

ORDINANCE NUMBER 1056

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE, CALIFORNIA AMENDING CHAPTER 3.25 "VACATION RENTALS" OF TITLE 3 "REVENUE AND FINANCE" OF THE RANCHO MIRAGE MUNICIPAL CODE.

WHEREAS, Chapter 3.25 "Vacation Rentals" a number of privately owned residential dwellings, such as, but not limited to, single-family and multiple-family dwelling units, apartment houses, condominiums, cooperative apartments and duplexes are being rented to transients by the owners of such residential dwellings or by their respective authorized agents or representatives as vacation rentals subject to the payment of transient occupancy taxes to the City of Rancho Mirage ("City") as required under Chapter 3.24 "Transient Occupancy Tax"; and

WHEREAS, Chapter 3.25 sets forth a regulatory program that is intended to mitigate the secondary negative effects of the use of privately owned residential dwellings located in certain residential neighborhoods; and

WHEREAS, staff has identified certain issues that need to be addressed to further mitigate certain secondary negative effects.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE DOES ORDAIN AS FOLLOWS:

Section 1. RECITALS

The above recitals are true and correct and are incorporated as though fully set forth herein.

Section 2. AMENDMENT OF CHAPTER 3.25, "VACATION RENTALS"

Title 3.25 "Vacation Rentals" of the Rancho Mirage Municipal Code is hereby amended as follows:

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Chapter 3.25

VACATION RENTALS

Sections:

- 3.25.010 Title.
- 3.25.020 Purpose.
- 3.25.030 Definitions.
- 3.25.040 Authorized agent or representative
- 3.25.050 Vacation Rental Certificate - required.
- 3.25.060 Vacation rental Certificate -- application.
- 3.25.070 Operational requirements and standard conditions.
- 3.25.080 Recordkeeping Duties.
- 3.25.090 Violations.
- 3.25.100 Requirements not exclusive.

3.25.010 Title.

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

3.25.020 Purpose.

(a) The purpose of this chapter is to establish regulations for the use of privately owned residential dwellings as vacation rentals that ensures the collection and payment of transient occupancy taxes and minimizes the negative secondary effects of such use on surrounding residential neighborhoods.

(b) This chapter is not intended to regulate hotels, as defined in Section 3.24.020 of Chapter 3.24 of the Municipal Code that do not qualify as vacation rentals as defined below.

(c) 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.

3.25.030 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 vacation rental.

"Applicant" means the owner of the vacation rental unit or the owner's authorized agent or representative.

"Bedroom" shall mean a separate permanent room of at least 100 square feet with four walls from floor to ceiling with an access door and a built-in clothes closet.

"City manager" means that person acting in the capacity of the city manager of the City of Rancho Mirage or his or her 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 Rancho Mirage Municipal Code and other applicable laws, rules or regulations pertaining to the use and occupancy of vacation 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 (i) responding within forty-five minutes to complaints regarding the condition, operation, or conduct of occupants of the vacation rental unit and (ii) 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 vacation rental.

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

"Responsible person" means an occupant of a vacation rental unit who is at least twenty one (21) years of age and who is legally responsible for ensuring that all occupants of the vacation rental unit and/or their guests comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject vacation rental unit.

"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 of twenty-seven (27) consecutive calendar days or less.

"Vacation 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 a period of twenty-seven consecutive calendar days or less, counting portions of calendar days as full days.

"Vacation rental certificate" means a certificate that permits the use of a privately owned residential dwelling as a vacation rental unit pursuant to the provisions of this chapter, and which incorporates by consolidation a transient occupancy registration permit (as otherwise required by Section 3.24.060 of this code) and a home occupation permit (as otherwise required by Chapter 17.44 of this code), respectively.

3.25.040 Authorized agent or representative.

(a) An owner may authorize an agent or a representative to comply with the requirements of this chapter on behalf of the owner.

(b) Notwithstanding subsection (a), the owner shall not be relieved from any personal responsibility and personal liability for non-compliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject vacation rental unit, regardless of whether such non-compliance was committed by the owner's authorized agent or representative or the occupants of the owner's vacation rental unit or their guests.

3.25.050 Vacation Rental Certificate - required.

(a) The owner or the owner's authorized agent or representative is required to obtain a vacation rental certificate, which shall incorporate by consolidation a transient occupancy registration permit (as otherwise required by Section 3.24.060 of this code) and a home occupation permit (as otherwise required by Chapter 17.44 of this code), from the City, pursuant to the provisions of this chapter, before renting any privately owned residential dwelling to any transient for a

period of twenty-seven (27) consecutive calendar days or less.

(b) A vacation rental certificate shall be required to be renewed on an annual basis in order to remain valid.

3.25.060 Vacation Rental Certificate -- application.

(a) The owner or the owner's authorized agent or representative must submit the following information on a vacation rental certificate application form provided by the City:

(1) The name, address, and telephone number of the owner of the subject vacation rental unit.

(2) The name, address, and telephone number of the owner's authorized agent or representative, if any.

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

(4) The address of the proposed vacation rental unit.

(5) The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed vacation 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 his or her designee deems reasonably necessary to administer this chapter.

(b) The vacation rental certificate application shall be accompanied by an application fee established by resolution of the city council.

(c) A vacation rental certificate application may be denied if the applicant has had a prior vacation rental certificate for the same unit revoked within the past twelve (12) calendar months.

(d) Within fourteen (14) days of a change of property ownership, change of owner's agent or representative, or any other change in material facts pertaining to the information

contained in the vacation rental certificate application, the owner or owner's authorized agent or representative shall submit an application and requisite application fee for a new vacation rental certificate, which must be obtained prior to continuing to rent the subject unit as a vacation rental.

3.25.070 Operational requirements and standard conditions.

(a) The owner and/or owner's authorized agent or representative shall use reasonably prudent business practices to ensure that the vacation 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 vacation rental unit.

(b) The number of occupants (older than three years of age) allowed to occupy any given vacation rental unit shall be limited as follows:

Number of Bedrooms	Total of Overnight* Occupants**	Total Daytime*** Occupants (Including Number of Overnight Occupants)
0 - Studio	2	8
1	2	8
2	4	8
3	6	12
4	8	16
5	10	18
6	12	18
7	14	18

*Overnight (10:01 p.m. - 6:59 a.m.)

**** The number of children three years or younger shall not exceed one-half of the permitted total number of occupants.**

***Daytime (7:00 a.m. - 10:00 p.m.)

(c) While a vacation rental unit is rented, the owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall be available twenty-four hours per day, seven days per week for the purpose of responding within forty-five minutes to complaints regarding the condition, operation, or conduct of occupants of the vacation rental unit or their guests.

(d) The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall use reasonably prudent business practices to ensure that the occupants and/or guests of the vacation 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 vacation rental unit.

(e) 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 vacation rental unit between the hours of 10:00 p.m. and 10:00 a.m..

(f) Prior to occupancy of a vacation rental unit, the owner or the owner's authorized agent or representative 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 vacation rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the vacation rental unit. This information shall be maintained by the owner or the owner's authorized agent or representative for a period of three 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 vacation rental unit.

(g) The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall upon notification that the responsible person and/or any occupant and/or guest of the vacation 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 vacation unit promptly respond in a timely 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, the owner's authorized agent or representative and/or the owner's designated local contact person to respond to calls or complaints regarding the

condition, operation, or conduct of occupants and/or guests of the vacation rental in a timely and appropriate manner shall be subject to all administrative, legal and equitable remedies available to the City.

(h) The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall report to the city manager, or his or her 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 vacation unit.

(i) 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 owner, the owner's authorized agent or representative shall use reasonably prudent business practices to ensure compliance with all the provisions of Chapter 8.12 (Garbage Collection) of the Municipal Code.

(j) The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall post a copy of the vacation rental certificate and a copy of the Good Neighbor brochure in a conspicuous place within the vacation rental unit, and a copy of the Good Neighbor brochure shall be provided to each occupant of the subject vacation rental unit.

(k) The owner and/or the owner's authorized agent or representative shall post the current vacation rental certificate 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 vacation rental unit in a place or location deemed acceptable by the city manager or his or her designee. In the instance of audio-only advertising of the same, the vacation rental certificate number shall be read as part of the advertising.

(l) Unless otherwise provided in this chapter, the owner and/or the owner's authorized agent or representative 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 or alternative return in accordance with Section 3.24.070 of Chapter 3.24 of the Municipal Code, which shall be filed monthly even if the vacation rental unit was not rented during each such month.

(m) The city manager, or his or her designee, shall have the authority to impose additional conditions on the use of any given vacation rental unit to ensure that any potential secondary effects unique to the subject vacation rental unit are avoided or adequately mitigated.

(n) The standard conditions set forth herein may be modified by the city manager, or his or her designee, upon request of the owner or the owner's authorized agent or representative 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 the standard conditions shall not further exacerbate an already existing problem.

(o) Before any event or gathering that involves groups that exceed the maximum number of occupants allowed during the daytime may take place at a property, either the owner or the owner's authorized agent or representative shall apply, on behalf of the responsible person and/or occupants, for a special event license pursuant to the provisions set forth in Chapter 5.12 of this code, at least thirty (30) days prior to any such gathering or event, unless otherwise authorized by the city manager or his or her designee. A special use license application for a vacation rental event or gathering shall be accompanied by an application fee established by resolution of the city council.

3.25.080 Recordkeeping Duties.

The owner or the owner's authorized agent or representative shall maintain for a period of three years, records in such form as the tax administrator (as defined in Chapter 3.24) 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, which may be subject to the subpoena by the city council pursuant to Section 2.02.220 (Subpoena authority) of Chapter 2.02 (City Council) of the Municipal Code.

3.25.90 Violations.

(a) Additional Conditions. A violation of any provision of this chapter by any of the occupants, responsible party, owner(s) or the owner's authorized agent or representative shall authorize the city manager, or his or her designee, to impose additional conditions on the use of any given vacation 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, responsible party, owner(s) or the owner's authorized agent or representative shall constitute grounds for modification, suspension and/or revocation of the vacation rental certificate and/or any affiliated licenses or permits pursuant to the provisions set forth in Chapter 14.170 (Permit and License Suspension, Modification and Revocation procedures) of Title 14 of the Municipal Code.

(c) Notice of Violation. The City may issue a notice of violation to any occupant, responsible party, owner(s) or the owner's authorized agent or representative, pursuant to Chapter 14.70 (Notice of Violation) of the Municipal Code, if there is any violation of this chapter committed, caused or maintained by the any of the above parties.

(d) Administration Citation. The City may issue an administrative citation to any occupant, responsible party, owner(s) or the owner's authorized agent or representative, pursuant to Chapter 14.80 (Administration Citation and Appeal Procedures) of the Municipal Code, if there is any violation of this chapter committed, caused or maintained by the any of the above parties. Nothing in this section shall preclude the City

from also issuing an infraction citation upon the occurrence of the same offense on a separate day. Unless otherwise provided herein, any person issued an administrative citation pursuant to this chapter shall for each separate violation be subject to the following fines: (1) an administrative fine in an amount not to exceed ~~two hundred fifty dollars (\$250.00)~~, five hundred dollars (\$500.00) for the first citation; (2) an administrative fine in an amount not to exceed ~~five hundred dollars (\$500.00)~~, seven hundred fifty dollars (\$750.00) 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 (\$1,000.00) for a third 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 vacation rental unit without a validly issued vacation rental permit in good standing shall be subject to: (1) a fine in an amount not to exceed one thousand dollars (\$1,000.00) for the first citation; (2) a fine in an amount not to exceed one thousand five hundred dollars (\$1,500.00) 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 (\$2,500.00) 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, responsible party, owner(s) or the owner's authorized agent or representative, pursuant to the provisions set forth in Chapter 14.100 (Infraction 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 (\$500.00) for a first conviction of an offense; (2) a fine in an amount not to exceed seven hundred fifty dollars (\$750.00) 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 (\$1,000.00) 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 (\$1,500.00). Notwithstanding the above, operating a vacation rental unit without a validly issued vacation rental permit in good standing shall be subject to: (1) a fine in an amount not to exceed one thousand dollars (\$1,000.00) for a first conviction of an offense; (2) a fine in an amount not to exceed one thousand five hundred dollars (\$1,500.00) 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 (\$2,000.00) 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 (\$5,000.00).

(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 14.120 (Notice of Public Nuisance and Order to Abate and Appeal Procedures) of the Municipal Code.

3.25.100 Requirements not exclusive.

The requirements of this chapter shall be in addition to any license, permit, or fee required under any other provision of the Municipal Code.

Section 3. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 4. REPEAL OF CONFLICTING PROVISIONS

All the provisions of the Municipal Code as heretofore adopted by the City of Rancho Mirage that are in conflict with the provisions of this ordinance are hereby repealed.

Section 5. AMENDING OF MUNICIPAL CODE

The City Attorney's Office is hereby directed to determine

whether this ordinance necessitates amendment of the City's Municipal Code and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 6. EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after its second reading.

Section 7. CITY ATTORNEY REVIEW

The City Attorney prepared and framed this ordinance pursuant to Section 1.04.010 of the Municipal Code and finds that the City Council has the authority to adopt this ordinance, that the ordinance is constitutionally valid and that the ordinance is consistent with the general powers and purposes of the City as set forth in Section 1.04.031 of the Municipal Code.

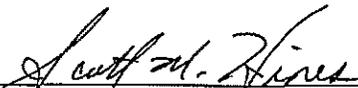
Section 8. CERTIFICATION

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

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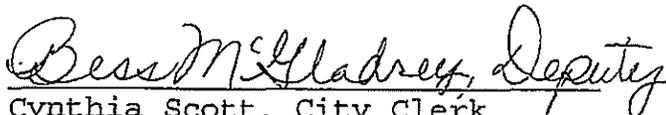
The foregoing Ordinance was approved and adopted at a meeting of the City Council held on February 21, 2013 by the following vote:

Ayes: Hobart, Kite, Smotrich, Weill
Noes: None
Abstain: Hines
Absent: None



Scott Hines, Mayor

ATTEST:


for Cynthia Scott, City Clerk

APPROVED AS TO FORM:



Steven B. Quintanilla, City
Attorney

ORDINANCE CERTIFICATION

I, Cynthia Scott, City Clerk of the City of Rancho Mirage, California, do hereby certify under penalty of perjury, that the foregoing Ordinance No. 1056 was introduced by first reading at a regular meeting of the City Council held on February 7, 2013 by the following vote:

AYES: Kite, Hobart, Smotrich, Weill
NOES: None
ABSENT: None
ABSTAIN: Hines

Ordinance No. 1056 was adopted at a regular meeting of the City Council held on February 21, 2013 by the following vote:

AYES: Hobart, Kite, Smotrich, Weill
NOES: None
ABSENT: None
ABSTAIN: Hines

I further certify that I have caused the Ordinance to be posted and/or published as required by law (GC Sect. 36933).

for Bess McMilladrey, Deputy
Cynthia Scott, CMC
City Clerk