

ORDINANCE NO. 1730

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 5.26 TO THE PALM SPRINGS MUNICIPAL CODE RELATING TO THE ESTABLISHMENT OF A HOTEL OPERATIONS INCENTIVE PROGRAM.

City Attorney's Summary

This Ordinance establishes an incentive program for the operations and maintenance of hotel facilities in the City of Palm Springs.

The City Council of the City of Palm Springs ordains:

Section 1. Section 3.24.315 is added to the Palm Springs Municipal Code to read:

3.24.315. Hotel Operations Incentive Program

In the event of any conflict between the provisions of Sections 3.24.030, 3.24.035, and 3.24.310 of this Code and Section 5.26.060 of this Code, the provisions of Section 5.26.060 shall control.

Section 2. Chapter 5.26 is added to the Palm Springs Municipal Code to read:

Chapter 5.26

HOTEL OPERATIONS INCENTIVE PROGRAM

Sections:

5.26.010	Purpose
5.26.020	Definitions
5.26.030	Eligibility for Incentive Program
5.26.040	Incentive Program
5.26.050	Operating Covenants
5.26.060	General Fund Revenues

5.26.010 Purpose

The purpose of this Chapter is to provide an incentive program for the operation and maintenance of Quality and First Class Hotel facilities which enhance the tourist and travel experience for visitors to the City of Palm Springs, maximize the use of the City's Convention Center, provide attractive and desirable visitor serving facilities and experiences, and assist the City in achieving its tourism goals. In the implementation of this program, the City Council finds:

(a) The general welfare and material well being of the residents of the City of Palm Springs depend in large measure upon the growth and expansion of the tourism and travel industries in the City.

- (b) The operation, maintenance, and expansion of the inventory of Quality Hotels and First Class Hotels in the City of Palm Springs will create desirable visitor serving facilities that will contribute to the growth and expansion of tourism and travel opportunities in the City, ensure utilization of the City's Convention Center, provide employment opportunities for the residents of the City, and promote and enhance the economy of the City.
- (c) It is in the best interest of the City of Palm Springs to induce and encourage the , operation, and maintenance of hotel facilities that would not otherwise exist, thereby creating new sources of tax revenues for the City's General Fund which supports the public services that the City provides its residents.
- (d) The authority granted and the purposes to be accomplished by this Chapter are properly local governmental and public purposes for which public funds can be expended and that the operation, maintenance, and expansion of the inventory of Quality and First Class Hotels is of paramount importance to the City of Palm Springs, its residents, and businesses.

5.26.020 Definitions

For the provisions of this Chapter, the following definitions shall apply:

"Adjusted Tax Rate" shall mean the Hotel Performance Incentive Program tax rates which shall be exclusively utilized for the calculation of the operating assistance to be paid by the City to qualified Operators of Hotels participating in the Hotel Performance Incentive Program. For Hotels of one hundred twenty-four (124) rooms or less, the Adjusted Tax Rate shall be 10.4% of the rent charged by the Operator of the Hotel for transient occupancies. For Hotels of one hundred twenty-five (125) rooms or more, the Adjusted Tax Rate shall be 12.4% of the rent charged by the Operator of the Hotel for transient occupancies. The Adjusted Tax Rate set forth in this Section shall exclusively apply for the calculation of any and all operating assistance for the term of the Hotel Performance Incentive Program without regard to any increases at any time in the City of Palm Springs' Transient Occupancy Tax Rates.

"Committable Rooms Program" means the Palm Springs Convention Center's Committable Rooms Program which provides the Convention Center with a list of hotel properties and a count of hotel rooms available, one year in advance or more, for potential reservation by meeting groups and/or conventions in the City.

"Existing Hotel" means a property that was constructed, occupied, and used as a Hotel on or before January 1, 2006.

"First Class Hotel" means a Hotel which provides standards of physical features and operational services which meet or exceed the higher rating criteria established for hotels by the American Automobile Association, J.D. Power & Associates, Mobil Oil Company, or Smith's Travel Research Service.

"First Class Hotel Standard" means standards of physical features and operation which qualify a hotel as a First Class Hotel and which include operation of the Hotel on a

twenty-four (24) hour per day/seven (7) day a week basis with housekeeping services, food and beverage services, room services, banquet and meeting services, concierge and bellman services, and parking services.

"Hotel" means any property containing six (6) or more guest rooms used by six (6) or more guests, for compensation and where the guest rooms are designed and intended as transient accommodations.

"New Hotel" means a Hotel that is or was Under Construction as a Hotel after January 1, 2008, but before December 31, 2012. The term "New Hotel" does not include all, or any portion of, or addition to, an Existing Hotel.

"New Quality Hotel" means a Hotel that is not a First Class Hotel and is a Hotel that is, or was, Under Construction as a Hotel after January 1, 2008, but before December 31, 2010.

"Operating Covenants" means the Covenants described in Section 5.26.050 of this Code.

"Operator" means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, franchisee, or any other capacity, or the assignee or designee of such proprietor.

"Qualified Renovation Program" shall mean a Property Improvement Program undertaken by an Existing Hotel which invests no less than Fifteen Thousand Dollars (\$15,000.00) per room, or invests no less than One (1) Million Dollars (\$1,000,000.00) in ancillary non-hotel room facilities and/or space. The Property Improvement Program shall be comprehensively executed in a single renovation project on the property and be completed no later than December 31, 2012.

"Transient Occupancy" means an uninterrupted stay of no more than twenty-eight (28) consecutive calendar days.

"Transient Occupancy Tax Base" shall mean the average of the last thirty-six (36) months of annualized Transient Occupancy Tax owed to the City by an Existing Hotel prior to the commencement of a Qualified Renovation Program.

"Transient Occupancy Tax Increment" shall mean the difference between the Transient Occupancy Tax Base and the amount of Transient Occupancy Tax owed to the City by an Existing Hotel after the recordation of the Operating Covenants by the City.

"Under Construction" means that all necessary discretionary entitlements have been approved by the City of Palm Springs, grading and building permits have been issued, and that inspection approvals by the City of Palm Springs of grading and foundations to grade level have been obtained, vertical construction of hotel rooms has begun, and the Operating Covenants have been recorded.

- (a) To qualify for the Hotel Operations Incentive Program for First Class New Hotels, the Operator shall:
- (1) Complete and submit to the City Manager, the City's application for the Hotel Operations Incentive Program.
 - (2) Subscribe to the Palm Springs Convention Center's Committable Rooms Program.
 - (3) Provide independent, third-party, certification acceptable to the City of the level of quality of the New Hotel as a First Class Hotel as defined in this 5.26.020.
 - (4) Participate in the City's Convention Center Hotel Shuttle Service in a proportional basis equal to the number of total hotel, or condo-hotel rooms in the First Class New Hotel.
 - (5) Execute the Operating Covenants which shall include provisions regarding continuing use, maintenance, non-discrimination, and such other provisions as the City Council in its sole discretion, may reasonably determine are necessary or appropriate to preserve the goals and intent of this Chapter.
- (b) To qualify for the Hotel Operations Incentive Program for New Quality Hotels, the Operator of each New Quality Hotel shall:
- (1) Complete and submit to the City Manager, the City's application for participation in the Hotel Operations Incentive Program.
 - (2) If requested by the City, subscribe to the Palm Springs Convention Center's Committable Rooms Program.
 - (3) Execute the Operating Covenants which shall include provisions regarding continuing use, maintenance, non-discrimination, and such other provisions as the City Council in its sole discretion, may reasonably determine are necessary or appropriate to preserve the goals and intent of this Chapter.
- (c) To qualify for the Hotel Operations Incentive Program for Existing Hotels, the Operator of each Existing Hotel shall:
- (1) Complete and submit to the City Manager, the City's application for participation in the Hotel Operations Incentive Program, including documentation satisfactory to the City certifying the renovation project for an Existing Hotel as a Qualified Renovation Program.
 - (2) If requested by the City, subscribe to the Palm Springs Convention Center's Committable Rooms Program.

(3) Execute the Operating Covenants which shall include provisions regarding continuing use, maintenance, non-discrimination, and such other provisions as the City Council in its sole discretion, may reasonably determine are necessary or appropriate to preserve the goals and intent of this Chapter.

5.26.040 Incentive Program

(a) First Class New Hotels. The City shall pay to an Operator of a First Class New Hotel an amount equal to fifty percent (50%) of the Adjusted Tax Rate. Such payments shall be made for twenty (20) years or until the Operator has been paid Fifty Million Dollars (\$50,000,000.00), whichever event occurs first. Without regard to any preceding conditions of this Section, the Program shall terminate at any point the First Class New Hotel is not operated as a First Class Hotel.

(b) New Quality Hotels. The City shall pay to an Operator of a New Quality Hotel an amount equal to fifty percent (50%) of the Adjusted Tax Rate. Such payments shall be made for ten (10) years or until the Operator has received Twenty-Five Million Dollars (\$25,000,000.00), whichever event occurs first. Without regard to any preceding conditions of this Section, the Program shall terminate at any point the New Quality Hotel is not operated as a New Quality Hotel.

(c) Existing Hotels. The City shall pay to an Operator of an Existing Hotel an amount equal to fifty percent (50%) of the Transient Occupancy Tax Increment collected and remitted to the City pursuant to Chapter 3.24 of this Code. Such payments shall be made for ten (10) years, or until the Operator has been received Twenty-Five Million Dollars (\$25,000,000.00), whichever event occurs first. Without regard to any preceding conditions of this Section, the Program shall terminate at any point the Existing Hotel is not operated as a Hotel.

5.26.050 Operating Covenants

(a) Each Operator eligible to participate in the City's Hotel Operations Incentive Program shall execute Operating Covenants negotiated with the Operator, approved by the City Council, and recorded with the County of Riverside Recorder's Office.

5.26.060 General Fund Revenues

Notwithstanding the provisions of Sections 3.24.030, 3.24.035, and 3.24.310 of this Code, all Transient Occupancy Tax Revenues or Transient Occupancy Tax Increment remitted to the City by an Operator of a hotel covered by Operating Covenants as provided in this Chapter shall be deemed General Fund revenues of the City and shall be deposited in the City's General Fund.

Section 3. The City Council of the City of Palm Springs has, as a result of its consideration and the evidence presented at hearings on this matter, determined that, as required pursuant to the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, that this Ordinance provides for a method of funding the continued

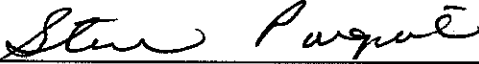
operation and maintenance of previously approved and or existing first class hotel facilities. On the basis of this review, the City Council finds that there is no evidence from which it can be fairly argued that the approval of this Ordinance will have a significant adverse effect on the environment. The City Council hereby certifies and approves this determination and directs that an appropriate Notice of Determination be prepared and filed with the County Clerk of the County of Riverside in the manner required by law.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

5.26.070 Administrative Rules and Regulations

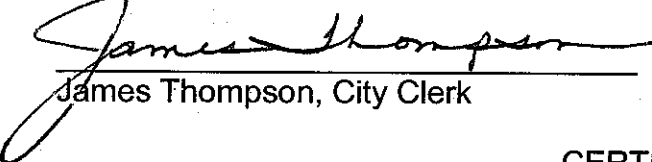
Consistent with the intent and goals of this Chapter, the City Manager may adopt administrative rules and regulations for implementation and furtherance of the requirements of this Chapter.

APPROVED, PASSED, AND ADOPTED THIS 9th DAY OF January, 2008.



Steve Pougnet, Mayor

ATTEST:



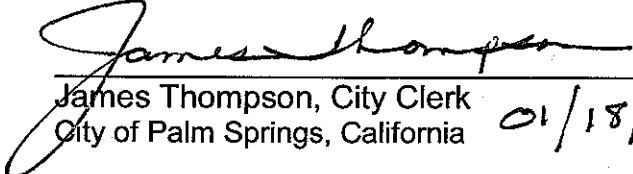
James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. 1730 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on December 12, 2007, adopted at a regular meeting on December 19, 2007, and readopted at an adjourned meeting of the City Council held on the 9th day of January, 2008, by the following vote:

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



James Thompson, City Clerk
City of Palm Springs, California 01/18/2008