City Council Staff Report

DATE: April 2, 2014 CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 1848 AMENDING CHAPTER 5.25 OF THE PALM SPRINGS MUNICIPAL CODE REGARDING VACATION RENTAL REGULATIONS AND RELATED ADMINISTRATIVE CITATION PROCEDURES

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY:

The City Council will consider adoption of Ordinance No. 1848.

RECOMMENDATION:

Waive the reading of the ordinance text in its entirety and adopt Ordinance No. 1848, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 5.25 OF, AND AMENDING SECTION 1.06.030 OF, THE PALM SPRINGS MUNICIPAL CODE RELATING TO VACATION RENTALS."

STAFF ANALYSIS:

On March 5, 2014, Ordinance No. 1848 was introduced for first reading, as noted below:

3.A. PROPOSED ORDINANCE AMENDING CHAPTER 5.25 OF THE PALM SPRINGS MUNICIPAL CODE REGARDING VACATION RENTAL REGULATIONS AND RELATED ADMINISTRATIVE CITATION PROCEDURES:

ACTION: 1) Waive the reading of the ordinance text in its entirety and introduce by title only Ordinance No. 1848, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 5.25 OF, AND AMENDING SECTION 1.06.030 OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO VACATION RENTALS."

AYES: Councilmember Foat, Councilmember Mills, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Lewin and Mayor Pro Tem Hutcheson.

Item No. 2.D.

This report provides for the City Council to waive further reading and adopt the ordinance. The ordinance shall be effective 30-days from adoption.

James Thompson
City Clerk

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

/kdh

Attachment: Ordinance No. 1848

ORDINANCE NO. 1848

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 5.25 OF, AND AMENDING SECTION 1.06.030 OF, THE PALM SPRINGS MUNICIPAL CODE RELATING TO VACATION RENTALS

City Attorney's Summary

This Ordinance amends and restates in full the City's adopted Vacation Rental Ordinance. This Ordinance imposes additional restrictions on occupancy and use of vacation rental properties in Palm Springs and provides additional enforcement oversight.

Section 1. Subsection (a) of Section 1.06.030 of the Palm Springs Municipal Code is amended to read:

(a) Whenever an Enforcement Officer charged with the enforcement of any provision of this Code determines that a violation of that provision has occurred, either by receiving a complaint or being witness to the violation, the Enforcement Officer has the authority to take the actions identified in this Section and issue an administrative citation to a responsible party for the violation, as provided herein, unless the violation is deemed to be an immediate threat to life and safety, at which time the matter shall be referred to the Building Official, Police Department, Fire Department, or other applicable agency, depending on the nature of the violation, for immediate action. A Public Safety Officer shall not be required to issue a pre-citation or courtesy notice as provided in Subsection (b) of this Section; however, a Public Safety Officer, in the discretion of such officer, may issue such courtesy notice. The City Manager may by administrative rule or regulation or by direction or order authorize an Enforcement Officer to issue an administrative citation without first complying with the pre-citation or courtesy notice requirements as otherwise required pursuant to Subsection (b) of this Section.

Section 2. Chapter 5.25 of the Palm Springs Municipal Code is amended to read:

Chapter 5.25
VACATION RENTALS

5.25.010 Title.

This Chapter shall be referred to as the "Vacation Rental Ordinance."

5.25.020 Findings.

The City Council finds and determines as follows:

(a) The 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.

(d) 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.

"Bedroom" means an area of a Vacation Rental normally occupied and being heated or cooled by any equipment for human habitation, which is 100 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.

"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.

"Good cause" for the purposes of denial, suspension, revocation, imposition of conditions, placement on or removal from the Property Watch List, 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

City Manager; 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 City Manager in consultation with the office of neighborhood involvement and representatives of Owners that summarizes general rules of conduct, consideration, and respect, including without limitation provisions of the Palm Springs Municipal Code applicable to or expected of residents of the City.

"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 Local Contact Person.

"Local contact person" means a local property manager, Owner 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 forty-five 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 person(s) or entity(ies) that hold(s) legal and/or equitable title to a Vacation Rental.

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

"Property Watch List" means one or more Vacation Rentals the City Manager has identified on the basis of good cause as properties that warrant a higher level of oversight, scrutiny, review, or monitoring.

"Rental Term" means the period of time a Responsible Person rents or leases a Vacation Rental.

"Responsible Person" means an occupant of a Vacation Rental who is at least twenty-five (25) years of age and who shall be legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of this Chapter and/or this code.

"Vacation Rental" means 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 twenty-eight 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" or "Registration Certificate" means an annual registration submitted to the City pursuant to this Chapter.

5.25.040 Registration Certificate Required.

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

(b) The current Registration Certificate number issued by the City shall be displayed in a clear and legible manner on all advertising related to each Vacation Rental, including without limitation, web based advertising, print media, and television.

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 Vacation Rental registration certificate 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 twenty-four-hour telephone number of the local contact person and verification that the Local Contact Person can respond in-person to the site of the Vacation Rental within forty-five (45) minutes.

(4) The address of the residential property proposed to be used as a Vacation Rental.

(5) The number of bedrooms and the applicable overnight and daytime occupancy limit of the unit consistent with the provisions of Section 5.25.070 (b).

(6) Evidence of a valid business license issued by the City for the separate business of operating Vacation Rentals or submission of a certificate that Owner is exempt or otherwise not covered by the City's Business Tax Ordinance (Division II, Title 3 of the Palm Springs Municipal Code) for such activity.

(7) Evidence of a valid transient occupancy registration certificate issued by the City for the Vacation Rental unit.

(8) Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of a Vacation Rental.

(9) 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 fourteen 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 within each Vacation Rental unit plus an amount that will not exceed two persons per bedroom within each Vacation Rental unit. The number of bedrooms in a Vacation Rental shall be verified by staff using County Assessor and/or City Building records, prior to the issuance of a certificate. The Owner shall also limit the total 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 fifty percent of the overnight occupants; except that two daytime occupants shall be permitted in a studio unit or such other unit that does not contain a separate bedroom. The following chart is provided as an example of how this Section would be applied to specific situations:

Number of Bedrooms	**Total of Overnight Occupants**	**Additional Daytime Occupants**	**Total Daytime Occupants**
0	2	2	4
1	4	2	6
2	6	3	9
3	8	4	12
4	10	5	15
5	12	6	18
6	14	7	21
7	16	8	24

(c) During the Rental Term each Vacation Rental unit is rented, the Owner, his or her agent, and/or the local contact person designated by the Owner, shall be available twenty-four hours per day, seven days per week for the purpose of (1) responding by telephone within fifteen (15) minutes of complaints from or through the Hotline and (2) responding in-person within forty-five (45) minutes to any additional or successive 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

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 a fully enclosed Vacation Rental unit and shall not be audible at the property line of the Vacation Rental

(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 enter into a written rental agreement with a Responsible Person where (1) the Responsible Person will provide the Responsible Person's name, age, address, and a copy of a government issued identification; (2) establishes and sets out the terms and conditions of the rental agreement, including without limitation occupancy limits, noise prohibitions, and vehicle parking requirements; (3) requires the Responsible Person to acknowledge and agree that he or she is legally responsible for compliance of all occupants of the Vacation Rental or their guests with all provisions of this Chapter and/or the Municipal Code; (4) the Owner or the Owner's Agent provides a copy of the "Good Neighbor Brochure" to the Responsible Person; and (5) the Responsible Person provides a list of all guests by name; and (6) the Responsible Person provides a list of all guests' vehicles, including license plate numbers. Each rental agreement shall be maintained by the Owner or the Owner's Agent for a minimum of four (4) years and shall be readily available for inspection upon request of the City Manager.

(g) The Owner, or his or her agent, shall, upon notification that the responsible person, including any occupant and/or guest of the Vacation Rental unit, has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of provisions of the Municipal Code or any state law, shall promptly respond in a timely and appropriate manner to prevent a recurrence of such conduct by those occupants or guests. For the purpose of this Subsection and Subsection (h) below, the phrase "in a timely and appropriate manner" shall mean each of the following three components:

i. the use of reasonably prudent business practices to contact the Responsible Person within fifteen (15) minutes by telephone for a first incident reported from the Hotline;

ii. in-person contact within forty-five (45) minutes for a first call from the Hotline if contact with the Responsible Person is not made by telephone and for each subsequent or successive incident during a Rental Term;

iii. report back to the Hotline of the disposition and handling of the reported incident within forty-five minutes of each call from the Hotline.

(h) 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.

(i) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the collectors and between the hours of five a.m. and eight p.m. on scheduled trash collection days. The Owner of the Vacation Rental unit shall use reasonably prudent business practices to ensure compliance with all the provisions of Chapter 6.04 of the Municipal Code (Waste Disposal and Diversion), and shall provide "walk-in service" or as may otherwise be approved by the City Manager.

(j) The Owner of the Vacation Rental unit shall post a copy of the Registration Certificate and a copy of the conditions set forth in this Section in a conspicuous place within the unit.

(k) The Owner shall provide each occupant of a Vacation Rental with the following information prior to occupancy of the unit and/or post such information in a conspicuous place within the unit:

(1) The name of the managing agency, agent, rental manager, local contact person, or Owner of the unit, and a telephone number at which that party may be reached on a twenty-four-hour basis;

(2) The maximum number of overnight occupants and the maximum number of daytime occupants permitted to stay in the unit;

(3) The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property;

(4) Notification that the amplification of music outside of the dwelling unit or otherwise audible at the property line is a violation of this Chapter;

(5) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the Owner pursuant to state law, in addition to any other remedies available at law, for creating a disturbance or for violating 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;

(7) A copy of this Chapter of the Palm Springs Municipal Code, as may be amended from time to time.

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

(m) 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.

(n) 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.

(o) Notwithstanding the provisions of Subsection (n) above, upon a determination of good cause, the City Manager may impose additional or special standards or requirements for (1) the determination or placement of properties on the Property Watch List; (2) placement or imposition of special conditions or performance standards for Owners, Owner's Agents, Local Contact Persons, and their affected Vacation Rentals on the Property Watch List; and (3) and removal of a Vacation Rental from the Property Watch List.

(p) 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.

(q) The City Manager shall have the authority to establish administrative rules and regulations consistent with the provisions of this Chapter for the purpose of interpreting, clarifying, carrying out, furthering, and enforcing the requirements and the provisions of this Chapter. A copy of such administrative rules and regulations shall be on file in the Office of the City Clerk.

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 Sections 1.01.140 and 1.01.150 and the administrative citation provisions of Chapter 1.06 of the Municipal Code, except that the fine for a first violation shall be two hundred fifty dollars and each subsequent violation shall be five hundred dollars.

(b) Notwithstanding the provisions of Chapter 1.06, any citation or pre-citation or courtesy notice issued for violations specified in this Section may provide for a reasonable compliance date or time of less than fifteen calendar days but at least thirty minutes from the date or the time the citation or pre-citation notice is given if, due to the nature of the violation, a shorter compliance period is necessary or appropriate, as determined in the reasonable judgment of the city official issuing the citation or 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) Any person who fails to timely register a Vacation Rental or pay any fee or charge provided in this Chapter within the time required, shall pay a penalty in the amounts established by the City Council by resolution. Such penalty may also include interest from the date on which the fee or charge became due and payable to the City until the date of payment.

(e) 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 Requirements not exclusive.

The requirements of this Chapter shall be in addition to any license, permit, or fee required under any other provision of this Code. The issuance of any permit pursuant to this Chapter shall not relieve any person of the obligation to comply with all other provisions of this Code pertaining to the use and occupancy of Vacation Rental or the property on which it is located.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage. The provisions of this Ordinance that require a person entering into a vacation rental agreement to be 25 years of age or older shall not

apply to any occupancy of a vacation rental for which a vacation rental agreement was fully executed and enforceable on or before March 5, 2014.

PASSED AND ADOPTED at a regular meeting of the City Council on the ___ day of _____ 2014, by the following vote:

_____
Stephen P. Pougnet
Mayor

ATTEST:

_____
James Thompson
City Clerk