

ORDINANCE NO. 685

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING CHAPTER 5.20 (TITLE 5 BUSINESS LICENSES AND REGULATIONS) OF THE INDIAN WELLS MUNICIPAL CODE, RELATING TO SHORT-TERM RESIDENTIAL RENTALS

WHEREAS, the City of Indian Wells ("City") has the authority under Article 11, Section 5 of the California Constitution and the City Charter to make and enforce all ordinances and regulations with respect to municipal affairs; and

WHEREAS, the City has the authority to regulate land uses and businesses operating within the City; and

WHEREAS, short-term rentals of private residences within the City are business ventures subject to the City's business licensing ordinance; and

WHEREAS, the City has authorized use of private residences for short-term rentals as a business consistent with the General Plan and Zoning Code; and

WHEREAS, short-term occupancies of private residences within the City are subject to the City's transient occupancy tax; and

WHEREAS, while the moratorium set forth in Urgency Ordinance No. 678 remains in full force and effect, except as superceded by amendments to Chapter 5.20 of the Indian Wells Municipal Code specifically set forth in this Ordinance which conflict with specific provisions of Ordinance No. 678; and

WHEREAS, the City wishes to enhance and maintain the residential character of its residential zones; and

WHEREAS, the City desires and intends to amend the Indian Wells Municipal Code to tighten and clarify provisions concerning short-term residential rentals, promote accurate collection of the transient occupancy tax, and enhance and maintain the residential character of its residential zones by providing regulations for short-term residential rentals within the City.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5.20 of Title 5 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

**"Chapter 5.20
SHORT-TERM RESIDENTIAL RENTALS**

Sections:

- 5.20.010 Violation; nuisance; applicability.**
- 5.20.020 Short-term residential rental, definitions.**
- 5.20.030 Conditions of operation.**
- 5.20.040 Business license.**
- 5.20.050 Registration.**
- 5.20.060 Personal availability.**
- 5.20.070 Notice to occupants.**
- 5.20.080 Transient occupancy tax.**
- 5.20.090 Statement of occupancies.**
- 5.20.100 Signs/Advertisement.**
- 5.20.110 Noise.**
- 5.20.120 Occupancy.**
- 5.20.130 Maintenance of residential character.**
- 5.20.140 Minimum duration of occupancy.**
- 5.20.150 Parking.**
- 5.20.160 Revocation of Short-term Vacation Rental Permit and business license.**
- 5.20.170 Administrative citation.**

5.20.010 Violation; nuisance; applicability.

It is unlawful and a violation of this Chapter, and is hereby declared a public nuisance, for any person or entity owning, renting, leasing, occupying, or having charge, control or possession of any real or improved property within the City of Indian Wells to cause, permit, maintain or allow any violation of this Chapter to exist thereon. Any violation of this Chapter is punishable as a misdemeanor and/or as otherwise permitted by this Code. Each and every violation of this Chapter that exists constitutes a separate and distinct violation as does each and every day, or portion thereof that any violation exists.

5.20.020 Short-term residential rental, definitions.

The following words and phrases, whenever used in this Chapter, shall have the meaning defined in this Section unless the context clearly requires otherwise:

"City" means the City of Indian Wells.

"Code" means the Indian Wells Municipal Code.

"Managing Agency or Agent" means a person, firm, or agency representing the Owner of the Short-term Residential Rental, or a person, firm, or agency owning or operating more than one Short-term Residential Rental.

"Owner" means any person or entity having fee-title ownership and/or appearing on the last equalized assessment roll of Riverside County showing controlling interest of the Premises.

"Owner's Authorized Agent," or "Manager," or "Managing Agency" means an individual or business entity, or their representative, appointed by an Owner to solicit applications, execute agreements, or otherwise act on Owner's behalf in the rental of property as a Short-term Residential Rental.

"Premises" means the actual single-family house or other residential dwelling unit, including all of its improved real property, which is used as a Short-term Residential Rental.

"Short-term Residential Rental" means the rental of a residential dwelling unit by the Owner thereof to another party for a continuous period of less than thirty (30) days in the aggregate, in exchange for any form of monetary or non-monetary consideration such as but not limited to trade, fee, swap or any other in lieu of cash payment.

"Local Contact Person" means the person designated by the Owner, or Owner's authorized agent, who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (1) responding within forty-five (45) minutes to complaints regarding the condition, operation, or conduct of occupants of the Short-Term Residential Rental unit; and (2) taking any remedial action necessary to resolve any such complaints.

"Responsible Person" means the signatory of a short-term rental agreement for the use and occupancy of a short-term rental unit, who shall be an occupant of the subject short-term rental unit, and 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 subject short-term rental unit, and who may be held liable for any violation of all applicable laws, rules and regulations set forth in this Chapter.

"Good Neighbor Brochure" means a document prepared by the City, as may be revised from time to time, that summarizes the general rules of conduct, consideration and respect pertaining to the use and occupancy of the short-term rental units.

"Transient Occupancy Tax" means the tax levied by the City in accordance with Chapter 3.12 of the Municipal Code. This tax is levied upon individuals or businesses engaged in the sale of sleeping accommodations to the public.

5.20.030 Conditions of operation.

(a) Pursuant to this Chapter and any other applicable provisions of this Code, Short-term Residential Rentals are permitted in the Very Low Density, Low Density, Medium Density, and Medium High Density residential zones of the City only if all the requirements of this Chapter are met.

(b) The requirements of this Chapter shall be met before a Short-term Residential Rental of a Premises is permitted.

5.20.040 Business license.

(a) Business License Required for Short-term Residential Rentals. The Short-term Residential Rental of any Premises in the City is deemed to be a "Business" as defined in Chapter 5.01 of this Code. It shall be unlawful for any person or entity, including without limitation the Owner of a Premises and Managing Agency or Agent, to engage in the business of Short-term Residential Rentals without first obtaining and maintaining both a valid business license from the City pursuant to Chapter 5.01 of this Code for the purpose of operating any number of Short-term Residential Rentals and an operating permit for each property to be used as a Short-term Residential Rental. The business license or copy thereof shall be prominently displayed in a visible location at the Short-term Residential Rental Premises during any periods of occupancy thereof by any person other than the Owner(s) of the Premises. At no time shall the Short-term Residential Rental be used for activities such as weddings, receptions, and large parties attended by more than the occupants of the Short Term Residential Rental without first obtaining a Temporary Use Permit from the City, pursuant to Chapter 21.06 (Temporary Uses) of this Code.

(b) Upon or promptly following the City's issuance of a business license for purpose of conducting Short-term Residential Rentals on the Owner's Premises, and promptly upon any change in the information pertaining to the Local Contact Person for the Premises, the City shall send written notification of issuance of such license to property owners within two hundred feet (200') of the Premises, whose names are shown on the property tax assessment roll. Such notice shall include the name and related information of the Local Contact Person for the Premises. The fee payable by the Owner to the City to cover the costs of such notification shall be set forth by resolution of the City Council.

(c) Penalty for Violation. Failure to obtain and maintain a business license or continuing to operate a Short-term Residential Rental business after suspension or revocation of a business license, knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring a business license for Short-term Residential Rentals, or failing to pay the full amount of any business license tax when due, shall be punishable in accordance with the provisions of Section 5.01.040 of this Code. An action against an Owner or any permittee of a business license for Short-term Residential Rentals who is in violation of any of the provisions of this Section may be brought pursuant to Chapter 8.08 or Section 5.01.040 of this Code, in addition to the business license suspension and revocation proceedings described Section 5.20.090.

5.20.050 Registration.

On a written form prepared by the Community Development Director of the City, the Owner shall register with the City as the point of contact for the Short-term Residential Rental Premises and shall be responsible for all requirements of this Chapter. However, such registration is deemed satisfied if accomplished by a Managing Agency or Agent on behalf of the Owner. The Owner of the Premises shall retain primary responsibility for all requirements of this Code related to Short-term Residential Rentals, notwithstanding registration by a Managing Agency or Agent. There shall be no subleasing of any Premises for short-term rental purposes; instead, only a rental agreement executed by the Owner shall be permitted for any Premises when used for Short-term Residential Rentals. A fee may be established by resolution of the City Council to cover costs of processing the registration. Either the Owner of the Premises or a Managing Agency or Agent shall provide all of the following information to the City at the time of registration, and shall promptly upon change of any such information update such information to maintain accuracy:

- (a) Full legal name of the Owner of the Premises and if a business entity or trust, the individual who has responsibility to oversee its ownership of the Premises; and
- (b) Street and mailing addresses of the Owner of the Premises; and
- (c) Telephone number of the Owner of the Premises; and
- (d) Email address of the Owner of the Premises; and
- (e) Full legal name or business name of a Managing Agency or Agent, if any; and
- (f) Street and mailing addresses of a Managing Agency or Agent, if any; and
- (g) Telephone number of a Managing Agency or Agent, if any; and
- (h) Street and mailing addresses of the Short-term Residential Rental Premises; and
- (i) Telephone number of the Short-term Residential Rental Premises; and
- (j) List of all online websites used to advertise Premises for Short-term Vacation Rental along with all listing numbers; and
- (k) Full name and telephone number of 24 hour emergency Local Contact Person; and
- (l) Submit a Transit Occupancy Tax (TOT) registration fee as set by Resolution of the Indian Wells City Council; and
- (m) Submit a Short-term rental registration fee as set by Resolution of the Indian Wells City Council; and
- (n) Any other contact information the City may reasonably require.

During the ongoing operation of the Short-term Residential Rental, the Owner or Managing Agency or Agent shall register the name and contact information for all responsible persons (as lessees) renting their Premises, through a City run online database, along with dates of stay, no later than forty-eight (48) hours prior to occupant arrival. The City shall have the authority to conduct random inspections of Premises to ensure compliance with provisions of this Chapter.

A current business license, TOT registration and Good Neighbor Brochure shall be hung and/or placed in a conspicuous location within the Premises at all times of the Short-term Residential Rental business operation. In addition, each Responsible Person for the Premises shall be provided with a copy of the City's Good Neighbor Brochure by the Owner or Managing Agency or Agent.

The Owner or Managing Agency or Agent shall provide language in their rental agreement allowing for immediate termination of the rental contract, and immediate eviction upon any violation of the Municipal Code by any occupant. The Responsible Person shall acknowledge understanding of all Indian Wells Short-term Residential Rental rules and their liability for any fines incurred by occupants.

5.20.060 Personal availability.

(a) For each Short-term Residential Rental, a Local Contact Person shall be available by telephone on a seven (7) day per week, twenty-four (24) hour per day basis to respond to public safety calls, nuisances, or other complaints regarding the use, condition, operation, or conduct of occupants on the Premises. The Local Contact Person shall respond within 45 minutes to satisfactorily correct any alleged nuisance or violation of this Chapter by occupants occurring at the Premises. If the Local Contact Person does not respond within 45 minutes or does not

satisfactorily correct the alleged nuisance or violation pertaining to the call, the Owner shall be subject to citation pursuant to Section 5.20.170 of this Code.

(b) Local Contact Person shall be physically present within the geographical limits of the City during the term of the Short-term Residential Rental or be otherwise physically available to respond by visiting the Premises in person, at the request of the City or the City's police authority, within 45 minutes of contact concerning any alleged nuisance or violation of this Chapter.

5.20.070 Notice to occupants.

The Owner or Managing Agency or Agent shall provide the Responsible Person of a Short-term Residential Rental with the following information prior to occupancy of the Premises and shall post such information in a conspicuous place within the dwelling on the Premises:

(a) The name of the Owner or Managing Agency or Agent and a telephone number at which each may be reached on a seven (7) day per week, twenty-four (24) hour per day basis; and

(b) Notification of the maximum number of overnight and daytime occupants permitted on the Premises pursuant to this Chapter; and

(c) Notification of the City's noise standards, as provided in Chapter 9.06 of this Code, as may be amended from time to time; and

(d) Notification of the parking standards of this Chapter; and

(e) A copy of this Chapter of the Indian Wells Municipal Code, as may be amended from time to time; and

(f) Notification that an occupant may be cited or fined by the City, in addition to any other remedies available at law, for violating any provisions of this Chapter; and

(g) A copy of the "Good Neighbor Brochure"; and

(h) Owner or Managing Agency or Agent shall keep on file a signed agreement acknowledging that the Responsible Person and occupants agree to the general rules summarized in the Good Neighbor Brochure and rental contract, including without limitation the immediate termination provision in the rental contract for any violation of the Municipal Code by any occupant.

5.20.080 Transient occupancy tax.

All Short-term Residential Rentals shall be subject to the City's Transient Occupancy Tax (TOT) as required by Chapter 3.12 of this Code. The Owner or Managing Agency or Agent shall remit TOT to the City, once per quarter, on or before the 30th day following the dates of March 31, June 30, September 30, and December 31 of each year, on a form prepared by the City or in a manner otherwise acceptable to the City.

5.20.090 Statement of occupancies.

The Owner or a Managing Agency or Agent shall register the name and contact information for all Responsible Persons renting their Premises, through a City run online database, along with dates of stay no later than forty-eight (48) hours prior to occupant arrival. The following information shall be provided:

- (a) Dates of any Short-term Residential Rentals of the Premises; and
- (b) Number of persons staying on the Premises during each Short-term Residential Rental; and
- (c) Nightly rates collected for each Short-term Residential Rental; and
- (d) Full name and telephone number of Responsible Person during each Short-term Residential Rental.

5.20.100 Signs/Advertisement.

No sign, as that term is defined in Section 17.04.030 of this Code, shall be posted on the Premises to advertise the availability of the Short-term Residential Rental unit to the public.

All advertisement, including online advertisement, shall include the following information:

- (a) The assigned short-term rental permit number; and
 - (b) The number of occupants allowed to occupy the short-term rental.
- Any sign or advertisement in violation of this Chapter shall be subject to a citation pursuant to Section 5.20.170 of this Code.

5.20.110 Noise.

It shall be unlawful for any owner, occupant, renter, lessee, person present upon, or person having charge or possession of the Premises to make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area, or violates any provision of Chapter 9.06 (Noise) of this Code. For the purposes of determining whether a violation of this Section has occurred, the standards set forth in Chapter 9.06 of this Code shall apply. Fines for violation of the noise provisions in the Municipal Code, as applicable to Short-term Residential Rentals shall be those established pursuant to Section 5.20.170 of this Code

5.20.120 Occupancy.

The maximum overnight occupancy on the Premises of the Short-term Residential Rental, from the hours of 11:00 p.m. through 6:00 a.m. on the following morning, shall not exceed two (2) persons per bedroom with an exception for children under the age of six who may additionally occupy the Premises, and no additional occupants on the Premises shall be permitted. The maximum daytime occupancy on the Premises of the Short-term Residential Rental, from the

hours of 6:00 a.m. through 11:00 p.m. on the same day, shall not exceed the maximum overnight occupancy, plus an additional one (1) person per bedroom. The Owner or Managing Agency or Agent shall only advertise available occupancy up to the maximum occupancy set forth above.

5.20.130 Maintenance of residential character.

The appearance of the Premises shall not conflict with the residential character of the neighborhood, either by the use of colors, materials, lighting, landscaping, window coverings or otherwise. All applicable development, design, and landscaping standards, including but not limited to Chapter 21 of this Code, are expressly made applicable to a Premises used for Short-term Residential Rentals.

5.20.140 Minimum duration of rental.

Upon the expiration of Ordinance No. 678 or any ordinance extending all or part of the moratorium thereunder, the duration of any lease or rental of Premises as a Short-term Residential Rental shall be for a minimum of three consecutive (3) nights during which time there shall be no overlapping leases or rental of the Premises. The Owner or Managing Agency or Agent shall not advertise availability of the Premises for rent for less than the minimum number of rental nights set forth above.

5.20.150 Parking.

During the term of any Short-term Residential Rental, a maximum of one (1) vehicle per bedroom shall be permitted for the Premises, and no additional vehicles shall be permitted. All vehicles of occupants of the Short Term Residential Rental shall be parked only in an approved driveway or garage on the Premises.

5.20.160 Revocation of Short-term Vacation Rental Permit and business license.

(a) Grounds for Revocation. In addition to any other penalty authorized by law, a permit and business license for a Short-term Residential Rental may be revoked by the City if the Community Development Director finds, after notice to the licensee and opportunity to be heard, that the licensee or his or her agent or employee has violated, or failed to fulfill, the requirements of this Chapter or this Code.

The Community Development Director, or his designee, shall immediately revoke all rental permits from the Owner and Managing Agency or Agent upon five (5) violations of this Chapter pertaining to any combination of Premises owned by the Owner or managed by the Owner's Managing Agency or Agent within the City within any twelve (12) month period.

(b) Appeal from Denial or Suspension or Revocation of a Business License for Short-term Residential Rental. Any applicant for a business license for the Business of Short-term Residential Rentals whose application was denied by the Community Development Director, and any licensee whose business license for a Short-term Residential Rental is suspended or revoked by the Community Development Director, may, within ten (10) days following such decision, appeal such decision to the Planning Commission, in which event the decision of the Community Development Director shall be vacated and the Planning Commission shall determine whether to affirm, reverse, or modify the decision of the Community Development Director in accordance

with the requirements for Short-term Residential Rentals set forth in this Chapter. At least fourteen (14) days prior to the Planning Commission's meeting to consider the appeal of the applicant or licensee, the Community Development Director, City Clerk, or authorized designee, shall send, by United States mail, certified, return receipt requested, written notice to the applicant or licensee of the time and place at which the Planning Commission will consider the application, suspension or revocation, and the applicant or licensee shall be provided an opportunity to be heard by the Planning Commission prior to its decision being made. Subject to any appeal of the City Council as hereinafter permitted, the decision of the Planning Commission shall be final and the City Clerk shall notify the applicant or licensee, as applicable, in writing of the decision of the Planning Commission. If the Planning Commission affirms the decision of the Community Development Director denying an application or suspending or revoking a license, the applicant or licensee shall have the right to appeal the decision of the Planning Commission to the City Council in accordance with the provisions of Section 21.06.110 of this Code, as amended from time to time. The decision of the Planning Commission shall not be vacated during the pendency of any appeal to the City Council.

5.20.170 Administrative citation.

(a) The City, or the City's police authority as that term is defined by Section 11.08.060 of this Code, may issue an administrative citation to any occupant, invitee, renter, lessee or Owner of the Premises, or Managing Agency or Agent, for a violation of any provision of this Chapter.

(b) All complaints against a Short-term Residential Rental for any violation of this Code may be handled by the City's police authority on a 24-hour basis. Any police report where the City's police authority has concluded that a violation of this Chapter has occurred, may be submitted to the City's Code Enforcement Department for review, processing and issuance of an administrative citation. Each and every day, or portion thereof, that a violation of this Chapter exists constitutes a separate and distinct violation for which an administrative citation may be issued. Such an administrative citation shall be issued, notice given, and any appeals heard by the processes and in the manner prescribed by Sections 8.08.040 through 8.08.190 of this Code, as amended from time to time.

In addition or in the alternative, any violation of this Chapter shall constitute a misdemeanor which may be subject to the maximum punishment therefor as allowed by law.

Responsible Person:

The City may issue and the Responsible Person for each Short-term Vacation Rentals may receive an administrative citation for any violation of the short-term rental ordinance, including without limitation violation of the City's noise ordinance, as follows:

1. First offense – Warning by City's police authority;
2. Second offense within any sixty (60) day period - \$500 fine;
3. Third and subsequent offenses within sixty (60) day period - \$1,000 fine.

Owner:

The City may issue and the Owner may receive an administrative citation for any violation of the Municipal Code, including without limitation the City's noise ordinance, by the Owner or Short Term Vacation Rental occupant as follows:

4. First offense - Warning by City's police authority;
5. Second offense within any twelve (12) month period - \$2,000 fine;
6. Third and subsequent offences within any twelve (12) month period - \$5,000 fine and revocation of the vacation rental permit for a period of twelve (12) months effective immediately;
7. Any offense occurring during any permit revocation period - \$5,000 fine."

SECTION 2. Ordinance No. 678. Ordinance No. 678, and any ordinance extending all or part of the moratorium set forth therein, shall remain in full force and effect except as superseded by amendments to Chapter 5.20 of the Code specifically set forth in this Ordinance which conflict with specific provisions of Ordinance No. 678 or any such successor ordinance.

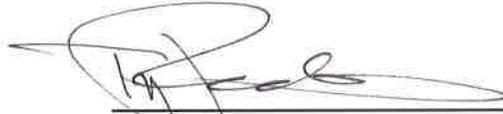
SECTION 3. CEQA. This Ordinance does not commit the City to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

SECTION 4. SEVERABILITY. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance, which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable. This Ordinance amends, adds to and deletes (as applicable) sections of the Indian Wells Municipal Code.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect and be in force 30 days after passage.

SECTION 6. PUBLICATION. The City Clerk is directed to publish this Ordinance within the manner and in the time prescribed by law.

PASSED APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on the 19th day of February 2015.



**TY PEABODY
MAYOR**

**STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)**

CERTIFICATION FOR ORDINANCE NO. 685

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No. 685, having been regularly introduced at the meeting of February 5, 2015 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on this 19th day of February, 2015 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES: Hanson, Mertens, Peabody, Reed
NOES: Balocco

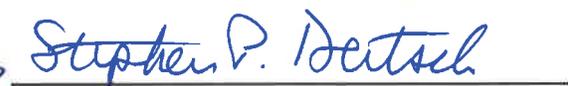
and was thereafter on said day signed by the Mayor of said City of Indian Wells.

ATTEST:

APPROVED AS TO FORM:



**WADE G. MCKINNEY
CITY MANAGER/CITY CLERK**



**STEPHEN P. DEITSCH
CITY ATTORNEY**

