ORDINANCE NO. 1236


WHEREAS, the City Council adopted Ordinance No. 1236 on March 8, 2012 revising sections of the Palm Desert Municipal Code; and

WHEREAS, said application has complied with the requirements of the "City of Palm Desert Procedure for Implementation of the California Environmental Quality Act", Resolution No. 10-26, the Director of Community Development has determined that the project will not have a negative impact on the environment and is exempt from CEQA, and

WHEREAS, at said public hearings, said City Council heard and considered all testimony and arguments of all interested persons; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Palm Desert, California, that the following section of the Palm Desert Municipal Code is hereby amended, as follows:

Section 1: That Chapter 3.28.020 (A) Definitions is hereby amended to read as below:

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for use or occupancy by transients, including, but not limited to dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, time-share project or facility, dormitory, public or private club, mobile home or house trailer at a fixed location, recreational vehicle or other similar structure or portion thereof, including a "short term rental unit" as defined in Section 5.10.

Section 2: That Chapter 5.10 Short-term Rentals is hereby added to the Palm Desert Municipal Code as follows:
Chapter 5.10 SHORT-TERM RENTALS

5.10.010 Title
5.10.020 Purpose
5.10.030 Definitions
5.10.040 Authorized agent or representative
5.10.050 Short-term Rental Permit—Required
5.10.060 Short-term Rental Permit—Application
5.10.070 Operational requirements and standard conditions
5.10.080 Recordkeeping duties
5.10.090 Violations
5.10.100 Requirements not exclusive

Chapter 5.10 SHORT-TERM RENTALS

5.10.010 Title

This chapter shall be referred to as the "Short-term Rental Ordinance."

5.10.020 Purpose

A. The purpose of this chapter is to establish regulations for the use of privately owned residential dwellings as short-term rentals that ensure the collection and payment of Transient Occupancy Taxes (TOT) and minimize the negative secondary effects of such use on surrounding residential neighborhoods.

B. This chapter is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short term rental purposes as defined in this chapter.

5.10.030 Definitions

For purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:
"Applicable laws, rules and regulations" means any laws, rules, regulations and codes (whether local, state or federal) pertaining to the use and occupancy of a privately owned dwelling unit as a short-term rental.

"Applicant" means the owner of the short-term rental unit or the owner's authorized agent or representative.

"City Manager" means that person acting in the capacity of the City Manager of the City of Palm Desert or designee.

"Good neighbor brochure" means a document prepared by the City that summarizes the general rules of conduct, consideration, and respect, including without limitation provisions of the Palm Desert Municipal Code and other applicable laws, rules or regulations pertaining to the use and occupancy of short-term rental units.

"Local contact person" means the person designated by the owner or the owner's authorized agent or representative who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (1) responding within sixty (60) minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit; and (2) taking remedial action to resolve any such complaints.

"Owner" means the person(s) or entity(ies) that hold(s) legal and/or equitable title to the subject short-term rental.

"Operator" means the Owner or the designated agent or representative of the Owner who is responsible for compliance with this chapter with respect to the short term rental unit.

"Property" means a residential legal lot of record on which a short-term rental unit is located.

"Responsible person" means an occupant of a short-term rental unit who is at least twenty-one (21) years of age and who is legally responsible for ensuring that all occupants of the short-term rental unit and/or their guests comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental unit.
"Short-term rental unit" means a privately owned residential dwelling, such as, but not limited to, a single-family detached or multiple-family attached unit, apartment house, condominium, cooperative apartment, duplex, or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for any period less than twenty seven (27) consecutive days or less.

"Short-term rental permit" means a permit that allows the use of a privately owned residential dwelling as a short-term rental unit pursuant to the provisions of this chapter, and that incorporates by consolidation a Transient Occupancy Registration Permit and any other potential licensing required in Chapter 5 of the Palm Desert Municipal Code.

"Transient" for purposes of this chapter means any person who seeks to rent or who does rent a privately owned residential unit for a period less than twenty seven (27) consecutive days or less.

"Transient Occupancy Registration Permit" means a permit that allows the use of a privately owned residential dwelling as a short-term rental unit pursuant to the provisions of Chapter 3.28 Transient Occupancy Tax respectively.

5.10.040 Authorized agent or representative

A. An owner shall designate the owner or an agent or a representative to comply with the requirements of this chapter on behalf of the owner. The owner or designated agent of representative is referred to as "Operator" in this chapter.

B. Notwithstanding subsection A, the owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental unit, regardless of whether such noncompliance was committed by the owner’s authorized agent or representative or the occupants of the owner’s short-term rental unit or their guests.
5.10.050 Short-term Rental Permit—Required

A. The Operator is required to obtain a short-term rental permit from the City, pursuant to the provisions of this chapter and Chapter 3.28 respectively, before renting any privately owned residential dwelling to any transient for a period less than a monthly basis.

B. A short-term rental permit shall be required to be renewed on an annual basis based on the anniversary of the original permit issuance in order to remain valid.

5.10.060 Short-term Rental Permit—Application

A. The operator must submit the following information on a short-term rental permit application form provided by the City:

1. The name, address, and telephone number of the owner of the subject short-term rental unit;

2. The name, address, and telephone number of the operator;

3. The name, address, and twenty-four hour telephone number of the local contact person;

4. The address of the proposed short-term rental unit;

5. The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed short-term rental unit;

6. Acknowledgement of receipt and inspection of a copy of the good neighbor brochure;

7. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.

B. The short-term rental permit application shall be accompanied by an application fee established by resolution of the City Council.
C. The Tax Administrator, as defined in Section 3.28.020(E) shall issue the Short-Term Rental Permit, which will incorporate a Transient Occupancy Registration Permit, as provided in Section 3.28.060 if the applicant satisfies the requirements of this Chapter 5.10 and Chapter 3.28.

D. A short-term rental permit application may be denied if the applicant has had a prior short-term rental permit for the same unit revoked within the past twelve (12) calendar months.

E. Within fourteen (14) days of a change of property ownership, change of operator, or any other change in material facts pertaining to the information contained in the short term rental permit, the operator shall submit an application and requisite application fee for a new short-term rental permit, which must be obtained prior to continuing to rent the subject unit as a short-term rental.

5.10.070 Operational requirements and standard conditions

A. The operator shall use reasonably prudent business practices to ensure that the short-term rental unit is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental unit, including Chapter 3.28 (Transient Occupancy Tax).

B. **Minimum Number of Days and Nights for Rent or Lease**: The minimum number of days that a short-term rental shall be occupied for is three (3) days, two (2) nights. Less than three (3) day, two (2) night rentals or leases shall be prohibited.

C. **Maximum Number of Occupants**: The maximum number of overnight guests for a short-term vacation rental shall not exceed two (2) persons per bedroom. Additional daytime guests are allowed between the hours of 7:00 am and 10 pm, with the maximum daytime guests not to exceed two (2) persons per bedroom with a maximum of twenty (20) guests allowed for five (5) bedrooms or more. The following table illustrates the maximum number of occupants:

<table>
<thead>
<tr>
<th>Number of Bedrooms</th>
<th>Total of Overnight Occupants</th>
<th>Total Daytime Occupants (Including Number of Overnight Occupants)</th>
</tr>
</thead>
</table>

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D. Appearance, Visibility or Location: A short-term vacation rental shall not change the residential character of the outside appearance of the residence, either by the use of colors, materials, lighting, or any advertising mechanism.

E. On-site Parking Required: All parking associated with a short-term vacation rental shall be entirely on-site, in the garage, carport, and driveway or otherwise off of the public street.

F. Noise: Occupants of the short-term vacation rental shall comply with the standards and regulations of the Palm Desert Municipal Code Chapter 9.24 Noise Control and Chapter 9.25 Multiple Responses to Loud or Unruly Parties, Gatherings or Other Similar Events. No radio receiver, musical instrument, phonograph, compact disk player, loudspeaker, karaoke machine, sound amplifier, or any machine, device or equipment that produces or reproduces any sound shall be used outside or be audible from the outside of any short-term rental unit between the hours of 10 p.m. and 10 a.m.

G. Renter Notification: The operator shall provide each occupant of the short-term vacation rental with the following information prior to occupancy of the unit and/or shall post such information in a prominent location within the unit:

1. Operator with 24 hour availability.

2. The maximum number of overnight occupants and the maximum number of daytime occupants as permitted pursuant to the chapter.
3. Trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash on the exterior of the property.

4. A copy of the Palm Desert Municipal Code Chapter 9.24 Noise Control and Chapter 9.25 Multiple Responses to Loud or Unruly Parties, Gatherings or Other Similar Events

5. Notification that the occupant or owner may be cited or fined by the City in accordance with this chapter and/or Chapter 9.24 Noise Control and Chapter 9.25 Multiple Responses to Loud or Unruly Parties, Gatherings or Other Similar Events.

H. While a short-term rental unit is rented, the operator shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding within sixty (60) minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit or their guests.

I. The operator and the designated local contact person shall use reasonably prudent business practices to ensure that the occupants and/or guests of the short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental unit.

J. Prior to occupancy of a short-term rental unit, the operator shall: (1) obtain the name, address, and a copy of a valid government identification of the responsible person; (2) provide a copy of the good neighbor brochure to the responsible person; and (3) require such responsible person to execute a formal acknowledgement that he or she is legally responsible for compliance by all occupants of the short-term rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental unit. This information shall be maintained by the operator for a period of three (3) years and be made readily available upon request of any officer of the City responsible for the enforcement of any provision of the Municipal Code or any other applicable law, rule or regulation pertaining to the use and occupancy of the short-term rental unit.
K. The operator and/or the designated local contact person shall upon notification that the responsible person and/or any occupant and/or guest of the short-term rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term unit, promptly respond within sixty (60) minutes and appropriate manner to immediately halt or prevent a recurrence of such conduct by the responsible person and/or any occupants and/or guests. Failure of the owner, and/or operator to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the short-term rental within sixty (60) minutes and appropriate manner shall be subject to all administrative, legal and equitable remedies available to the City.

L. The operator and/or the designated local contact person shall report to the City Manager, or designee, the name, violation, date, and time of disturbance of each person involved in three or more disorderly conduct activities, disturbances or other violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term unit.

M. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the City’s authorized waste hauler on scheduled trash collection days. The operator shall use reasonably prudent business practices to ensure compliance with all the provisions of Chapter 8.16 (Solid Waste) of the Municipal Code.

N. The operator and/or the designated local contact person shall post a copy of the short-term rental permit and a copy of the good neighbor brochure in a conspicuous place within the short-term rental unit, and a copy of the good neighbor brochure shall be provided to each occupant of the subject short-term rental unit.

O. The operator shall post the current short-term rental permit number on or in any advertisement appearing in any newspaper, magazine, brochure, television trade paper, Internet website, etc., that promotes the availability or existence of a short-term rental unit in a place or location deemed acceptable by the City Manager or designee. In the
instance of audio-only advertising of the same, the short-term rental permit number shall be read as part of the advertising.

P. Unless otherwise provided in this chapter, the operator shall comply with all provisions of Chapter 3.28 of the Municipal Code concerning transient occupancy taxes, including, but not limited to, submission of a monthly TOT return in accordance with Section 3.28.070 of Chapter 3.28 of the Municipal Code, which shall be filed monthly even if the short-term rental unit was not rented during each such month.

Q. The City Manager, or designee, shall have the authority to impose additional conditions on the use of any given short-term rental unit to ensure that any potential secondary effects unique to the subject short-term rental unit are avoided or adequately mitigated.

R. The standard conditions set forth herein may be modified by the City Manager, or designee, upon request of the operator based on site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term 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 short-term 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 the standard conditions shall not further exacerbate an already existing problem.

5.10.080 Recordkeeping duties

The operator shall maintain for a period of three (3) years, records in such form as the tax administrator (as defined in, and required by, Chapter 3.28) may require to determine the amount of transient occupancy tax owed to the City. The tax administrator shall have the right to inspect such records at all reasonable times. Such records shall be maintained at the owner or operator’s premises or shall be available for delivery to the tax administrator within one (1) week after request, which may be subject to the subpoena pursuant to Section 3.28.110

5.10.090 Violations
A. Additional Conditions. A violation of any provision of this chapter by any of the occupants, owner(s) or the operator shall authorize the City Manager or designee to impose additional conditions on the use of any given short-term rental unit to ensure that any potential additional violations are avoided.

B. Permit Modification, Suspension and Revocation. A violation of any provision of this chapter by any of the occupants, owner(s) or the operator shall constitute grounds for modification, suspension and/or revocation of the short-term rental permit and/or any affiliated licenses or permits pursuant to the provisions set forth in Chapter 5.10 of the Municipal Code.

1. Whenever any operator fails to comply with any provision of this chapter, the City Manager or designee upon hearing, after giving the operator and/or owner ten (10) days notice in writing specifying the time and place of hearing and requiring him to show cause why the short term rental permit should not be revoked, may modify, suspend or revoke the permit held by the operator.

2. The City Manager, or designee, shall give to the operator and/or owner written notice of the modification, suspension or revocation of the permit. The notices required in this section may be served personally or by mail.

3. The tax administrator shall not issue a new short term rental permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of this chapter. During the period of time while such a permit is suspended, revoked or otherwise not validly in effect, the use of the dwelling as a short term rental unit is prohibited.

C. Notice of Violation. The City may issue a notice of violation to any occupant, owner(s) or operator, pursuant to Chapter 5.10 of the Municipal Code, if there is any violation of this chapter committed, caused or maintained by the any of the above parties.

D. Administrative Citation. The City may issue an administrative citation to the property owner(s) pursuant to Chapter 8.81 (Administrative
Citation) of the Municipal Code if there is any violation of this chapter committed, caused or maintained. Nothing in this section shall preclude the City from also issuing an infraction citation upon the occurrence of the same offense on the same day to any occupant, owner(s) or the operator. Unless otherwise provided herein, any person issued an administrative citation pursuant to this chapter shall for each separate violation be subject to: (1) an administrative fine in an amount not to exceed two hundred fifty dollars ($250) for the first citation; (2) an administrative fine in an amount not to exceed five hundred dollars ($500) for a second citation issued for the same offense within a twelve (12) month period of the date of the first offense; and (3) a fine in an amount not to exceed one thousand dollars ($1,000) for a third (3) and any subsequent citation issued for the same offense within a twelve (12) month period of the date of the first offense. Notwithstanding the above, operating a short-term rental unit without a validly issued short-term rental permit shall be subject to: (1) a fine in an amount not to exceed one thousand dollars ($1,000) for the first citation; (2) a fine in an amount not to exceed one thousand five hundred dollars ($1,500) for a second citation issued for the same offense within a twelve (12) month period of the date of the first offense; and (3) a fine in an amount not to exceed two thousand five hundred dollars ($2,500) for the third citation issued for the same offense within a twelve (12) month period of the date of the first offense.

E. Infraction. The City may issue an infraction citation to any occupant, owner(s) or operator, pursuant to the provisions set forth in Chapter 1.08 Citations for Code Violations of the Municipal Code, including, but not limited to, the imposition of any and all criminal penalties set forth therein if there is any violation of this chapter committed, caused or maintained by the any of the above parties. Unless otherwise provided herein, any person convicted of an infraction shall, for each separate violation of this chapter be subject to: (1) a fine in an amount not to exceed five hundred dollars ($500) for a first conviction of an offense; (2) a fine in an amount not to exceed seven hundred fifty dollars ($750) for a second conviction of the same offense within a twelve (12) month period of the date of the first offense; and (3) a fine in an amount not to exceed one thousand dollars ($1,000) for the third conviction of the same offense within a twelve (12) month period of the date of the first offense. The fine for a fourth and subsequent convictions of the same offense within a twelve (12) month period of the date of the first offense shall be one thousand five hundred dollars ($1,500). Notwithstanding the above,
operating a short-term rental unit without a validly issued short-term rental permit shall be subject to: (1) a fine in an amount not to exceed one thousand dollars ($1,000) for a first conviction of an offense; (2) a fine in an amount not to exceed one thousand five hundred dollars ($1,500) for a second conviction of the same offense within a twelve (12) month period of the date of the first offense; and (3) a fine in an amount not to exceed two thousand dollars ($2,000) for the third conviction of the same offense within a twelve (12) month period of the date of the first offense. The fine for a fourth and subsequent convictions of the same offense within a twelve (12) month period of the date of the first offense shall be five thousand dollars ($5,000).

F. Public Nuisance. It shall be a public nuisance for any person to commit, cause or maintain a violation of this chapter, which shall be subject to the provisions of Chapter 9.24 Noise Control and Chapter 9.25 Multiple Responses to Loud or Unruly Parties, Gatherings or Other Similar Events of the Municipal Code.

Section 3: That Chapter 25.14.030 (K) – Conditional uses is hereby repelled in its entirety.

Section 4: That Chapter 25.15.022 – Conditional uses is hereby repelled in its entirety.

Section 5: That Chapter 25.16.030 (K) – Conditional uses is hereby repelled in its entirety

Section 6: That Chapter 25.18.030 (M) – Conditional uses is hereby repelled in its entirety

Section 7: That Chapter 25.20.030 (O) – Conditional uses is hereby repelled in its entirety

Section 8: That Chapter 25.22.030 (I) – Conditional uses is hereby repelled in its entirety

Section 9: That Chapter 25.24.025 (I) – Conditional uses is hereby repelled in its entirety

Section 10: Certification: That the City Clerk of the City of Palm Desert, California, is hereby directed to publish this ordinance in the Desert Sun, a newspaper of
ORDINANCE NO. 1236

general circulation, published and circulated in the City of Palm Desert, California.

Section 11: Effective Date: This ordinance shall take effect thirty (30) days after its seconding reading.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Palm Desert City Council, held on this 22nd day of March 2012, by the following vote, to wit:

AYES: BENSON, FINERTY, HARNIK, KROONEN, and SPIEGEL

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

[Signature]
ROBERT A. SPIEGEL, MAYOR

ATTEST:

[Signature]
RACHELLE D. KLASSEN, City Clerk
City of Palm Desert, California

3-28-2012

APPROVED AS TO FORM:

[Signature]
DAVID J. ERWIN, CITY ATTORNEY