of the election if necessary in order to avoid holding more than one special election within any 180-day period, provided that the election is

scheduled at as early a date as practicable after the expiration of 180 days from the last special election.

- d) Provides that not more than one special election for an initiative measure that qualifies as specified may be held by a jurisdiction during any period of 180 days.
- 6) Requires the election for a county initiative that qualifies for the ballot, but that is not required to be submitted to voters at a special election, to be held at the next statewide election occurring not less than 88 days after the date of the order of the election. Requires the election for a municipal or district initiative that qualifies for the ballot, but that is not required to be submitted to voters at a special election, to be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of the election.
- 7) Requires the election for a county or municipal referendum that qualifies pursuant to existing law to be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of the election, or at a special election called for that purpose not less than 88 days after the date of the order of the election.

This bill:

- 1) Repeals a requirement that a special election be held to vote on a local initiative measure even if the larger specified number of signatures have been submitted and instead requires the measure to be submitted to the voters at the next statewide election occurring not less than 88 days after the date of the order of the election in the case of a county initiative measure, or at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of the election in the case of a city or district initiative measure.
- 2) Permits the governing body of a county, city, or district to call a special election for the purpose of submitting a local initiative measure to the voters before the date on which the initiative measure would otherwise appear on the ballot. Requires such a special election to be held not less than 88 nor more than 103 days after the date of the order of the election.
- 3) Makes other corresponding and technical changes.

Background

Local Initiative Measures and Special Elections. Under existing law, a state initiative measure that qualifies for the ballot generally appears on the ballot at the next statewide general election that is at least 131 days after the measure qualifies. While existing law gives the Governor the authority to call a statewide special election for the purpose of voting on a state initiative measure, that authority has been used sparingly. It appears that California Governors have called statewide special elections for initiative measures just six times since the initiative process was adopted in California in 1912, and of the 373 statewide ballot initiatives that have qualified for and appeared on the ballot, it appears that only 13 appeared on the ballot at a statewide special election (eight of those 13 measures appeared on the ballot at a single statewide special election in 2005).

The process for local initiative measures to be submitted to voters differs. First, when local initiative proponents have collected a sufficient number of signatures for their measure to qualify for the ballot, existing law permits the governing body of the local jurisdiction to adopt the local initiative measure without alterations. In such a situation, the proposed initiative measure is not submitted to the voters for their consideration.

Furthermore, existing law gives local initiative proponents a tool to *require* a local jurisdiction to hold a special election to vote on their proposed initiative measure if the governing body chooses not to adopt the measure without alterations. By including a request for a special election in the petition -- and in the case of county and most municipal initiatives, by collecting a larger number of valid signatures than would otherwise be required -- the proponents of a local initiative measure can require the local jurisdiction to schedule a special election to vote on the measure if they choose not to adopt the measure outright.

It can be considerably more expensive for a local jurisdiction to conduct a standalone special election for a local ballot measure than it is for that jurisdiction to add an additional measure to the ballot at an already scheduled election. As a result, the decision of local initiative proponents to request a special election for their initiative can significantly increase the costs to the local government to place that measure before the voters for their consideration.

Trend Toward Consolidation of Elections. In recent legislative sessions, concerns about low and non-representative voter turnout have been the motivation behind a number of bills that moved votes for offices and ballot measures so that they occur

at the same time as statewide elections. Specifically, SB 202 (Hancock, Chapter 558, Statutes of 2011) prohibited state initiative and referendum measures that qualified for the ballot on or after July 1, 2011, from appearing on the ballot at statewide primary elections, and instead required such measures to appear on the ballot only at the November statewide general election or at a statewide special election. AB 1344 (Feuer, Chapter 692, Statutes of 2011) required a city charter proposal or amendments to a city charter to be submitted to the voters for approval or rejection only at an established statewide general, statewide primary, or regularly scheduled municipal election date. SB 311 (Padilla, Chapter 184, Statutes of 2013) requires certain city charter proposals and city charter amendments to be submitted to the voters only at a statewide general election, as specified. SB 415 (Hueso, Chapter 235, Statutes of 2015) prohibits a local government, beginning January 1, 2018, from holding an election on any date other than a statewide election date if doing so in the past has resulted in turnout that is at least 25% below the average turnout in that jurisdiction in the last four statewide general elections, as specified.

Collectively, these bills will result in a larger number of offices and ballot measures being voted on at statewide primary, statewide general, and other regularly scheduled elections, which generally have higher turnout than standalone special elections. Similarly, this bill could be expected to reduce the number of local initiative measures that are voted on at special elections, and increase the number of measures that appear on the ballot at regularly scheduled elections.

Comments

- 1) According to the author, under existing law, the proponents of local initiative measures have the ability to force local governments to hold a special election on their initiative. These special elections are costly, and frequently result in lower and less representative voter participation. Earlier this year, the Campbell City Council was forced to schedule a citywide special election -- at an estimated cost of \$570,000 -- to vote on a local initiative measure that the proponents failed to qualify in time for last November's ballot.

Allowing the proponents of an initiative to force a local government to adopt the measure outright or schedule a special election gives those proponents excessive leverage over local elected officials. Even when they are faced with a measure that is broadly opposed by their constituents, local elected officials nonetheless have to choose between adopting that measure, or spending limited public funds to hold a special election. Proponents should not be able to use

the threat of a costly special election to coerce local elected officials into adopting their proposals.

AB 765 simply applies the same rules to local initiatives that currently apply to state initiatives and local referenda—namely, that measures that qualify for the ballot will be voted on at the next regularly scheduled election for which the measure can feasibly be added to the ballot. For time sensitive matters, the local jurisdiction would have the ability to call a special election to vote on the initiative prior to the next regularly scheduled election.

Related/Prior Legislation

SB 609 (Vidak), which failed passage in the Senate Elections and Constitutional Amendments Committee, would have required an elections official, if a petition for a municipal, county, or district initiative measure, city or city and county charter proposal, or municipal referendum, is found to have sufficient signatures, to immediately place the initiative measure that is the subject of the petition on the election ballot for which it qualifies pursuant to existing law.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/20/17)

California Common Cause
California Special Districts Association
California State Association of Counties
City of Campbell
Charles Jones, Member, San Jose City Council

OPPOSITION: (Verified 6/20/17)

Howard Jarvis Taxpayers Association

ARGUMENTS IN SUPPORT: In support of this bill, California Common Cause writes:

Important questions of local public policy should not be decided at special elections when voter attention and participation are at their lowest. Special elections are notorious for low and unrepresentative turnout. For example, only 14 percent of eligible voters cast ballots in the recent special [primary] election to fill a vacancy in the 34th Congressional district – less than half of the turnout in that district the

previous November. Unfortunately, current law enables local initiative proponents to make the cynical choice that their measure would benefit from a less engaged electorate. State initiative proponents do not have a similar ability to choose the electorate that considers their measure, which must be scheduled for the next state general election ballot – when voter turnout is highest.

Allowing local initiative proponents to call a special election enables them to game the system in another way. A standalone special election is generally very expensive, because it cannot be consolidated with other local or state elections to share the costs of election administration. As a result, a local governing board may feel coerced to pass a local proponent's policy by ordinance and cancel the election – even if they disagree with the initiative's substance – just to save their jurisdiction the financial expense of the special election.

ARGUMENTS IN OPPOSITION: In opposition to this bill, the Howard Jarvis Taxpayers Association writes:

Current law, including provisions in Proposition 218 in the California Constitution, allows for taxpayers to qualify their own initiatives for a local ballot. Signature thresholds for such endeavors range from 5 to 15 percent of registered voters living in the municipality and are determined by the number of voters in the last gubernatorial election. Calling a special election is uncommon and, because of the higher signature threshold, difficult to accomplish. However, there may be circumstances when such expedited action is justified. To take the discretion away from the People to meet the much higher signature threshold in order to call a special election runs contrary to principles of direct democracy and the constitutional foundation that all political power resides in the People.

ASSEMBLY FLOOR: 49-28, 5/22/17

AYES: Aguiar-Curry, Arambula, Berman, Bloom, Bocanegra, Burke, Caballero, Calderon, Chau, Chiu, Chu, Cooley, Cooper, Daly, Eggman, Frazier, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gomez, Gonzalez Fletcher, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Limón, Low, McCarty, Medina, Mullin, Muratsuchi, O'Donnell, Quirk, Reyes, Ridley-Thomas, Rodriguez, Rubio, Santiago, Mark Stone, Thurmond, Ting, Weber, Wood, Rendon

NOES: Acosta, Travis Allen, Baker, Bigelow, Brough, Cervantes, Chávez, Choi,
Cunningham, Dababneh, Dahle, Flora, Fong, Gallagher, Harper, Kiley, Lackey,
Maienschein, Mathis, Mayes, Melendez, Obernolte, Patterson, Quirk-Silva,
Salas, Steinorth, Voepel, Waldron

NO VOTE RECORDED: Bonta, Chen, Nazarian

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106

6/22/17 16:33:02

**** **END** ****