
Special Council

Meeting Agenda

Thursday, January 22, 2015

11:00 AM

Indian Wells Golf Resort, Celebrity Ballroom

44-500 Indian Wells Lane, Indian Wells



Welcome to a special meeting of the City Council. All persons wishing to address the City Council should fill out a blue public comment form before the meeting begins and give it to the Clerk. When the Mayor has recognized you, please come forward to the podium and state your name for the record. A 3-minute time limit is customary. Please note that you may address the City Council on an agenda item at the time it is discussed, but only after being recognized by the Mayor. Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection at City Hall reception, 44-950 Eldorado Drive, Indian Wells during normal business hours.

1. CONVENE THE SPECIAL MEETING AND ROLL CALL

MAYOR TY PEABODY
MAYOR PRO TEM DANA REED
COUNCIL MEMBER RICHARD BALOCCO
COUNCIL MEMBER DOUGLAS HANSON
COUNCIL MEMBER TED MERTENS

2. APPROVAL OF THE FINAL AGENDA

3. PUBLIC COMMENTS

ALLOWED FOR ONLY THE LISTED ITEMS ON THE SPECIAL MEETING AGENDA

All persons wishing to address the City Council should fill out a Blue Public Comment Request form in advance and hand it to the City Clerk. At the appropriate time, please come forward to the podium and state your name for the record. A three-minute limit is customary. Please note that you may address the City Council on an agenda item listed on the special meeting agenda only, but only after being recognized by the Mayor. Notwithstanding the foregoing, Council Members and staff may briefly respond to statements made or questions posed during public comments, as long as such responses do not constitute any deliberation of the item.

4. GENERAL BUSINESS

A. ORD-0100-15 Introduce Ordinance Amending Municipal Code Chapter 9.06 Regarding Noise Violations and Enforcement

RECOMMENDED ACTIONS:

Council INTRODUCES Ordinance Bill No. 2015-01 amending Indian Wells Municipal Code sections 9.06.030, 9.06.050, and 9.06.080 and adding sections 9.06.051 and 9.06.075 regarding noise violations and enforcement.

Attachments: Ordinance Bill No. 2015-01
Municipal Code Section 8.08.060

**B. 1022-15 Approve Recommended Code Provisions for
Short-Term Vacation Rentals and Council Guidance
on Ordinance Language**

RECOMMENDED ACTION:

Council APPROVES Staff recommendations and provides guidance on specific Ordinance language to modify Indian Wells Municipal Code Chapter 5.20 placing more strict provisions on short-term vacation rentals.

- Attachments:** Urgency Ordinance No. 677
 Urgency Ordinance No. 678
 September 18, 2014 Staff Report

5. ADJOURNMENT

To a regularly scheduled meeting of the City Council to be held at 1:30 p.m. on January 22, 2015 in the City Hall Council Chambers.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Chief Deputy City Clerk at (760) 346-2489. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. 128 CFR 35.102.35.104 ADA Title III

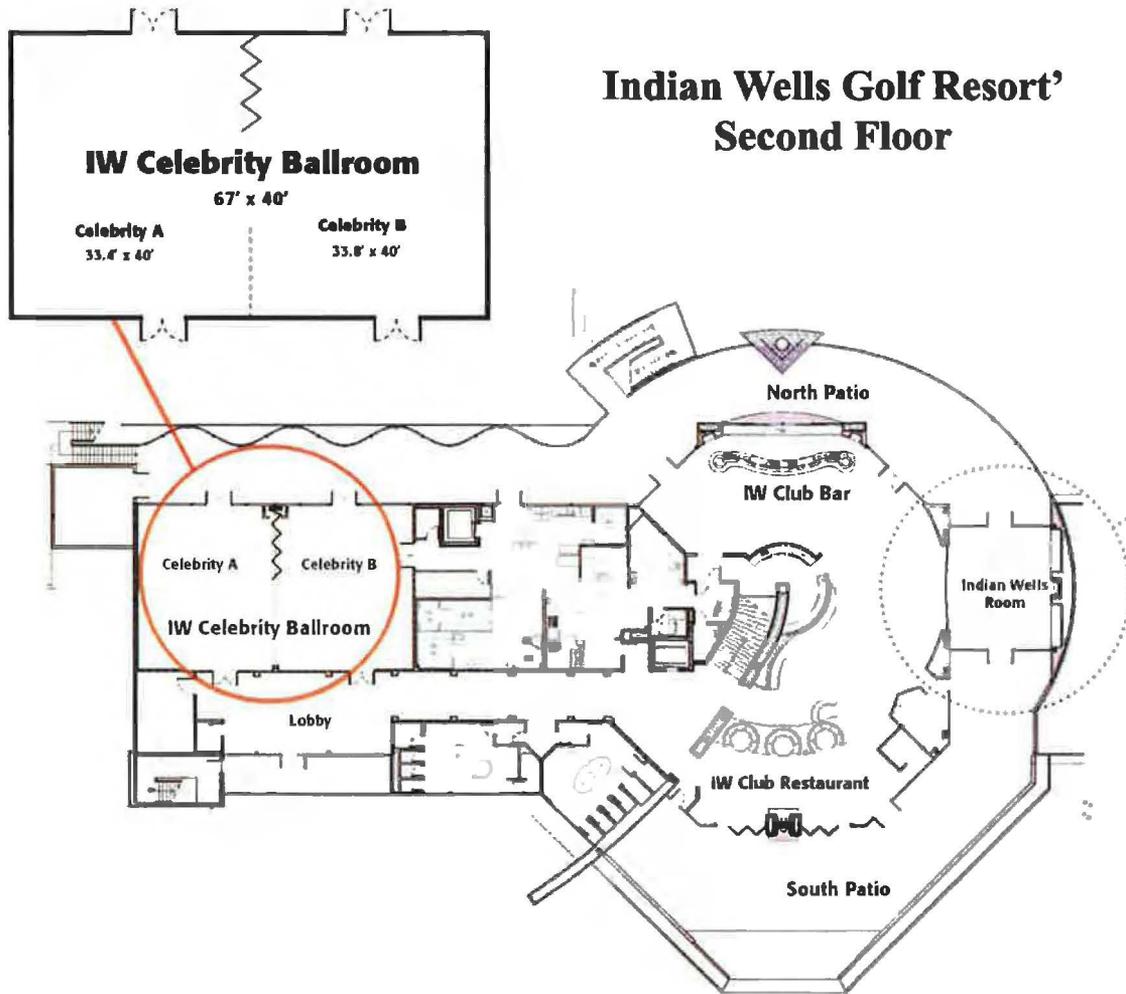
Affidavit of Posting and Notice

I, Anna Grandys, certify that on January 16, 2015, I caused to be posted and served upon all members of the City Council, a notice of a City Council Special Meeting to be held on January 22, 2015 at 11:00 a.m. at the Indian Wells Golf Resort, Celebrity Ballroom.

Notices were posted at Indian Wells Civic Center, Village I [Ralph's], and Indian Wells Plaza [Indian Wells Chamber of Commerce], and were delivered to all City Council members.



Anna Grandys
Chief Deputy City Clerk



January 17, 2015

City of Indian Wells Council Members

Mayor Ty Peabody
Mayor pro tem Dana Reed
Council Member Richard Balocco
Council Member Doug Hanson
Council Member Ted Mertem

RE: Meeting IW Club on January 22, 2015

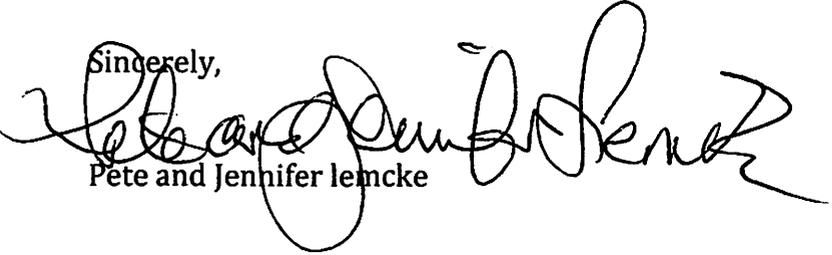
Council Members

We are not in support to 3 day minimum.

We support the 30 (thirty) day minimum .

We are home owners on Nancy Court for the last eight years.

Sincerely,


Pete and Jennifer Lemcke

cc: David
Wade

MARGOT D. LANGDON
c/o #2400, 525 – 8th Avenue SW
Calgary, Alberta, Canada T2P 1G1
Phone: 403-260-0205

January 21, 2015

City of Indian Wells
44 - 950 Eldorado Drive
Indian Wells, CA 92210-7497

Attention: Wade McKinney, City Manager

Dear Mr. McKinney:

Re: Short Term Rentals in Indian Wells

We own a home in Indian Wells, which we purchased in the spring of 2013 with the ultimate intention of retiring there about two years from now. The house had fallen into very poor condition, and we were required to completely refurbish it and spent an enormous sum of money just to bring it back to a liveable condition. It now is one of the nicest homes on the street and raises the standards of the community as a whole and value of homes in the immediate neighborhood.

In investing in this property and these very expensive renovations, we relied on our ability to rent our home as permitted under the existing legislation and assumed that the legislative landscape would remain stable. We rely on the revenue generated by short term rental of our house to operate and maintain our home, and would intend to continue to rent responsibly during those periods when we cannot be there, even after we retire.

I have previously attended almost all of the meetings on the short term rental issue and have previously presented my views to those of the Council members who held their seats prior to the recent elections. Unfortunately I just found out about the Thursday meeting and will not be able to attend this one due to work commitments.

I sincerely hope that my absence or the absence of the many other homeowners who rent but may not know about this particular meeting, will not affect the outcome when we have had so many presentations at prior council meetings.

While we understand and truly sympathize with the concerns of residents who have had noise, occupancy, disturbance, parking and other issues, we strongly oppose any ban or material restriction on short term rentals in the City. There are better solutions which are more moderate and do not financially punish or confiscate property rights (the right to freely rent) from so many conscientious owners, most of whom rent exclusively to retirees.

In fact the actions that have been undertaken by the City to date have already made huge headway towards solving many of the problems in shutting down problem "party house" rentals and increasing TOT collection and adherence with licensing requirements, which the City should be commended upon.

As I confessed at the last meeting, my house was one of the houses that attracted numerous complaints from our neighbor backing onto the south side of our back yard on two particular days about just two instances of renters creating noise: (1) a family with young kids had taken a small speaker outside and played music in the pool area (which we now expressly prohibit under the lease); and (2) an older retiree who is a Plantation Club member was hosting another couple for the member/guest Plantation tournament and they purportedly used overly salty language while enjoying some wine with their wives in the backyard/pool seating area.

W:\990253\0001\IW Short Term Rental Ban\Letter re Short Term Rentals (Waf=de McKimney).docx

First let me say that we try to be extremely conscientious of our neighbors and don't want any issues with them whatsoever. We already had requirements in our lease that no excessive noise be permitted and that they could be evicted for breach of City rules and regs, however we now emphasize this even more with all renters. We have always vetted our tenants carefully and have always rented exclusively to retirees and occasionally families.

In another instance last year, the same back neighbor complained because our landscaper used a leaf blower, and they also complained that we had put in landscape lighting (which complies with City restrictions). As good neighbors and part of everyday living in a community, we are working through these minor issues as they arise and now enjoy a good relationship with them. We have encouraged them since the first spate of complaints (which we had initially not been aware of) to contact us directly if they have issues.

The issue of reasonableness of the complaining party also comes into play. I believe that our neighbor (who was used to absolutely no noise as the adjacent lots are both vacant and our house had been virtually unoccupied for many years) now realizes that they don't live in a vacuum, but rather a community that will occasionally make the usual noises of everyday life.

Some people complain an unreasonable amount, but we believe that notwithstanding this our neighbors are good people. We believe that we can satisfy these neighbors in the long term even though we feel that they are unreasonably sensitive and complain to the authorities excessively over every little sound. They could have full time resident neighbors that were much louder and more annoying than our renters are on average. As an aside, we query whether it is just that renters (or people who rent) should be subject to stricter limitations than full time residents.

My point is that we were viewed as a part of this problem that precipitated these ordinance changes, yet we are responsible, law-abiding owners and renters, we pay our TOT and try to be great neighbors.

This, with the corrective actions already taken by the City, means that the vast majority of the issues which arose last March and April have already been addressed.

We believe that disallowing or overly restricting short term rentals is unnecessary. It is like using a hammer to kill a fly.

Short term rentals are healthy for our City, keep our City vital and dynamic, support our local economy and reputation on the world stage and on average improve the quality and maintenance of homes.

There is a highly active contingent of extremely privileged, well spoken, but extremely single-minded individuals who would ban short term rentals all together. This approaches arrogance and doesn't balance the interests of the community stakeholders (which is the role of Council, admittedly). These people are not representative and should not have the right to deprive other property owners of their right to rent, especially when there are other effective methods to address their valid concerns.

A ban (or unreasonable restriction) of short term rentals would:

- Ignore less punitive but nonetheless effective and more progressive solutions
- Fail to directly address the specific problems of noise, occupancy, disturbance, parking and other issue
- Unfairly and unnecessarily conscientious property owners of the right to generate income from short term rentals in compliance with noise and other City by-laws

- Cause serious hardship, including the loss of homes by those who rely on revenue to own, operate and maintain their home
- Reduce property values across the board as houses will be forced on the market at the same time that potential purchasers will know that they can't cover any costs of an IW house from usual rentals to many retirees
- Significantly reduce long term rental rates across IW relative to other desert cities since there will be a huge over-abundance of houses for rent in IW for only over 30 days
- Deprive the City of overall revenue from TOT, including spending in local restaurants and businesses
- Create the reputation that IW is over-regulated and stodgy
- Reduce the number of potential buyers of IW homes since people tend to buy where they have previously stayed.

The staff recommendations are effective and intelligent in that they separate the issue of property owners' right to rent their properties responsibly from enforcement of noise, occupancy, parking and other disturbances as against both homeowners (renting and non-renting) and tenants alike.

The staff recommendations (including the proposed noise ordinance):

- Directly address the specific resident concerns of noise, occupancy maximums, disturbance, parking etc.
- Reflect stable, predictable and mature government which would strike the right balance and not create a black-eye for the City and its Council
- Reduce the polarization of the community and sense of arbitrariness and alienation, in favor of a balanced approach that addresses the real concerns of all stakeholders
- Respect property rights of owners, including the right of residents to quiet enjoyment of their property as well as the right of property owners to cover costs of ownership
- Do not cause serious hardship, including the loss of homes by those who rely on revenue to own operate and maintain their home
- Support the reputation of Indian Wells as a destination city, as well as supporting important major events such as the IW Tennis Tournament.

The staff recommendations are definitely on the right track and represent a balanced approach, but could be improved as follows:

- Maximum occupancy should not be limited to 2 people per bedroom but should remain at the current level of 2+2 people per bedroom. The vast majority of my rentals are to grandparents, but these couples want to be able to have their kids come to visit with their grandchildren occasionally, especially at Christmas and spring break. We have very large bedrooms and 2 queen beds in one bedroom such that a family of 2 adult children and their 2 kids could stay in that room, and this restriction is surely not aimed at preventing these short family vacations visiting grandma and

grandpa. Including the renters themselves, 6 people staying for a short vacation in a large house on a large property with grandma and grandpa should not be prohibited.

- The requirement that a representative arrive at the property within 45 minutes is too strict – especially if the issue has abated. Palm Springs allows 60 minutes, and inevitably ALL people "have lives". People work, golf (and are not supposed to have their phones on) and have innumerable other personal, business, family and other commitments. I don't object to having a representative contact person (or several people) on the ground, but there needs to be some flexibility, especially where the issue has been abated or no harm is really caused by the person not being able to arrive within this very short window. My property manager is excellent but he lives in Palm Springs for example, which is a 45 minute drive, and also works at the Plantation Club. But when I think of replacing him, I can't think of a more responsible and responsive person and I'm not sure anyone else could respond perfectly promptly in every circumstance.

In summary, restriction of homeowners' right to rent will create a material loss, a taking of property rights and is multiplied across hundreds of conscientious and civic-minded homeowners who just want a more balanced solution. I apologize that I can't be there in person, but trust that you will understand and cast your vote on a manner that reflects balance and the many people who have previously presented in favour of short term rentals, not just the people who happen to know about this meeting and are available on that particular day.

Thank you for your consideration!

Yours truly,



Margot Langdon

p.s. Hi Wade. Sorry I can't make it,
Thanks for your excellent work on
this. Margot

⑧

CC/HA ACTION _____ MTG. DATE: 1-22-15

APPROVED DENIED _____ REC/FILE _____ CONT. _____

OTHER _____

VOTE: YES 4 NO 1 ABSTAIN _____

Balocco

Indian Wells City Council

Staff Report – Indian Wells Police

*as amended: January 22, 2015
fines are \$250 and \$500; hours
of 7PM-7AM except for commercially
licensed businesses on
non-residentially zoned
property which will be
subject to this restriction.*

Introduce Ordinance Amending Municipal Code Chapter 9.06 Regarding Noise Violations and Enforcement

RECOMMENDED ACTIONS:

Council **INTRODUCES** Ordinance Bill No. 2015-01 amending Indian Wells Municipal Code sections 9.06.030, 9.06.050, and 9.06.080 and adding sections 9.06.051 and 9.06.075 regarding noise violations and enforcement.

from 10PM to 7AM.

REPORT-IN-BRIEF:

Currently Indian Wells Municipal Code is aligned with the California Penal Code relating to unreasonable noise, and does not allow for timely enforcement of noise violations. The proposed modifications to the Municipal Code give better tools to law and code enforcement to handle noise complaints, and give law and code enforcement personnel subjective authority to determine noise violations from the curb line.

DISCUSSION:

Background:

Disturbing the peace laws were first enacted in 1872, sometimes referred to as "breach of peace" laws, with these sections designed to protect the public against disorderly conduct. The section of the California Penal Code 415(2) (Disturbing the Peace) defines this as any person who willfully and maliciously disturbs another person by loud and unreasonable noise.

When a violation of Section 415(2) is noted, a citizen ("victim") calls the police and identifies themselves as a victim of the section. Under California law, peace officers cannot be a victim, nor can their peace be disturbed. Instead, once an officer identifies the offender ("suspect"), the victim is requested to sign a private person's arrest form (the officer cannot be the victim). Upon signing the form, the officer issues a misdemeanor citation to the suspect under Section 415(2), writes a report and forwards the misdemeanor violation to the Riverside County District Attorney's Office for review.

The District Attorney’s office can file the misdemeanor charge or dismiss the case. Due to the large volume of more serious crimes submitted to the District Attorney’s Office, the latter happens more often than not.

The main problem identified by law enforcement with the above process is that victims are often unwilling to sign a private person’s arrest form. Citizens who call to complain want the offending noise to be stopped and for law enforcement personnel to handle the entire situation without their personal involvement.

Cities across Riverside County have found that adding specific municipal code sections for noise violations and enforcement proves to be a more effective for peace officers. It gives law enforcement greater latitude to stop nuisances caused by noise.

Analysis:

The table below shows the number noise complaint calls from Indian Wells residents for the last three years:

Month	2012	2013	2014
January	3	3	4
February	1	1	3
March	7	3	12
April	11	13	17
May	6	5	5
June	3	2	5
July	5	4	2
August	3	1	4
September	2	2	3
October	5	8	4
November	4	3	9
December	2	1	4
Totals:	52	46	72

The table reflects the public’s concern with loud and unreasonable noise throughout the city. The current process does not stop the noise source, and deter it from restarting. In fact, of the 17 noise complaint calls in the month of April 2014, only 1 misdemeanor charge was filed by the District Attorney’s Office. To better arrest noise nuisances, Staff is recommending changes to the Municipal Code to improve law enforcement effectiveness related to noise issues.

Proposed Code Changes:

Ordinance Bill No. 2015-01 (the "Ordinance") (**Attachment 1**) modifies the existing Indian Wells Municipal Code to incorporate best practices from other cities, and standardizes practices with other Coachella Valley cities served by Riverside County Sheriff's Department. The Ordinance broadens law enforcements authority by defining a distance limitation for audible amplified noise, establishing time of day limitations on noise, and aligning noise violations with the City's standard administrative citation fine amounts.

Definition of Audible Noise Distance

The current Municipal Code calls for use of a sound measurement device to determine loud or unreasonable noise. The proposed Ordinance would augment the use of sound measurement by additionally providing law enforcement personnel subjective authority to determine if a violation is warranted, based on their ability to hear amplified noise from the curb line.

Research of other cities found it common to establish a distance at which a noise must be audible by the human ear for issuance of a citation. Staff determined the curb line to be the most clearly identifiable marker for law enforcement personnel. Therefore, any law enforcement personnel who can stand at the curb line of a property and hear amplified noise can issue a citation for violation of the Municipal Code.

The definition of amplified noise is clearly stated in the Ordinance to cover most commonly found sound amplification devices.

Time of Day Restrictions

The current Municipal Code establishes noise standards through sound measurement decibel readings for the time periods of 7:01 a.m. to 10:00 p.m., and 10:01 p.m. to 7:00 a.m. The former having a higher threshold of sound established. Research of cities found the two most common standards to be set between 10:00 p.m. and 6:00 a.m., or to have no timeframes listed at all, effectively applying noise restrictions around the clock.

The Ordinance maintains the current 10:00 p.m. to 7:00 a.m. standard, thereby establishing that any amplified noise audible from the curb line between the hours of 10:00 p.m. and 7:00 a.m. is subject to administrative citation.

Penalty for violation

Municipal Code Section 8.08.060 sets administrative citation fines, within a one year timeframe, at:

First violation	\$100
Second violation	\$200
Third violation and beyond	\$500

The Ordinance incorporates the standard fines as detailed in Section 8.08.060 of the Municipal Code. This causes all noise infractions to be subject to the City's current standard fine amount. These fine amounts will be applied evenly to residents and non-residents for any violation of the revised noise ordinance.

CEQA:

The adoption of the proposed ordinance changes do not fall within the definition of a "project" under the California Environmental Quality Act (CEQA) because it does not have the potential for resulting in a direct or indirect physical change in the environment (CEQA Guidelines 15378(a)) and is an administrative activity of the City that will not result in direct or indirect physical changes in the environment (CEQA Guidelines 15378(b)(5)). The only changes to the existing noise regulations applicable to the City of Indian Wells by the proposed ordinance changes are to add administrative citations and guidelines as an additional tool for the enforcement of the ordinance and clarify existing law.

ATTACHMENTS:

1. Ordinance Bill No. 2015-01
2. Municipal Code Section 8.08.060

ORDINANCE BILL NO. 2015-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING CHAPTER 9.06 PERTAINING NOISE VIOLATIONS AND ENFORCEMENT

WHEREAS, excessive, unnecessary or offensive noise within the City is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the City; and

WHEREAS, the establishment or clarification of maximum permissible noise levels will further the public health, safety, welfare and peace and quiet of City inhabitants.

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

SECTION 1. Section 9.06.030(a) of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.030 Sound level measurement – General.

(a) Use of Sound Level Meter. Any noise level measurements made pursuant to the provisions of this Chapter shall be performed using a sound level meter as defined in Section 9.06.020. If the sound standard applied pursuant to this chapter is not measured in decibels, then sound level measurements are not required to establish a violation of this Chapter."

SECTION 2. Section 9.06.050(a) of Chapter 9.06 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.050 General noise regulations.

(a) General Prohibition. Notwithstanding any other provisions of this Chapter and in addition thereto, it is unlawful, between the hours of 10:01 p.m. and 7:00 a.m. for any person 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~~ ordinary sensibilities from any curb line, or behind the right of way, fronting the property from which the noise emanates."

SECTION 3. Section 9.06.051 is added to Chapter 9.06 of the Indian Wells Municipal Code to read in its entirety as follows:

"9.06.051 Declaration of certain acts constituting excessive noise.

The following activities are deemed to cause disturbing, excessive or offensive noises and any of the following shall constitute prima facie evidence of a violation.

- A. Horns, Signaling Devices, Muffler Systems, Car Alarms, etc. Intentionally or negligently initiated and unnecessary use or operation of horns, signaling devices, uncontrolled muffler noises, car alarms on vehicles of all types including motorcycles, and other equipment.
- B. The operation of any sound production or reproduction device, radio receiving set, musical instrument, drum, phonograph, television set, machine, loud speaker and sound amplifier or similar machine or device in such a manner as to be plainly audible from any curb line, or behind the right of way, fronting the property from which the noise emanates, including from any building, structure or vehicle in which it is located, or from the specific place on which the source is resting, or moving at any one moment.
- C. The operation of any sound amplifier which is part of or connected to any radio, stereo receiver, compact disc player, cassette tape player, or other similar device when operated in such a manner as to be plainly audible from any curb line, or behind the right of way, of the specific place on which the source is resting, or moving at any one moment, or when operated in such a manner as to cause a person to be aware of vibration at any distance from the specific place on which the source is resting, or moving at any one moment.
- D. The playing, use or operation, or permitting to be played, used or operated, any sound production or reproduction device, radio receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of any reasonable person of normal sensitiveness not located on the property or the public right of way on which the source of the noise is located."

SECTION 4. Section 9.06.075 is added to Chapter 9.06 of the Indian Wells Municipal Code to read in its entirety as follows:

"9.06.075 Duty to cooperate.

No person shall refuse to cooperate with, or obstruct, any authorized person charged with the enforcement of this Chapter when such authorized person is engaged in the performance of his/her duties."

SECTION 5. Section 9.06.080 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.080 Violations – Penalty.

Any person violating any of the provisions of this chapter is guilty of an infraction and shall be subject to the maximum punishment set forth in State Law or applicable City Code Section 8.08.060. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this Chapter shall not be construed as permitting conduct not proscribed herein and shall not affect the enforceability of any other applicable provisions of law."

SECTION 6. 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.

SECTION 7. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after passage.

SECTION 8. Publication. The City Clerk is directed to publish this Ordinance, or a summary thereof, in the manner and in the time required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting of the City Council held on 5th day of February, 2015.

**TY PEABODY
MAYOR**

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

CERTIFICATION FOR ORDINANCE BILL NO. 2015-01

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance Bill No. 2015-01, having been regularly introduced at the meeting of January 22, 2015, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at an adjourned regular meeting of the City Council held on this 5th day of February, 2015, and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

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

ATTEST:

APPROVED AS TO FORM:

WADE G. MCKINNEY
CITY MANAGER/CITY CLERK

STEPHEN P. DEITSCH
CITY ATTORNEY

Indian Wells Municipal Code							
Up	Previous	Next	Main		Search	Print	No Frames
<u>Title 8 HEALTH AND SANITATION</u> <u>Chapter 8.08 PROPERTY NUISANCE</u>							

8.08.060 Authority.

(a) A Compliance Officer may issue an administrative citation to any responsible party for a violation of the Code.

(b) Each and every day, or portion thereof, that a violation of the Code exists constitutes a separate and distinct offense.

(c) Any responsible party issued an administrative citation shall be responsible for payment of the administrative fine imposed, the amount of which shall be set forth in subsection (d). The City Council may amend the amount of fines from time to time by a separate resolution.

(d) When an administrative fine is imposed, it shall be imposed in the following amounts:

(1) **Infractions.** For the violation of the Code specified by the Code as an infraction, the amount of the administrative fine shall be the amounts set forth in Government Code Section 36900 as follows: (i) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (ii) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same Code provision within one (1) year; (iii) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same Code provision within one (1) year. Notwithstanding the foregoing sentence, the administrative fine for a violation of a Building and Safety Code provision that is specified by the Code as an infraction shall be as follows: (i) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (ii) a fine not exceeding five hundred dollars (\$500.00) for a second violation of the same Code provision within one (1) year; (iii) a fine not exceeding one thousand dollars (\$1,000.00) for each additional violation of the same Code provision within one (1) year of the first violation.

(2) **Misdemeanors.** For the violation of the Code specified by the Code to be punishable as a misdemeanor or for which no fine is specifically provided, the amount of the administrative fine shall be one thousand dollars (\$1,000.00). (Ord. 631 § 1, 2009)

View the [mobile version](#).

As Amended

ORDINANCE BILL NO. 2015-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING CHAPTER 9.06 PERTAINING TO NOISE VIOLATIONS AND ENFORCEMENT

WHEREAS, excessive, unnecessary or offensive noise within the City is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the City; and

WHEREAS, the establishment or clarification of maximum permissible noise levels will further the public health, safety, welfare and peace and quiet of City inhabitants.

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

SECTION 1. Section 9.06.030(a) of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.030 Sound level measurement — General.

(a) Use of Sound Level Meter. Any noise level measurements made pursuant to the provisions of this Chapter shall be performed using a sound level meter as defined in Section 9.06.020. If the sound standard applied pursuant to this chapter is not measured in decibels, then sound level measurements are not required to establish a violation of this Chapter."

SECTION 2. Section 9.06.050(a) of Chapter 9.06 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.050 General noise regulations.

(a) General Prohibition. Notwithstanding any other provisions of this Chapter and in addition thereto, it is unlawful, between the hours of 10:01 p.m. and 7:00 a.m. for any person 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~~ ordinary sensibilities from any curb line, or behind the public right of way boundary, fronting the property from which the noise emanates."

SECTION 3. Section 9.06.051 is added to Chapter 9.06 of the Indian Wells Municipal Code to read in its entirety as follows:

"9.06.051 Declaration of certain acts constituting excessive noise.

The following activities are deemed to cause disturbing, excessive or offensive noises when they disturb the peace and quiet of any neighborhood or cause discomfort or annoyance to any reasonable person of ordinary sensibilities, and subject to the foregoing any of the following shall constitute prima fade evidence of a violation.

- A. Horns, Signaling Devices, Muffler Systems, Car Alarms, etc. Intentionally or negligently initiated and unnecessary use or operation of horns, signaling devices, uncontrolled muffler noises car alarms on vehicles of all types including motorcycles, and other equipment.
- B. The operation of any sound production or reproduction device, radio receiving set, musical instrument, drum, phonograph, television set, machine, loud speaker and or sound amplifier or similar machine or device in such a manner as to be plainly audible from any curb line, or behind the public right of way boundary, fronting the property from which the noise emanates, including without limitation emanating from any building, structure or vehicle in which it is located, or from the specific place on that property on which the source is resting, or moving at any one moment.
- C. The operation of any sound amplifier which is part of or connected to any radio, stereo receiver, compact disc player, cassette tape player, or other similar device when operated in such a manner as to be plainly audible from any curb line, or behind the public right of way boundary, fronting the property from which the noise emanates, or ~~of~~ from the specific place on which the source is resting, or moving at any one moment, or when operated in such a manner as to cause a person to be aware of vibration at any distance from the specific place on which the source is resting, or moving at any one moment.
- D. The playing, use or operation of, or permitting to be played, used or operated, any sound production or reproduction device, radio receiving set, musical instrument, drums, phonograph, television set, loudspeakers and or sound amplifiers or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of any reasonable p rson of normal sensitiveness not located on the property or the public right of way on which the source of the noise is located."

SECTION 4. Section 9.06.075 is added to Chapter 9.06 of the Indian Wells Municipal Code to read in its entirety as follows:

"9.06.075 Duty to cooperate.

No person shall refuse to cooperate with, or obstruct, any authorized person charged with the enforcement of this Chapter when such authorized person is engaged in the performance of his/her duties."

SECTION 5. Section 9.06.080 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.080 Violations — Penalty.

Any person violating any of the provisions of this chapter is guilty of an infraction and shall be subject to the maximum punishment set forth in State Law or Municipal applicable City Code Section 8.08.060. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this Chapter shall not be construed as permitting conduct not proscribed herein and shall not affect the enforceability of any other applicable provisions of law."

SECTION 6. 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.

SECTION 7. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after passage.

SECTION 8. Publication. The City Clerk is directed to publish this Ordinance, or a summary thereof, in the manner and in the time required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting of the City Council held on 5th day of February, 2015.

**TY PEABODY
MAYOR**

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

CERTIFICATION FOR ORDINANCE BILL NO. 2015-01

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance Bill No. 2015-01, having been regularly introduced at the meeting of January 22, 2015, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at an adjourned regular meeting of the City Council held on this 5th day of February, 2015, and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

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

ATTEST:

APPROVED AS TO FORM:

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

**STEPHEN P. DEITSCH
CITY ATTORNEY**

ORDINANCE BILL NO. 2015-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING CHAPTER 9.06 PERTAINING NOISE VIOLATIONS AND ENFORCEMENT

WHEREAS, excessive, unnecessary or offensive noise within the City is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the City; and

WHEREAS, the establishment or clarification of maximum permissible noise levels will further the public health, safety, welfare and peace and quiet of City inhabitants.

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

SECTION 1. Section 9.06.030(a) of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.030 Sound level measurement – General.

(a) Use of Sound Level Meter. Any noise level measurements made pursuant to the provisions of this Chapter shall be performed using a sound level meter as defined in Section 9.06.020. If the sound standard applied pursuant to this chapter is not measured in decibels, then sound level measurements are not required to establish a violation of this Chapter."

SECTION 2. Section 9.06.050(a) of Chapter 9.06 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"9.06.050 General noise regulations.

(a) General Prohibition. Notwithstanding any other provisions of this Chapter and in addition thereto, it is unlawful, between the hours of 10:01 p.m. and 7:00 a.m. for any person 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~~ ordinary sensibilities from any curb line, or behind the right of way, fronting the property from which the noise emanates."

SECTION 3. Section 9.06.051 is added to Chapter 9.06 of the Indian Wells Municipal Code to read in its entirety as follows:

"9.06.051 Declaration of certain acts constituting excessive noise.

The following activities are deemed to cause disturbing, excessive or offensive noises and any of the following shall constitute prima facie evidence of a violation.

- A. Horns, Signaling Devices, Muffler Systems, Car Alarms, etc. Intentionally or negligently initiated and unnecessary use or operation of horns, signaling devices, uncontrolled muffler noises, car alarms on vehicles of all types including motorcycles, and other equipment.
- B. The operation of any sound production or reproduction device, radio receiving set, musical instrument, drum, phonograph, television set, machine, loud speaker and sound amplifier or similar machine or device in such a manner as to be plainly audible from any curb line, or behind the right of way, fronting the property from which the noise emanates, including from any building, structure or vehicle in which it is located, or from the specific place on which the source is resting, or moving at any one moment.
- C. The operation of any sound amplifier which is part of or connected to any radio, stereo receiver, compact disc player, cassette tape player, or other similar device when operated in such a manner as to be plainly audible from any curb line, or behind the right of way, of the specific place on which the source is resting, or moving at any one moment, or when operated in such a manner as to cause a person to be aware of vibration at any distance from the specific place on which the source is resting, or moving at any one moment.
- D. The playing, use or operation, or permitting to be played, used or operated, any sound production or reproduction device, radio receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of any reasonable person of normal sensitiveness not located on the property or the public right of way on which the source of the noise is located."

SECTION 4. Section 9.06.075 is added to Chapter 9.06 of the Indian Wells Municipal Code to read in its entirety as follows:

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Any person violating any of the provisions of this chapter is guilty of an infraction and shall be subject to the maximum punishment set forth in State Law or applicable City Code Section 8.08.060. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this Chapter shall not be construed as permitting conduct not proscribed herein and shall not affect the enforceability of any other applicable provisions of law."

SECTION 6. 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.

SECTION 7. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after passage.

SECTION 8. Publication. The City Clerk is directed to publish this Ordinance, or a summary thereof, in the manner and in the time required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting of the City Council held on 5th day of February, 2015.

**TY PEABODY
MAYOR**

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

CERTIFICATION FOR ORDINANCE BILL NO. 2015-01

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AYES:
NOES:

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

ATTEST:

APPROVED AS TO FORM:

WADE G. MCKINNEY
CITY MANAGER/CITY CLERK

STEPHEN P. DEITSCH
CITY ATTORNEY

Indian Wells Municipal Code							
Up	Previous	Next	Main		Search	Print	No Frames

Title 8 HEALTH AND SANITATION
Chapter 8.08 PROPERTY NUISANCE

8.08.060 Authority.

(a) A Compliance Officer may issue an administrative citation to any responsible party for a violation of the Code.

(b) Each and every day, or portion thereof, that a violation of the Code exists constitutes a separate and distinct offense.

(c) Any responsible party issued an administrative citation shall be responsible for payment of the administrative fine imposed, the amount of which shall be set forth in subsection (d). The City Council may amend the amount of fines from time to time by a separate resolution.

(d) When an administrative fine is imposed, it shall be imposed in the following amounts:

(1) **Infractions.** For the violation of the Code specified by the Code as an infraction, the amount of the administrative fine shall be the amounts set forth in Government Code Section 36900 as follows: (i) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (ii) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same Code provision within one (1) year; (iii) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same Code provision within one (1) year. Notwithstanding the foregoing sentence, the administrative fine for a violation of a Building and Safety Code provision that is specified by the Code as an infraction shall be as follows: (i) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (ii) a fine not exceeding five hundred dollars (\$500.00) for a second violation of the same Code provision within one (1) year; (iii) a fine not exceeding one thousand dollars (\$1,000.00) for each additional violation of the same Code provision within one (1) year of the first violation.

(2) **Misdemeanors.** For the violation of the Code specified by the Code to be punishable as a misdemeanor or for which no fine is specifically provided, the amount of the administrative fine shall be one thousand dollars (\$1,000.00). (Ord. 631 § 1, 2009)

View the [mobile version](#).



City of Indian Wells – Municipal Code 9.06 - Noise Ordinance & Amendments January 22, 2015

A. Current City Standard - Disturbing the Peace:

The section of the California Penal Code 415(2) (Disturbing the Peace) defines this as any person who willfully and maliciously disturbs another person by loud and unreasonable noise.

B. Noise Calls for the City of Indian Wells:

The table below represents the number of noise complaint calls from Indian Wells residents over the last three years:

Month	2012	2013	2014
January	3	3	4
February	1	1	3
March	7	3	12
April	11	13	17
May	6	5	5
June	3	2	5
July	5	4	2
August	3	1	4
September	2	2	3
October	5	8	4
November	4	3	9
December	1	1	4
Totals:	51	46	72

C. Municipal Code Amendments and Additions:

Any law enforcement personnel who can stand at the curb line of a property and hear amplified noise can issue a citation for a violation of the Municipal Code. The ordinance maintains the current 10:00 p.m. to 7:00 a.m. standard, thereby establishing that any amplified noise audible from the curb line between the hours of 10:00 p.m. and 7:00 a.m. is subject to administrative citation.

(SP) 4B MTG. DATE: 1-22-15
CC/HA ACTION
APPROVED _____ DENIED _____ REC/FILE _____ CONT. _____
OTHER incorporate 17 code provisions;
VOTE: YES _____ NO _____ ABSTAIN _____

Indian Wells City Council

Staff Report – City Manager’s Office

January 22, 2015

& include max occupancy of (2) per bedroom
(children byes & under not counted); City

notify neighbors w/in 200ft of rental (include
in VR license fee; (1) car per bedroom

Approve Recommended Code Provisions for Short-Term Vacation Rentals and Council Guidance on Ordinance Language

w/ cars parked
in garage & driveway
only.

RECOMMENDED ACTION:

Council **APPROVES** Staff recommendations and provides guidance on specific Ordinance language to modify Indian Wells Municipal Code Chapter 5.20 placing more strict provisions on short-term vacation rentals.

REPORT-IN-BRIEF:

Staff recommends seventeen areas of increased regulations and highlights five areas for City Council discussion. Council direction will be used to draft an Ordinance with revised regulations for short-term vacation rentals.

As noise is the most common issue with short-term vacation rentals, Staff is recommending an amended Noise Ordinance for consideration as a separate item at today’s special meeting.

DISCUSSION:

Summary:

The City has a moratorium on short-term vacation rentals (“vacation rentals”) as established by Urgency Ordinances Nos. 677 and 678 (**Attachments 1 & 2**). These ordinances established a prohibition on the use of property as vacation rentals for periods of less than seven days for licensed properties, and 30 days for unlicensed properties. They also established fine amounts for violation of \$2,000 for first offense, \$3,000 for second offense, and \$5,000 for each subsequent offense. Staff has enforced the Urgency Ordinance provisions since June, resulting in the issuance of 17 Notice of Violations, \$8,000 in fines, and the revocation of one rental license.

A more permanent solution is needed to ensure the City has best practices in place to protect our neighborhoods. This staff report recommends provisions be added to Municipal Code Chapter 5.2 Short-Term Residential Rentals.

Council Questions:

Council raised a number of questions at the September meeting. Those questions and answers are as follows:

Question:

Can we provide more subjective authority to the Police Department to proactively respond to noise violations at residential properties?

What is the definition of a "Hotel", who makes that definition, and how do we define a "Hotel?" Are vacation rentals in conflict with the definition of "Hotel?"

How does our Zoning Code deal with this type of use in a residential neighborhood? Do we need Zoning Code changes?

Answer:

Yes. Law enforcement can have greater authority to issue violations. Staff introduced Ordinance Bill No. 2015-01 (presented separately) which provides law enforcement greater authority to issue violations under the Municipal Code as opposed to relying on State Law.

The City's Municipal Code defines "Hotel" as "...any building or group of buildings, or a portion thereof, containing twenty-five (25) or more guest room accommodations intended for use by guests for compensation and any incidental or accessory commercial uses providing additional guest services..." By this definition, a vacation rental, as defined in the City's Municipal Code Section 5.20.020, "...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," is not in conflict with the City's definition of "Hotel".

The City's Zoning Code Sections 21.23.030 and 21.24.030 permit in Very Low and Low Density Residential Zones "Short-term residential rental, subject to the requirements of Chapter 5.20..." Therefore, based on existing City Zoning Code language, short-term vacation rentals are permitted.

Question:

Answer:

How would the City deal with a corporation that owns a home and allows employees to use it for vacation purposes without any form of compensation for use of the house?

It is unlikely the City could prevent this type of use. However, other provisions could prevent disruptive behavior (revised noise ordinance, occupancy limits, parking restrictions, etc.).

Can the City prohibit vacation rentals for defined periods of time during the year, such as the Coachella Music Festival?

Yes. The City could prohibit this type of use during defined periods of time. Or, could modify the rules during specified periods to increase the strictness of Code provisions.

Do homes being rented have to comply with the Americans with Disabilities Act ("ADA")? Does the City have any liability with compliance of ADA?

There is no specific case law that guides whether or not ADA applies to the rental of residential property for vacation rentals. As such, based on the current provisions of the ADA, it would not appear to apply to vacation rentals and therefore the City would have no liability.

How might age restriction (such as the thirty (30) year old requirement in Rancho Mirage) for the "responsible party," be applied?

The Court upheld the Rancho Mirage Ordinance. Therefore, the City Council could decide to place an age restriction on vacation rentals in Indian Wells.

What is the impact of vacation rentals on the City's resort hotels?

The tourism industry in the Coachella Valley is a proponent of the economic benefits that vacation rentals provide. Data on the types of travelers that stay in hotels versus vacation rentals suggests that they each cater to a different tourism market segment, whereas hotels are advantageous for shorter stays and more pampered experiences, and vacation rentals are more desirable for family gatherings and longer stays.

City Goals:

Staff has two objectives as it relates to the January 22 Council work session on short-term vacation rentals:

1. Provide clear, enforceable rules guiding the use of residential property as short-term vacation rentals; and
2. Provide information to facilitate an informed decision making process.

Recommended Code Provisions:

Staff recommends adopting an Ordinance that modifies Section 5.20 of the Municipal Code to include the following:

1. Allows vacation rentals in Indian Wells only by fee-title property owners, or through an agent on behalf of a fee-title property owner.
2. Prohibits the subleasing of property for vacation rental purposes.
3. Requires property owners, wishing to rent their property as a vacation rental, to obtain a Short-term Rental Permit from the City for each property rented, and a business license for the owner and any managing agent, the fee for which is set by Council Resolution.
4. Requires owners to provide an emergency response contact who shall be required to respond to a nuisance complaint at a property within 45 minutes.
5. Requires property owners to register, through a City-run online database, the name and contact information for all responsible parties renting their property, along with dates of stay and number of occupants during stay, no later than forty-eight (48) hours prior to occupant arrival.
6. Requires each property to post a copy of the Rental Permit and City vacation rental rules in a conspicuous place, and provide each responsible party occupant with a copy of the City's Good Neighbor Brochure.
7. Prohibits the use of vacation rental property for commercial activities such as weddings, receptions, and large parties by rental occupants without obtaining a Temporary Use Permit (TUP) from the City.

8. Requires an agent representing property on behalf of fee-title owners to register for, and maintain, a City Business License.
9. Requires property owners, or managing agents, to include 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.
10. Requires a responsible party acknowledgement in all property owner, or managing agent, rental agreements – responsible party will acknowledge understanding of all Indian Wells Vacation Rental rules and their liability for any fines incurred by occupants.
11. Establishes a two-tiered penalty for any violation of the Municipal Code for:
 - **Responsible Party for Vacation Rental** - may be cited with a misdemeanor fine upon any violation of the short-term rental ordinance, including violation of the noise ordinance, in the following manner:
 1. First Offense – Warning by Police or Code Enforcement;
 2. Second Offense within any sixty (60) days of posting a notice of warning (see paragraph below) - \$500 misdemeanor citation;
 3. Third and Subsequent Offenses within sixty (60) days of posting a notice of warning - \$1,000 misdemeanor citation.

Responding law enforcement will issue the First Offense warning by making contact with occupants and posting a Notice of Violation warning on the front door. The warning will be required to remain on the front door for sixty (60) days, notifying all occupants (current and future 60 days) that a Second Offense, or subsequent offenses, automatically results in citation to responsible person and property owner. Additionally, it will make it an automatic offense to remove the warning within the sixty (60) day period.

- **Property Owner** – will receive an administrative citation for any violation of the Municipal Code or noise ordinance by the owner or occupant in the following manner:
 1. First Offense - Warning by Police or Code Enforcement;

2. Second Offense within any twelve (12) month period - \$2,000 administrative fine;
 3. Third Offense within any twelve (12) month period - \$5,000 administrative fine and revocation of the vacation rental permit for a period of twelve (12) months effective immediately;
 4. Any Offense during permit revocation period - \$5,000 misdemeanor violation for each offense and one additional year of permit revocation.
 5. All City fines get processed through a third-party vendor who sends violators to collections. Unpaid collections fines will be a mark reported to credit agencies. If non-payment persists after collections, a lien is recorded with the County and fines are collected through property tax bills.
12. Establishes a multi-property ownership violation limitation of five (5) violations on any combination of owned properties within the City within any twelve (12) month period - upon five (5) violations, all owner Rental Permits will be revoked effective immediately.
 13. Establishes a multi-property agent violation limitation of five (5) violations on any combination of represented properties within the City within any twelve (12) month period – upon five (5) violations, agent business license will be revoked immediately.
 14. Requires owners to remit quarterly Transient Occupancy Tax collected for vacation rentals.
 15. Provides City authority to conduct random inspections of Rental Permit properties to ensure compliance with provisions of the Vacation Rental code.
 16. Requires a permit number to be listed on all rental advertisements.
 17. Creates an administrative fine for any rental advertisement not in compliance with all vacation rental laws as established by City ordinance.

Council Policy Discussion Topics:

In addition to the recommended Code provisions, Staff requests direction on the following:

Minimum Nights Stay

Staff recommendation: Require minimum stay of three (3) nights for all vacation rentals.

Staff requests Council direction on the minimum stay for short-term rentals. Currently, the Municipal Code (Section 5.20.140) provides for three (3) consecutive days, with no overlapping leases, as the rental minimum. Urgency Ordinance No. 678 limits rentals to a minimum of seven (7) days for registered vacation rentals

Other cities' experience finds shorter minimum stays increase the property owner's adherence to the municipal code. Conversely, longer minimum stays encourage the property owner to illegally rent his/her property for less than the allowed minimum.

As Council discusses the minimum night's stay, two issues to keep in mind:

- 1) Should Council desire a 30-day minimum, staff recommends modifying Municipal Code (Section 5.20.020) to re-define short-term vacation rentals. Under current language, a vacation rental greater than thirty (30) days would not be subject to the recommended Code provisions discussed in this report.
- 2) Thirty (30) day rentals also complicate the collection of Transient Occupancy Taxes ("TOT") as the Municipal Code (Section 3.12.020) defines transient as "...a period of thirty (30) consecutive calendar days or less..." Therefore, vacation rentals of thirty (30) days or more, would not be required to pay TOT as currently written.

A modification of the TOT Municipal Code section would require a vote of the electorate under Proposition 218 as it would be considered a new tax.

Age Restriction.

Staff recommendation: Require minimum thirty (30) years of age for responsible party.

Currently, there is no age requirement in our municipal code to rent vacation rentals in Indian Wells. Many other cities have implemented age requirements, most commonly twenty-one (21) years of age or older. The City of Rancho Mirage recently made news for enacting a law requiring the person legally responsible for a rental – person executing a rental agreement – be thirty (30) years of age or older.

Under the Rancho Mirage code, the responsible person is required to sign a formal acknowledgement of his/her responsibility to follow vacation rental laws. It further requires the responsible person to ensure all occupants follow the laws and clearly states his/her subjection to fines for any violations of any occupants.

The Rancho Mirage provision was challenged in court in September of 2014 on the basis of civil rights violation. It was dismissed by a Superior Court judge in November. An appeal is pending.

Maximum Occupancy Limits

Staff recommendation: Reduce maximum occupancy to two (2) occupants per bedroom.

The Municipal Code (Section 5.20.120) limits overnight occupants at “two (2) persons, plus an additional two (2) persons per bedroom” (ten (10) overnight occupants on a four bedroom property). The code also limits the number of daytime occupants to all overnight occupants, “plus an additional one (1) person per bedroom.”.

If Council desired to make this provision more restrictive, the formula could be reduced to only two (2) occupants per bedroom (as opposed to 2+2). Both Rancho Mirage and Palm Desert have only two (2) per bedroom. Rancho Mirage allows for more if they are children under the age of three (3). Another option would be to place a hard maximum cap on the total number of occupants regardless of house size.

Parking Restriction

Staff recommendation: Maintain the current parking requirements.

The Municipal Code (Section 5.20.150) states "During the term of any short-term residential rental, a maximum of one (1) vehicle per bedroom shall be parked on the premises only in an approved driveway or garage." This is common provision in other vacation destination cities.

Council requested Staff investigate the possibility of creating a City-wide resident parking permit program. It is not currently illegal to park on Indian Wells public streets (may be different in gated, private road HOA's). A parking permit program would assist law enforcement to identify vacation rentals if there is a parking issue.

This parking permit program allows property owners and permanent residents to place a parking pass on their vehicles, or a pass for guests, to identify cars permitted to park on-street.

If Council chose to pursue a parking permit program, Staff recommends this component come back for separate discussion at a later date with proposed options of cost and implementation.

Neighbor Notification

Staff recommendation: Do not require neighbor notification.

The City of San Buenaventura ("Ventura") requires noticing neighbors of the emergency contact listed for a vacation rental. Through the Virtual Town Hall poll, residents overwhelmingly supported the concept of neighbor notification. However, there has been concern expressed about real estate disclosure requirements from some members of the public. Staff is seeking Council discussion and direction if neighbor notification should be required.

Enforcement:

Staff recommends a four-prong approach for enforcement:

1. **Education** – Send a direct mail piece to all Indian Wells property owners informing them of modifications to vacation rental rules. Communicate information and enforcement policy on City websites (both tourism and government sites), and City television channel. In addition, send out multiple e-blasts to inform residents of the changes. Staff will also contact Homeowners

Associations with the information. The first step to ensuring compliance is to educate property owners, agents, and guests concerning City regulations

2. **Registration** – City staff will issue Vacation Rental Permits through a process similar to the existing Business License program including collection of all necessary information on owners, agents and emergency contacts. Staff will manage and oversee the online rental registration database established as part of the ordinance. The list of registered “responsible party” renters will be routinely distributed to law enforcement personnel as a log of homes occupied by vacation renters.

3. **Law Enforcement** – Law enforcement is the combined effort of City Code Enforcement, Police Patrol, and Community Service Officers (“CSO”). Law enforcement will be available for contact by the public in two ways:

- i. A vacation rental hotline established specifically to report nuisances resulting from vacation rentals. Citizens may contact the hotline twenty-four (24) hours a day, seven (7) days a week. Upon receipt of a complaint, Hotline staff will first contact the property’s registered emergency contact, followed by a call to the police. The emergency contact will have forty-five (45) minutes to resolve any nuisance. Police personnel will investigate nuisance abatement. If violation persists, on-site contact will be made and the offending party will be cited.

Following any citation incident, Police Personnel will file a report with Code Enforcement to issue an administrative citation to the property owner the following business day; or

- ii. The City’s non-emergency Police phone number. Once contact has been made with the non-emergency number, Police dispatch personnel will make contact with the hotline and the process detailed above will be followed.

In addition to complaint-driven contact, law enforcement will be authorized through the ordinance to make proactive contact with any property registered as a vacation rental. This will allow law enforcement to investigate any property exhibiting signs of violation of the vacation rental laws without a complaining party.

Staffing needs:

- i. The executed 2014-2019 Riverside County Sheriff contract includes around the clock patrol, nearly 24/7 CSO coverage, and the addition of a "Utility Officer." The Utility Officer position is a hybrid traffic/patrol position that is flexible in use. This allows the City to provide twice the normal patrol on high activity weekends, such as the Coachella Music Festival or BNP Paribas Open tennis tournament, to enforce vacation rental and any other law enforcement needs.
 - ii. Code Enforcement consists of one half-time Officer and one Administrative Assistant. Once over 100 rentals are registered, the City may need to increase Code Enforcement staffing to one full-time, dedicated Code Enforcement Officer. All costs associated with vacation rental enforcement by Code Enforcement is recoverable through the permit registration fee collected. Non cost recoverable aspects would be funded from TOT collection.
4. **Review** – Continual review of vacation rental advertisements, responsible party registrations, and TOT will be an ongoing effort. City Staff will routinely research vacation rental advertising websites to ensure compliance of advertisements with the provisions of the ordinance. Any infraction will be an automatic violation. A routine review will be conducted to compare TOT collected to registered rentals. Code Enforcement may randomly inspect registered rentals for compliance with vacation rental provisions.

Ordinance Timing:

City Council has a couple of options in terms of the timing of an ordinance:

- Introduce the ordinance at the February 5, 2015 Council meeting. A second reading would be required at the February 19, 2015 Council meeting. Before becoming effective, the ordinance would require a thirty (30) day period, making March 19, 2015 the effective date of all new provisions; or
- Introduce an urgency ordinance at the February 5, 2015 Council meeting to become effective immediately upon a 4/5ths vote. California Government Code requires justification for an urgency ordinance.

Staff Recommendations:

1. Approve all Recommended Code Provisions; and
2. Introduce an Urgency Ordinance Feb. 5, 2015 to implement all provisions; and
3. Extend Urgency Ordinance for additional four (4) months at February 19, 2015 meeting; and
4. Staff presents results of recommendations in May 2015 to study further modifications, if necessary, to better protect quiet enjoyment of Indian Wells neighborhoods.

FISCAL IMPACT:

For a discussion of the potential fiscal impact please see the fiscal impact section of the September 18, 2014 City Council Staff Report (**Attachment 3**).

ATTACHMENTS:

1. Urgency Ordinance No. 677
2. Urgency Ordinance No. 678
3. September 18, 2014 Staff Report

INTERIM URGENCY ORDINANCE NO. 677

**AN INTERIM URGENCY ORDINANCE OF THE CITY OF INDIAN WELLS,
CALIFORNIA, MAKING FINDINGS AND ESTABLISHING A TEMPORARY
MORATORIUM ON SHORT-TERM RESIDENTIAL RENTALS**

WHEREAS, the Indian Wells Municipal Code, including the Indian Wells Zoning Code, permits short-term residential rentals in several zones subject to the requirements of Indian Wells Municipal Code Chapter 5.20; and

WHEREAS, in recent weeks, the City has seen an increase in public nuisance complaints associated with properties used as short-term residential rentals; and

WHEREAS, in February 2014, the City Council discussed the issue extensively at a strategic planning workshop and asked City staff to prepare for a study session on the subject; and

WHEREAS, as a result, on May 1, 2014, the City Council held a study session dedicated to the issues presented by short-term residential rentals, at which it requested City staff to prepare for its consideration a moratorium to give the City time to study the issue in more depth and to determine the potential impacts such short-term residential rentals may have on the public health, safety, and welfare; and

WHEREAS, based on the foregoing, the City Council finds that issuing permits, business licenses, or other applicable entitlements to individuals wishing to use their property for the purposes of a short-term residential rental, prior to the City's completion of its study of the potential impact of such short-term residential rentals, would pose a current and immediate threat to the public health, safety, and welfare, and that a temporary moratorium on the issuance of such permits, licenses, and entitlements is thus necessary; and

WHEREAS, based on the foregoing, the City Council finds that the use of property as a short-term residential rental in any zone of the City prior to the City's completion of its study of the potential impact of such short-term residential rentals is a public nuisance and poses a current and immediate threat to the public health, safety, and welfare.

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

SECTION 1. Imposition of Moratorium and Findings.

A. In accordance with the authority granted to the City of Indian Wells under Government Code Section 65858, from and after the date of this Ordinance, no use permit, variance, building permit, business license or other applicable entitlement for use shall be approved or issued for a short-term residential rental for a period of forty-five (45) days.

B. In addition, no property in any zone of the City is to be used for purposes of a short-term residential rental for a period of forty-five (45) days. The use of any property for such purpose shall be a public nuisance. Any violation of this provision shall be treated as a violation of Chapter 5.20 of the Indian Wells Municipal Code.

C. For purposes of this Ordinance, "short-term residential rental" shall have the same meaning as that term has in Indian Wells Municipal Code Section 21.08.437, and shall also mean the rental of any residential unit by use of more than one rental agreement within a thirty (30) day period.

D. Notwithstanding any provision in the Municipal Code Chapter 8.08 to the contrary, each citation for a violation of Municipal Code Chapter 5.20 shall be deemed to be a misdemeanor, and the fines therefor shall be \$2,000 for the first violation, \$3,000 for the second violation of the same Code provision within one year, and \$5,000 for each violation of the same Code provision thereafter within one year of the first violation.

E. This Ordinance is an interim urgency ordinance adopted pursuant to the authority granted to the City of Indian Wells by Government Code Section 65858, and is for the immediate preservation of the public health, safety, and welfare. The facts constituting the urgency are:

(1) The City has received an increased number of public nuisance complaints emanating from short-term residential rentals in recent weeks, involving the following:

(i) Loud, unnecessary, and unusual noises, which have disturbed the peace and quiet of neighborhoods and caused discomfort and annoyance to residents of those neighborhoods;

(ii) Apparent over-occupancy of units, which may pose a public health and safety risk;

(iii) Excessive on-street parking affecting the ability of residents to park their vehicles within a reasonable distance from their homes;

(iv) Parking of small 'party' buses on residential streets affecting the appearance and desirability of neighborhoods; and

(v) Unsightly appearance of short-term residential rentals caused by the strewing of sheets and mattresses in front of windows affecting the appearance and desirability of neighborhoods.

(2) After receiving complaints of this nature, the City has committed resources to study the impacts of short-term residential rentals on the surrounding community;

(3) Absent the adoption of this Interim Urgency Ordinance, the continued existence of short-term residential rentals in the City of Indian Wells could result in an even greater increase in nuisance conditions which negatively affect the well-being of the Community, thereby diminishing property values; and

(4) As a result, it is necessary to establish a temporary, forty-five (45) day moratorium on the issuance of any entitlements permitting short-term residential rentals in the City, pending completion of the City's study of the potential impacts of short-term residential rentals, and possible amendments to the City's zoning ordinances.

(5) In addition, it is necessary to prohibit, as a public nuisance, the use of property in any zone of the City for purposes of a short-term residential rental for the duration of the forty-five (45) day moratorium.

F. This moratorium shall not apply to short-term residential rental contracts existing on the date this Interim Urgency Ordinance is adopted ("Exempt Contracts"). Only existing, executed agreements between lessees and either the property owner or managing agency or agent may be considered Exempt Contracts. An agreement between a property owner and managing agency or agent is not exempt from this Ordinance. Exempt Contracts remain subject to the terms of the Indian Wells Municipal Code including, without limitation, Chapter 5.20.

G. In order to avoid unnecessary citations for violations of this Interim Urgency Ordinance, property owners, managing agencies, and agents shall submit a list of Exempt Contracts to the City Clerk by close of business on Friday, May 9, 2014. The following information must be included in the list of Exempt Contracts: the parties to the agreement; the date the agreement was entered into; the property to which the agreement applies; and dates on which the property is leased under the agreement.

H. The City finds and declares that this moratorium is a reasonable and necessary measure designed to protect the important public purpose of the preservation of the public health, safety, and welfare.

SECTION 2. Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the contemplated study of impacts.

SECTION 3. Severability. If any sentence, clause, or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each sentence, clause, or phrase thereof, irrespective of the fact that any one or more sentence, clause, or phrase be declared unconstitutional.

SECTION 4. Effective Date. This Ordinance shall become effective immediately upon adoption if adopted by at a least four-fifths (4/5) vote of the City Council and shall be in effect for forty-five (45) days from the date of adoption unless extended by the City Council as provided for in the Government Code.

SECTION 5. Notice of Adoption. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once in a newspaper of general circulation printed and published within the City of Indian Wells.

SECTION 6. Report. City staff is instructed to prepare the report required by Government Code Section 65858 (d) describing the measures taken to alleviate the condition which led to this Ordinance's adoption for presentation to the City Council no later than ten days prior to the expiration of this Ordinance.

PASSED, APPROVED and ADOPTED by the City Council of the City of Indian Wells, California, at a special meeting held on this 5th day of May, 2014.


TED J. MERTENS
MAYOR

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

CERTIFICATION FOR INTERIM URGENCY ORDINANCE NO. 677

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Interim Urgency Ordinance No. 677, the reading in full thereof unanimously waived, was duly passed and adopted at a special meeting of the City Council held on the 5th day of May, 2014, and said Ordinance was passed and adopted by the following stated vote, to wit:

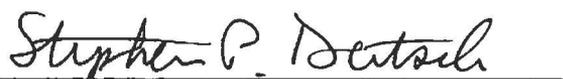
AYES: Hanson, Mullany, Peabody, Roche
NOES: None
ABSENT: Mertens

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

ATTEST:

APPROVED AS TO FORM:


WADE G. MCKINNEY
CITY MANAGER/CITY CLERK


STEPHEN P. DEITSCH
CITY ATTORNEY

URGENCY ORDINANCE NO. 678

AN INTERIM URGENCY ORDINANCE OF THE CITY OF INDIAN WELLS, CALIFORNIA, MAKING FINDINGS AND EXTENDING THE MORATORIUM ON SHORT-TERM RESIDENTIAL RENTALS FOR AN ADDITIONAL TEN MONTHS AND FIFTEEN DAYS PENDING STUDY AND ADOPTION OF REGULATORY AND ZONING STANDARDS

WHEREAS, the Indian Wells Municipal Code, including the Indian Wells Zoning Code, permits short-term residential rentals in several zones subject to the requirements of Indian Wells Municipal Code Chapter 5.20; and

WHEREAS, in recent weeks, the City has seen an increase in public nuisance complaints associated with properties used as short-term residential rentals; and

WHEREAS, in February 2014, the City Council discussed the issue extensively at a strategic planning workshop and asked City staff to prepare for a study session on the subject; and

WHEREAS, on May 1, 2014, the City Council held a study session on short-term residential rentals; and

WHEREAS, on May 5, 2014, the City Council adopted Urgency Ordinance No. 677 establishing a forty-five (45) day moratorium on the establishment or operation of short-term residential rentals in the City; and

WHEREAS, the City Council directed staff to draft a residential rental ordinance that temporarily restricts the rental period in the City to minimum of seven (7) days; and

WHEREAS, to address the community's concerns regarding the negative impacts associated with the operation of short-term residential rentals, it is necessary for the City of Indian Wells to continue to study the potential impacts such facilities may have on the public health, safety and welfare; and

WHEREAS, while no new regulations have been formulated or proposed in the brief time since the adoption of the moratorium, much progress has been made toward identifying key stakeholders and logical next steps; and

WHEREAS, City staff, the Sheriff's Department and the City Attorney's office are continuing to conduct research into the possible and likely impacts of regulating or outlawing short-term residential rentals in the City in order to mitigate such impacts; and

WHEREAS, City staff is continuing to gather factual data regarding the adverse impacts experienced by other cities that permit residential rentals. This information is currently being processed to as a tool to draft provisions for regulating residential rentals in the City; and

WHEREAS, City staff continues to conduct research into the City's options for regulating both short and long-term residential rentals. This research includes a review of many City ordinances in California that either prohibit or regulate residential rentals; and

WHEREAS, as a result, the City Council desires to extend the moratorium as it applies to short-term rentals that are shorter than seven (7) days for a period of ten (10) months and fifteen (15) days to allow staff and the City Council the opportunity to continue to research and select the best course of action for the City's citizens and the community at large; and

WHEREAS, in preparation for further extending Ordinance No. 677, and pursuant to Government Code Section 65858(d), the City has issued a written report describing the measures taken to alleviate the conditions which led to the adoption of Ordinance No. 677; and

WHEREAS, based on the report, the City Council has determined that the circumstances and conditions that led to the adoption of Ordinance No. 677, which are set in the recitals of Ordinance No. 677, have not been alleviated as of the date of this Urgency Ordinance and continue to create the concerns described in Ordinance No. 677; and

WHEREAS, the notice and public hearing required by Government Code Section 65858(a) of the California Government Code for the extension of Ordinance No. 677 have been provided in accordance with applicable law; and

WHEREAS, based on the foregoing, the City Council finds that issuing permits, business licenses, or other applicable entitlements to individuals wishing to use their property for the purposes of a short-term residential rental for less than seven (7) days, prior to the City's completion of its study of the potential impact of such short-term residential rentals, would pose a current and immediate threat to the public health, safety, and welfare, and that a temporary moratorium on the issuance of such permits, licenses, and entitlements is thus necessary; and

WHEREAS, based on the foregoing, the City Council finds that the use of property as a short-term residential rental for less than seven (7) days in any zone of the City prior to the City's completion of its study of the potential impact of such short-term residential rentals is a public nuisance and poses a current and immediate threat to the public health, safety, and welfare.

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

SECTION 1. Extension of Moratorium and Findings.

A. In accordance with the authority granted to the City of Indian Wells under Government Code Section 65858, from and after the date of this Ordinance, no use permit, variance, building permit, business license or other applicable entitlement for use shall be approved or issued for a short-term residential rental of less than seven (7) days for a period extending through and including May 4, 2015, pending the completion of zoning or other regulations that are needed to alleviate a current and actual threat to the public health, safety and welfare. Notwithstanding any provision herein to the contrary, no residential unit in the City shall be subject to more than one rental contract during any seven (7) day period.

B. In addition, no property in any zone of the City is to be used for purposes of a short-term residential rental of less than seven (7) days for a period extending through and including May 4, 2015. The use of any property for such purpose shall be deemed a public nuisance. Any violation of this provision shall be treated as a violation of Chapter 5.20 of the Indian Wells Municipal Code.

C. For purposes of this Ordinance, "short-term residential rental" shall have the same meaning as that term has in Indian Wells Municipal Code Section 21.08.437, and shall also mean the rental of any residential unit by use of more than one rental agreement within a thirty (30) day period.

D. Notwithstanding any provision in the Municipal Code Chapter 8.08 to the contrary, each citation for a violation of Municipal Code Chapter 5.20 shall be deemed to be a misdemeanor, and the fines therefor shall be \$2,000 for the first violation, \$3,000 for the second violation of the same Code provision within one year, and \$5,000 for each violation of the same Code provision thereafter within one year of the first violation.

E. This Ordinance is an interim urgency ordinance adopted pursuant to the authority granted to the City of Indian Wells by Government Code Section 65858, and is for the immediate preservation of the public health, safety, and welfare. The City Council hereby **FINDS** and **DETERMINES** as follows:

(1) The City has received an increased number of public nuisance complaints emanating from short-term residential rentals in recent weeks, involving the following:

(i) Loud, unnecessary, and unusual noises, which have disturbed the peace and quiet of neighborhoods and caused discomfort and annoyance to residents of those neighborhoods; and

(ii) Apparent over-occupancy of units, which may pose a public health and safety risk; and

(iii) Excessive on-street parking affecting the ability of residents to park their vehicles within a reasonable distance from their homes; and

(iv) Parking of small 'party' buses on residential streets affecting the appearance and desirability of neighborhoods; and

(v) Unsightly appearance of short-term residential rentals caused by the strewing of sheets and mattresses in front of windows affecting the appearance and desirability of neighborhoods.

(2) After receiving complaints of this nature, the City has committed resources to study the impacts of short-term residential rentals on the surrounding community.

(3) Absent the adoption of this extension of Urgency Ordinance No. 677, the continued existence of short-term residential rentals of less than seven (7) days in the City of Indian Wells could result in an even greater increase in nuisance conditions which negatively affect the well-being of the Community, thereby diminishing property values.

(4) As a result, it is necessary to extend the moratorium established pursuant to Urgency Ordinance No. 677 for ten months and fifteen days on the issuance of any entitlements permitting short-term residential rentals of less than seven (7) days in the City, pending completion of the City's study of the potential impacts of short-term residential rentals, and possible amendments to the City's zoning ordinances.

(5) In addition, it is necessary to prohibit, as a public nuisance, the use of property in any zone of the City for purposes of a short-term residential rental of less than seven (7) days for the duration of the ten months and fifteen days extension.

F. This moratorium shall not apply to short-term residential rental contracts of less than seven (7) days existing on the date the Interim Urgency Ordinance No. 677 was adopted May 5, 2014 ("Exempt Contracts"). Only existing, executed agreements between lessees and either the property owner or managing agency or agent may be considered Exempt Contracts. An agreement between a property owner and managing agency or agent is not exempt from this Ordinance. Exempt Contracts remain subject to the terms of the Indian Wells Municipal Code including, without limitation, Chapter 5.20. Notwithstanding the foregoing, no person shall be penalized for a violation of the requirement under Indian Wells Municipal Code Section 5.20.040 (a) that all operators of short-term residential rentals obtain a business license for an Exempt Contract so long as the following conditions are met: (1) the operator of the short-term residential rental must obtain a City business license and register with the City for payment of transient occupancy tax between June 16, 2014 and close of business on July 11, 2014; (2) the operator must pay all transient occupancy taxes applicable to the Exempt Contracts in accordance with Indian Wells Municipal Code Chapter 3.12; and (3) no citations or notices of violation for code violations relating to the property subject to the Exempt Contract shall have been issued on or after June 5, 2012. No Exempt Contract may be subleased.

G. In order to avoid unnecessary citations for violations of the Interim Urgency Ordinance, a list of Exempt Contracts must be submitted to the City Clerk by close of business on Monday, June 23, 2014. The following information shall be provided: the parties to the agreement; the date the agreement was entered into; the property to which the agreement applies; and dates on which the property is leased under the agreement. Copies of all written Exempt Contracts shall be submitted to the City.

SECTION 2. Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the contemplated study of impacts.

SECTION 3. Severability. If any sentence, clause, or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each sentence, clause, or phrase thereof, irrespective of the fact that any one or more sentence, clause, or phrase be declared unconstitutional.

SECTION 4. Effective Date. This Ordinance shall become effective immediately upon adoption if adopted by at a least four-fifths (4/5) vote of the City Council and shall be in effect for period of ten months and fifteen days, extending through and including May 4, 2015 unless extended by the City Council as provided for in the Government Code.

SECTION 5. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once in a newspaper of general circulation printed and published within the City of Indian Wells.

SECTION 6. Report. City staff is instructed to prepare the report required by Government Code Section 65858 (d) describing the measures taken to alleviate the condition which led to this Ordinance's adoption for presentation to the City Council no later than ten days prior to the expiration of this Ordinance.

PASSED, APPROVED and ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on this 5th day of June, 2014.


TED J. MERTENS
MAYOR

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

CERTIFICATION FOR URGENCY ORDINANCE NO. 678

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Urgency Ordinance No. 678, the reading in full thereof unanimously waived, was duly passed and adopted at a regular meeting of the City Council held on the 5th day of June, 2014, and said Ordinance was passed and adopted by the following stated vote, to wit:

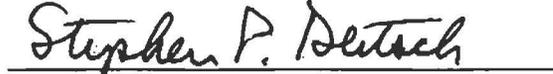
AYES: Hanson, Mertens, Mullany, Peabody, Roche
NOES: None

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

ATTEST:

APPROVED AS TO FORM:


WADE G. MCKINNEY
CITY MANAGER/CITY CLERK


STEPHEN P. DEITSCH
CITY ATTORNEY

Discussion and Direction Relating to Staff Findings Regarding Vacation Rentals and Provide Further Direction in Drafting an Ordinance Addressing Vacation Rentals

RECOMMENDED ACTION:

Council provides **DIRECTION** to Staff in drafting an ordinance addressing Vacation Rentals.

REPORT-IN-BRIEF:

Short-term vacation rentals (“vacation rentals”), defined as residential property rentals used for periods of less than 30-days in length under current Indian Wells Municipal Code, have grown in popularity in Indian Wells, the Coachella Valley, and worldwide. Due to increasing numbers and severity of complaints of problems with vacation rentals in some residential neighborhoods, and in response to City Council’s desire to adequately review the topic, City Staff have conducted extensive research of how other jurisdictions throughout California are dealing with vacation rentals. Outreach to other communities throughout California has identified a number of alternatives being used to address challenges caused by vacation rentals. This report details Staff findings and presents alternatives for both the outright prohibition of vacation rentals as well as provisions for strengthening the City’s Municipal Code should vacation rentals be allowed.

DISCUSSION:

This staff report presents the various approaches taken by other California cities to limit issues caused by short-term vacation rentals (“vacation rentals”) in residential neighborhoods. The report is structured to provide a comprehensive overview to provide the City Council with sufficient data to make an informed decision in guiding City policy. With this in mind, the report was written with the following objectives in mind:

1. Protect the peaceful enjoyment of Indian Wells neighborhoods;
2. Provide clear, enforceable rules guiding the use of residential property as it relates to vacation rentals; and
3. Provide information for an informed decision making process.

HISTORY

The use of residential property for use as vacation rentals, defined as rental use for periods less than 30-days in length under current Indian Wells Municipal Code, has been around for decades. Global destination cities such as Honolulu, New York, London, Paris, and others have for decades seen residential properties used for purposes of vacation rentals. However, the more recent explosion in popularity of vacation rentals has spawned from the use of the internet. Internet websites such as VRBO, HomeAway, VacationRentals, and AirBnB have provided convenient and inexpensive tools for connecting renters with property owners in what is best defined as the "sharing economy" (economic system built on the sharing of human and physical resources or assets between willing participants in order to reduce the capital cost that would otherwise be involved in owning such resources or assets outright as individuals).

Such easy access to vacation rentals has increased the popularity of this type of lodging in recent years. A 2013 TripAdvisor survey found that more than 20% of travelers plan to rent a vacation home for their vacation.¹ Vacation home rentals are attractive due to their size, affordability, and their ability to accommodate larger families at a lower cost than hotels.

Like most vacation destinations, the Coachella Valley has seen a rapid increase in the popularity of vacation rentals in recent years. According to a 2014 study conducted by TXP Economic Strategistsⁱⁱ, the Coachella Valley vacation rental market now creates more than \$272 million in economic activity annually and supports more than 2,500 jobs. The 53 currently sanctioned and licensed vacation rentals in Indian Wells are projected to generate as much as \$74,000 in Transient Occupancy Tax ("TOT") in 2014 (the moratorium currently in place only prohibits new rental registrations; those operating within the provisions of Urgency Ordinance No. 678 are still operating, therefore generating TOT revenues).

The use of residential property as vacation rentals is not without controversy. Complaints of late night parties, over-crowded homes, and on-street parking is a common theme. Repetitive nuisances in neighborhoods surrounding two or three vacation rentals caused a tipping point this past April during and after the Coachella Valley Music and Arts Festival. The City received numerous complaints regarding problem vacation rentals being used excessively as "party houses," where loud, unruly, and disruptive activities of guests disturbed the quality of life in a few Indian Wells neighborhoods.

In response to the heightened number of complaints, the City responded to the vacation rental issue by adopting a temporary moratorium on vacation rentals on May 5, 2014 banning vacation rentals outright. Subsequently, on June 5, 2014 the City Council modified the strict prohibition in response to concerns raised by property owners in compliance with City regulations, who desired using their properties for vacation rentals. In response, the City Council extended the moratorium through May 4, 2015 to provide

City Staff time to research and bring to the City Council in-depth information about best practices for dealing with vacation rentals, or outright prohibition of them.

There were a number of causes to the problems that came from vacation rentals in Indian Wells. The City had a vacation rental ordinance, No. 653 adopted in 2011, which regulated vacation rentals. However, a lack of education with property owners, Staff, and police led to issues resulting in the moratorium.

MORATORIUM RESULTS

On June 5, 2014, City Council adopted Interim Urgency Ordinance No. 678 which placed a strict moratorium on vacation rentals shorter than 7-days in length. That Urgency Ordinance stipulated that a 30-day grace period would be provided to allow property owners to register their properties in compliance with existing vacation rental rules in the Municipal Code. It also allowed those who registered to legally operate vacation rentals under 7-days in length for contracts in existence prior to May 5, 2014.

Prior to the grace period for registration, as set by the moratorium, the City only had 22 properties registered through the vacation rental license program created in 2011. The grace period resulted in another 31 property registrants seeking to comply with the Urgency Ordinance. To assist with the processing and oversight of vacation rentals the City hired Cindy Gosselin of Vacation Rental Compliance, a firm who specializes in vacation rental compliance in the Coachella Valley. Ms. Gosselin worked to register the additional 31 properties and had conversations with approximately another 30-40 additional property owners who were interested in continuing to utilize their properties as vacation rentals, but decided to wait until a final City Council decision on the topic before registering.

RESEARCH OVERVIEW

In order to research best practices, Staff reviewed the municipal codes and vacation rental ordinances of 23 jurisdictions throughout California, each considered to be vacation destination communities (including all cities in the Coachella Valley). Staff had phone discussions/interviews with a number of jurisdictions, including in-person meetings with the Cove Communities, to better understand how cities were utilizing the provisions of their codes to prevent neighborhood issues.

Staff's review focused primarily on code provisions for minimum number of nights, noise disruptions caused by rental guests/tenants, over-occupancy of units, parking restrictions, property owner/manager emergency contact requirements, and the use of property management firms. Additionally, staff reviewed citation provisions to determine the fine amount charged to violators in those communities.

Prohibition of vacation Rentals

Out of the jurisdictions reviewed, only four cities have an outright prohibition of vacation rentals in residential neighborhoods (Santa Monica, Pasadena, Healdsburg, & Carmel-By-The-Sea). Most notably is the City of Carmel-By-The-Sea, who in 1991 set legal precedence for prohibiting the use of residential property for transient commercial purposes of less than 30-days in length. A court ruling in *Ewing v. City of Carmel-By-The-Sea* established that it is legal for a jurisdiction to limit property owners rights when it is "reasonably related to the governmental interest in maintaining the residential character of an area and because the diminution in the homeowner's ownership rights was outweighed by the public interest in maintaining the residential neighborhood." Additionally, the City of Del Mar does not allow vacation rentals. However, they have no code provisions outright prohibiting rentals. Rather, their zoning code does not mention this type of use and therefore disallows vacation rentals by requiring a conditional use permit, which the City does not grant.

Each of the four cities prohibiting vacation rentals had municipal code sections dealing with provisions for noise violations and violations of the prohibition. However, in conversations with the staff from each of these cities, similar comments were made regarding the prohibition of vacation rentals. Each considered the enforcement of the prohibition as difficult.

A review of vacation rental websites in each city revealed large numbers of advertised rentals. These cities emphasized that burden of proof was required to cite a property owner for renting their property as opposed to lending the property. Carmel-By-The-Sea claimed some belief that property owners might inform renters to state they are borrowing property from the owner as either family or friends. Both Healdsburg and Carmel-By-The-Sea claimed illegal rental of properties to currently be a low city priority, despite broad belief that properties were being rented.

Each city claimed to have had limited success with citing a property owner for renting their property in violation of rental prohibitions. Santa Monica, perhaps the most visited city on the list, referred to their inability to enforce their vacation rental prohibition as problematic and a hot topic within the community. They have previously conducted some undercover efforts to catch property owners offering their properties for rent. In this effort the city did not fine property owners, instead electing to provide strict warnings as a result of some legal concerns of self-incrimination. The City Attorney believes the City would have latitude to conduct similar "sting" operations and would have legal standing to administer citations for violations of offering property for rent.

Allowance of Vacation Rentals

Contrary to the similarities in code provisions and approach to enforcement with each of the cities that provides an outright prohibition of vacation rentals, those jurisdictions that allow for and regulate vacation rentals have far greater variation in their municipal code language, as well as approaches to enforcement and regulation of those provisions. This section discusses the common aspects of code provisions guiding the use of residential property as vacation rentals as well as some overview of methods in which other jurisdictions utilize to regulate vacation rentals in order to maintain residential neighborhood character.

Short-term Vacation Rental Permit/License

All cities which allow vacation rentals require a permit or license, issued by the city, in order to legally operate. In each of these cases the cities also collect transient occupancy tax (TOT) on the rentals. The type of permit or license does vary from city to city. Each has benefits and weaknesses as discussed below.

Business License Process Issuance – some cities utilize their existing business license process to register vacation rentals. The advantage of the business license are processes and procedures that already exist. Costs for issuance and oversight are built into the fee charged for business license servicing, and helps to streamline the setup of a vacation rental program.

The challenge to this use, as is being voiced in Palm Springs by a concerned neighborhood group, is that this type of property usage is more akin to a commercial business in a residential neighborhood, and should not be allowed under the general plan zoning definition of a residential neighborhood. The claim is that the operation of a commercial business in a residential neighborhood fundamentally changes the character of the neighborhood.

Vacation Rental Permit – another approach used by cities is to issue a special permit specific to vacation rentals. These permits are viewed as a special type of license to operate under a vacation rental ordinance. The issuance of permits may include a separate registration process and procedures from a business license. The use of special permits varied by city. For example, Palm Springs utilizes only a vacation rental permit for licensure of vacation rentals, whereas Big Bear Lake, Rancho Mirage and Palm Desert utilize both a business license and a vacation rental permit.

The additional fee for a vacation rental permit, either separately from a business license or in addition to, is generally charged in order to cover the additional costs associated with regulation of vacation rentals. These additional costs include increased coordination by city staff or contractors, increased code enforcement efforts, and a separate or additional process for issuance.

Minor or Conditional Use Permit – historically some cities researched had utilized a minor or conditional use permit as issued through a plot map or land use approval process. This has generally been suspended as a practice as cities found it to be more time consuming and costly given increasing number of requests for such use.

Minimum Night’s Stay Restrictions

Table 1 – Minimum Stay

Number of Jurisdictions	Minimum Number of Nights Requirement
11	No Minimum
2	1
3	2
1	3
2*	7

*Includes the City of Indian Wells temporary moratorium per Urgency Ordinance No. 678

11 of the cities reviewed had no provisions requiring a minimum number of night’s stay in vacation rentals. The most common provision beyond no requirement was a two-night’s stay minimum. These included Palm Desert, Dana Point, and Ventura. Ventura, however, had a most unique requirement for minimum number of nights where two nights are the minimum required for the time period of September through May, with seven-night’s minimum required for the months of June through August (their ‘season’). City of Anaheim was the only city requiring a three-night minimum, with Solana Beach and Indian Wells, under the current moratorium, being the only cities to require seven nights.

Generally, the rationale for having a requirement for minimum night’s stay is that a longer time period brings with it a different rental clientele. The shorter the minimum, the higher the likelihood the renters are looking to have a party weekend, whereas the longer the rental the higher the likelihood the renters are looking for a relaxing vacation. Through the research, staff found nothing that quantifiably proves these assumptions to be correct nor incorrect.

Emergency Contact Restrictions

Table 2 – 24/7 Emergency Contact Response

Number of Jurisdictions	24/7 Emergency Contact Response Requirement
1	"Immediate Response"
3	30-minutes
4	45-minutes
2	60-minutes
1	4-hours
1	24-hours
6	No requirement

Of all of the jurisdictions that allowed vacation rentals, all required an emergency 24-hour per day, seven-day per week emergency contact. Where the cities differed was on the language requiring response by that emergency contact to issues arising at a rental property. Table 2 highlights the variance in provisions that exist. Indian Wells currently does not have any language that requires an emergency contact to respond within a time certain period. Best practices appear to require a response within a short time frame, generally from 30 to 60 minutes in length. In both Palm Desert and Rancho Mirage, an emergency contact who does not adequately respond within the time frame required (60-minutes and 45-minutes respectively) causes the property owner to be subject to an automatic administrative fine from City Code Enforcement.

Staff conversations with other cities revealed that requirements to have an emergency contact person respond within a time certain period was one of the most effective tools in preventing problems at vacation rentals. There were a number of different approaches to how emergency contacts were reached. Most Coachella Valley cities utilize a hotline phone number to forward complaints caused by vacation rentals to the provided emergency contact. Other cities have calls routed through their non-emergency police line and dispatch contacts the listed emergency contact. No matter the method, the intent is that the onus for resolving vacation rental issues be shifted from City resources to property owner.

Property Occupancy Restrictions

Table 3 – Property Occupancy Limits

Number of Jurisdictions	Maximum Nighttime Occupancy
2	Building Code = 1 person per 200 sq. ft.
3	2 persons per bedroom
8	2 person plus 2 person per bedroom
1	2 person plus 3 person per bedroom
1	2 person per bedroom plus 4 additional people
4	No limit listed
Maximum Daytime Occupancy	
8	Have daytime limit
15	Do not have daytime limit

Provisions limiting the number of occupants within a vacation rental varies greatly from city to city as can be seen by Table 3. The intent of the occupancy restrictions are to limit the number of occupants, generally in-line with California building and safety code, as well as prevent the use of property as party houses. California Building Code provides for a maximum nighttime occupancy of one person per 200 square feet of building space. This would limit a 2,000 square foot, four bedroom house to 10 people; whereas a limit of two person per bedroom would limit it to eight.

The most common provision is to allow for two persons, with an additional two persons per bedroom. Rancho Mirage allows for additional occupants if they are children under age 3. Big Bear Lake and Napa, in addition to an occupancy cap based on number of bedrooms (i.e. 2 persons per bedroom), places a hard cap on the total number occupants a vacation rental can house. Those limits were 16 and 10 respectively. The intent of the hard occupancy cap is to prevent large homes from used by large groups.

Daytime occupancy restrictions were less commonly included in codes than overnight occupancy limits. Only eight cities, mostly Coachella Valley cities, had daytime occupancy limits. All of those eight cities' provisions vary, with the most common formula to allow a number of guests per bedroom in addition to overnight occupants, up to a stated maximum cap (i.e. 2 additional daytime guests per bedroom up to a maximum of 18 total).

Parking Restrictions

Table 4 – Parking Restrictions

Number of Jurisdictions	Parking Restrictions
6	On-site parking restrictions
5	Only on-site parking
1	Parking permits required for on-street
1	Restricted number of on-street spaces allowed
6	No restrictions

Most cities reviewed have provisions guiding restrictions to parking. Most popular is to limit parking to only on-site space available (e.g. driveway, garage, carport, etc.), with the majority of those cities also providing limitation on number of cars allowed. Generally, the common provision for parking restrictions limits the number of cars allowed per bedroom, similar to occupancy limits. One car per bedroom, required to be parked on-site only, is the most common language. For a four bedroom house this would require that the property have enough parking spaces for four vehicles, with none being allowed on-street.

South Lake Tahoe included a unique provision whereby the rental contract and property must conspicuously post the maximum number of vehicles outside the property, visible from the street for law enforcement. This was a requirement that Lake Tahoe came up with as parking was identified by their staff to be a primary challenge with vacation rentals in that community (they also identified trash storage as a problem, but most other communities aren't too worried about bears).

Noise Restrictions

All cities researched had noise restriction code provisions. Not all cities provided for noise as a specific restriction of vacation rentals. This is because most cities provide for noise restrictions in residential neighborhoods to protect against any violations of noise, not just with vacation rentals. There was significant variation between the cities reviewed. The primary three categories in which codes could be broken down into are as follows:

Use of Noise Metering Equipment – a few cities provided for provisions that define maximum sound levels allowable, in decibels, with clear definitions of the type of equipment to be used for measurement. Staff found that of the cities that have provisions for use of sound metering equipment, most cities did not prefer the use of equipment as a means for enforcement of noise code provisions. This was because the noise equipment was generally costly, it required specialized training

for staff members, and was only used in a handful of instances. Generally, most staff we spoke with claimed that loud houses or parties typically quelled their noise upon contact by law or code enforcement personnel warning of violation of noise rules.

Subjective Authority for Determining Disturbance Given to Law/Code Enforcement Personnel – the most common option for enforcement of noise provisions was to provide both law and city code enforcement personnel with subjective authority to determine whether or not a property was causing a disturbance. Whereas State Penal Code section 415 describes it as against the law to disturb another person through loud and unreasonable noise, the courts have determined that a police officer's peace cannot be disturbed under this penal code provision. This prevents a police officer from arresting a party for loud noise unless the complaining party (usually a neighbor calling in the complaint) signs the complaint.

Most cities have found neighbors to be unwilling to sign such notices in fear of retaliation. This creates situations where loud houses go unpunished. By providing for subjective authority to law enforcement personnel to administer a city code misdemeanor citation to anybody violating a clearly described noise restriction, law enforcement personnel are able to utilize municipal code to cite a noise disturbance. Most cities claimed the contact and warning of a misdemeanor citation by police to be effective at stopping noisy houses.

Strict Noise Prohibition from Property Line – the third commonly found provision strictly prohibited any noise audible from the property line, typically tied to a time period limitation (i.e. no noise audible from the property line between 10:00 P.M. and 8:00 A.M.). These provisions, to some extent, fall under the prior category of providing subjective authority to law enforcement personnel. However, they go further in defining a threshold of noise allowed, which is none, at a distance certain, the property line. Similar to simple subjective authority, law enforcement can provide a misdemeanor citation for violation.

In addition to these common categories of noise restriction methods listed, five of the cities researched (Pasadena, Rancho Mirage, Palm Desert, La Quinta, and Palm Springs) had an outright ban on the use of noise amplification devices outside. Most commonly, this outright ban was for a time period generally considered to be night time (e.g. 10:00 P.M. to 8:00 A.M.).

It is important to highlight that any modification to Indian Wells' noise ordinance would apply evenly to property owners and vacation rentals. If a strict noise prohibition is put in place, then the code would apply evenly to all residential properties.

Citation Administration and Amounts

Like noise restrictions, all cities provided for citations upon violations of the Municipal Code relating to vacation rentals. The most common structure was a first violation warning, a second violation fine, and a third/subsequent fine of a larger dollar amount, typically double. Commonly both misdemeanor citations – given out by law enforcement to property occupants for violation of provisions limiting noise, occupancy, parking, etc. – and administrative fines – provided to property owners for their guests violating the same – were used in combination. This dual enforcement approach was regarded as an effective means to limiting the violation of vacation rental provisions given the effect on both renters and property owners/managers alike.

In addition to the common approaches listed above, the following is a list of additional, creative provisions found from various cities:

Suspension of License – a number of cities included provisions of suspension of a property owner's (or management company's) vacation rental license for a year upon a third violation of the vacation rental code provisions. Cities referred to this tool as the "hammer" that best prevented further issues with a property as it would prevent them from further renting their property.

Limit of Violations for Management Company – Big Bear Lake includes a provision that a management company representing vacation rentals who receives three citations on any properties within a year is fined. Five or more violations on any of the properties represented by the management company causes a revocation of the company's license for a period of one year. This provision is used to prevent problem companies from strategically rotating their problems between properties in an effort to prevent citations.

Police Cost Recovery – a couple of jurisdictions have provisions that require a property owner to cover any and all costs of law enforcement in response to a complaint of a vacation rental property after the initial warning. These costs are included in addition to a citation amount as a means of recovering the cost of law enforcement time spent attending to problem properties.

Order to Vacate – a number of cities including Rancho Mirage, Palm Desert, and Big Bear Lake include enforcement regulations that call for an immediate order to vacate, or eviction, for occupants who refuse to respond to complaints regarding violations of the vacation rental ordinance. This allows for a property owner, or 24-hour emergency contact, to immediately evict a short-term tenant, allowing for law enforcement to remove persons as trespassing, if necessary. Vacation rental contract language stipulating the right of owner or manager to immediately evict should be required in an ordinance.

It should be noted that the City of Indian Well's current urgency ordinance provisions call for the largest citation amounts (\$1,000, \$3,000, and \$5,000) out of all cities reviewed. This was commonly four to five times higher than comparative cities.

Age Restrictions

Most cities require a minimum age of the responsible renter for vacation rentals. Most commonly the age is 18 or 21 years of age. However, Palm Springs provides that a renter must be 25 years of age and Rancho Mirage recently made headlines for raising their age restriction to 30. The rationale behind higher age restrictions is that the older the renters, the less likely they are to be using the property as a party house. Generally older renters are more quiet and respectful of the residential neighborhood. In addition, with some emphasis on vacation rentals being popular for family gatherings, the older the renters the generally higher the likelihood of having children which lowers the likelihood of parties late into the night.

BEST PRACTICES ENFORCEMENT PROCEDURE

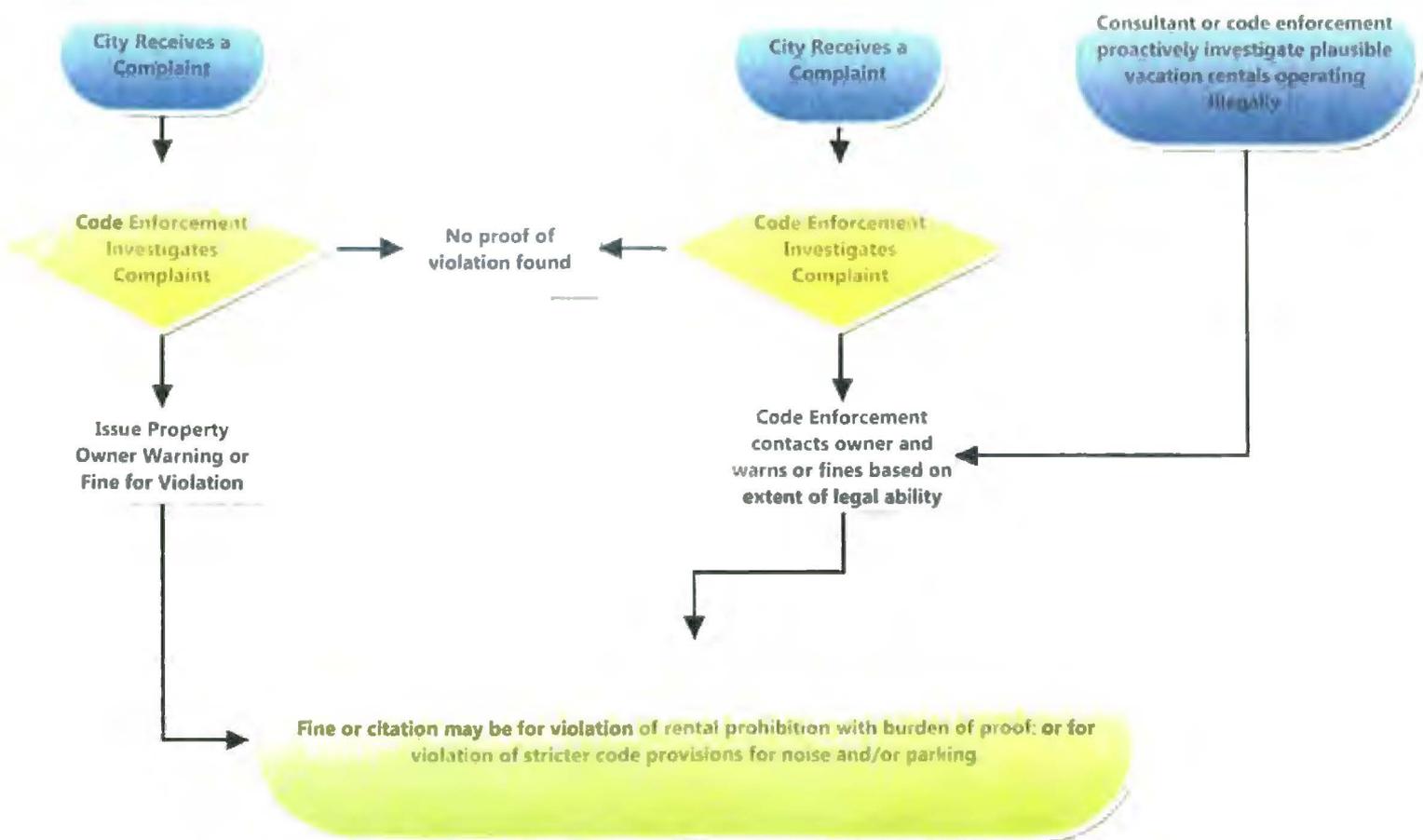
Any provisions considered for the prohibition or regulation of vacation rentals must take into account the enforcement abilities of the City. All cities reviewed in the research of this topic had larger law/code enforcement teams than does Indian Wells. Currently, the City contracts with the Sheriff for one patrol officer 24-hours per day, nearly 24/7 coverage from Community Service Officers (CSO), and one code enforcement officer. Given limited staffing, additionally enforcing any changes in municipal code will be challenging for Indian Wells. The need for staffing in the enforcement of a revised ordinance is discussed further in the Fiscal Analysis section of this report.

Out of all cities researched, a common pattern emerged as what could be considered a "best practice," in terms of vacation rental enforcement. The following pages detail two flow charts that diagram best practice approaches to regulating an outright prohibition or allowance of vacation rentals (allowance process culled from a combination of Big Bear Lake, Newport Beach, Palm Desert, Rancho Mirage, and South Lake Tahoe).

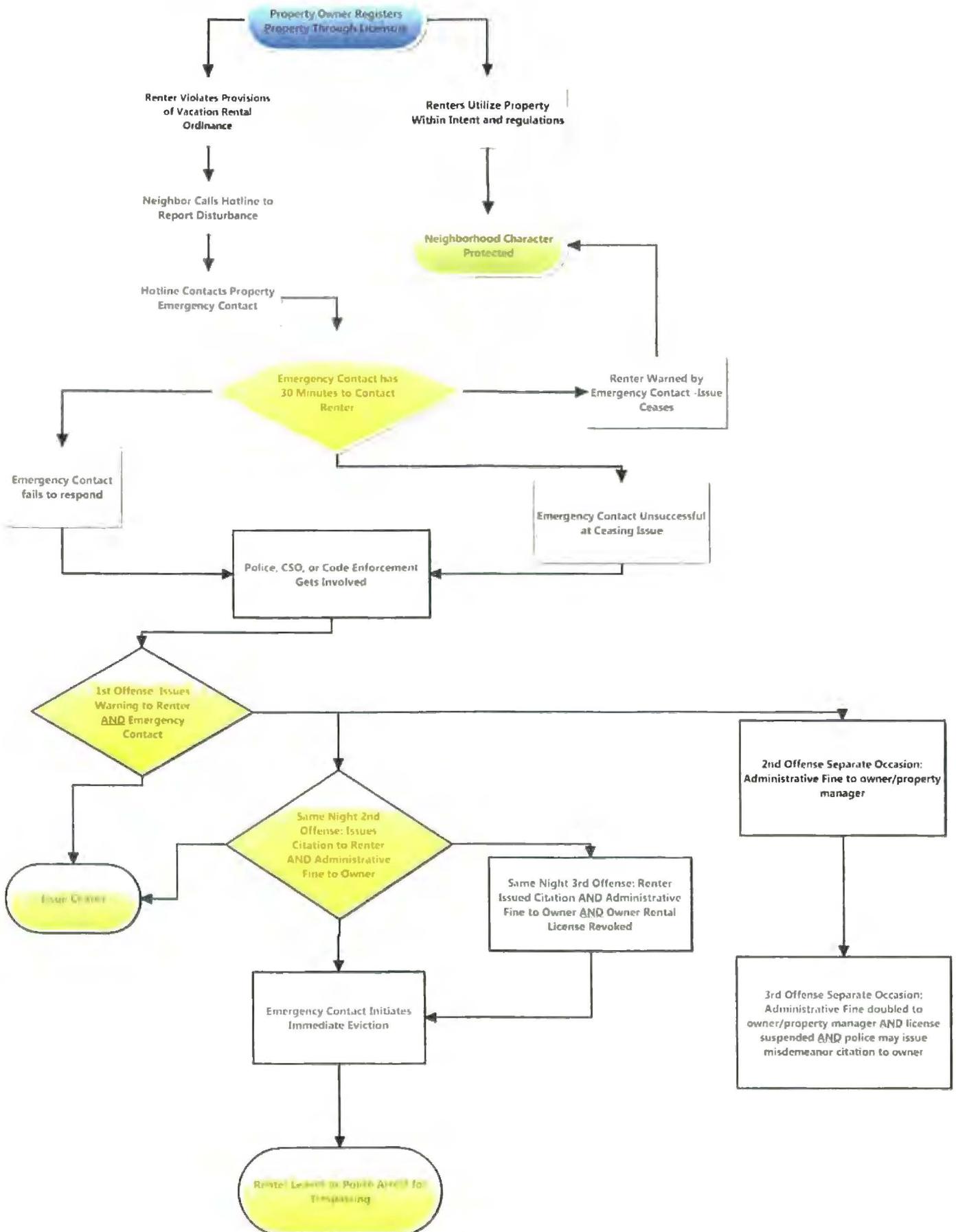
Prohibit Vacation Rentals

Reactive

Proactive



Allow Rentals



INDIAN WELLS HOME OWNER'S ASSOCIATION OUTREACH

Many Covenants, Conditions and Restrictions ("CC&R's") as enacted by Home Owners' Associations ("HOA's") deal with the topic of property rental. Most commonly, CC&R's restrict the rental of properties to a minimum of 30-days, enforceable by the HOA. In order to understand how Indian Wells' 56 current HOA's dealt with rentals, staff contacted, or attempted to contact, all HOA's for detail of their CC&R's regarding vacation rentals.

40 of the HOA's in Indian Wells contain language requiring a 30-day minimum stay for property rentals. Those 40 HOA's represent more than 3,590 residential units in the City. Staff received no response from 15 of the HOA's who were generally smaller associations represented by non-professional communities. And one HOA, Manitou Springs, allows for vacation rentals within their CC&R's.

Though the vast majority of HOA's do not allow for rentals of less than 30-days, the practice of enforcement of such is broadly ignored unless there are properties that cause problems. Cindy Gosselin of Vacation Rental Compliance indicated that the majority of HOA's in the entire Coachella Valley also include CC&R's limiting rentals to 30-days or more, but that the most common practice is for the HOA to not enforce strictly that provision. Ms. Gosselin cites the lengthy, and generally costly, legal expense to enforcement of rental provisions that many smaller HOA's do not have. This is a primary reason for a lack of enforcement within HOA's of vacation rental properties unless they are disturbing the peace of the neighborhood.

If the City were to prohibit vacation rentals, it would be in-line with the vast majority of CC&R provisions that currently exist. If the City were to allow vacation rentals, then CC&R rules would trump City code as being the more restrictive provision. However, the onus of enforcement of violators of a 30-day minimum would fall on the HOA's. The City would only maintain the responsibility to enforce violations of provisions of the City's vacation rental ordinance, which would allow for this type of property use.

VIRTUAL TOWN HALL RESIDENT FEEDBACK

The City utilized a Virtual Town Hall in order to gain resident feedback on the topic of vacation rentals. The online tool was utilized to allow residents who may be away for the summer season to continue to participate in the process. The City mailed out postcards advertising the opportunity to participate in the Virtual Town Hall, sent out multiple eblasts, and worked on an article with the Desert Sun to make residents aware. The Virtual Town Hall was broken up into two separate formats, an open-ended forum discussion followed by a poll with more targeted information. The results of each format is intended to help inform Council of resident sentiments on the topic.

Open-Ended Forum Discussion – The forum generated three hundred and forty-seven (347) visitors to the question of “What are your thoughts on vacation rentals?” One hundred and sixteen (116) visitors posted comments on the forum. Fifty-four (54) of those comments were not viewable by the public (author kept them private). Sixty-two (62) of those comments were viewable by the public. Due to the volume of comments, we have not provided them in this staff report. However, they are available through the City Clerk if desired.

As was seen at both the May 5 and June 5 Council meetings, there were two distinct groups for this topic, with some being in favor of vacation rentals and some against. The forum responses as a whole seemed to mirror the sentiments of public comments seen at both of those Council meetings. Following is a general summarization of the conversations that came out of the forum.

The reoccurring themes for those opposed to vacation rentals were as follows:

- Vacation rentals may compromise the Indian Wells residential lifestyle.
- The accommodation of guests is the function of the resorts.
- Vacation rentals bring too many nuisances to the community; like noise.
- Vacation rentals jeopardize the security of Indian Wells residents.

The reoccurring themes for those in favor of vacation rentals were as follows:

- This is a resort destination and therefore needs to accommodate our visitors.
- Prohibiting vacation rentals is viewed as a limitation on property rights.
- A minimum stay requirement is necessary to not compete with the resorts.
- Stricter fines and punishments are needed for those few problem homes instead of penalizing all vacation rentals.

Overall, the forum indicated to staff that there was an unfamiliarity of what vacation rentals are and a misconception of the scope of enforcement capability of law enforcement. For example, a common comment was that the City should allow for vacation rentals, but limit them to a 30-day minimum stay. Anything 30-days or greater is would be considered a month-to-month rental, which is already an allowed use under City municipal code. As a Charter City there may be some leeway for modification of this definition, but is something that would require City Attorney research.

The forum, along with the ongoing research of other municipalities, helped staff to realize the subsequent poll would help to better define the topics raised in the forum, and to also help educate on the individual aspects of vacation rentals like stay duration, noise, occupancy llimits, and parking.

Poll Results – the poll was not intended to provide statistically significant responses, rather, to give a better understanding to Council of general public sentiments. The result was 93 responses from the community.

1. What best describes your experience with vacation rentals (defined as rentals less than 30-days in length) in your neighborhood?

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. No issues	49.5%	46
b. Issues during seasonal events	28%	26
c. Issues year-round	22.6%	21

2. If you have had experience in your neighborhood with short-term rentals, what have been your concerns?

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. Noise	41.9%	39
b. No concerns	39.8%	37
c. Strangers in your community	31.2%	29
d. Parking	31.2%	29
e. Occupancy	25.8%	24
f. Lack of enforceable muni code	25.8%	24
g. Other	11.8%	11

Those answering “other” referenced degradation of property values, over-zealous complainers, potential for crime, slow/no police response, and non-compliance with HOA rules as those issues of concern with vacation rentals.

3. If vacation rentals were allowed, should there be a minimum number of nights required?

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. Longer than a week	50.5%	47
b. No minimum	19.4%	18
c. 3 nights stay (weekend)	15.1%	14
d. 6 nights/7 days (one week)	15.1%	14

4. If vacation rentals were allowed, should property owners renting their property be required to notify their neighbors, providing them with emergency contact information should an issue arise?

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. Yes	71%	66
b. No	29%	27

5. If the City of Indian Wells were to prohibit vacation rentals, should property owners be required to register guests who stay at their property without the owner present?

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. No	72%	67
b. Yes	28%	26

6. Which noise enforcement options would be preferable?

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. Provide law enforcement subjective discretion of a nuisance level	62.4%	58
b. Strict prohibition against any noise outside a residence audible from the property line	20.4%	19
c. Use of sound metering equipment	17.2%	16

7. In relation to noise issues, some other cities have prohibited any amplified noise outside (stereo, radio, etc.), mostly for the period of 10pm to 8am. These prohibitions apply equally to property owners and vacation renters. Would you be in favor of prohibition against outside, amplified noise?

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. Yes – for limited periods of Time (e.g. 10pm to 8am)	58.1%	54
b. Yes – all the time	29%	27
c. No	12.9%	12

For the final question we provided a preface of information that other cities who have prohibited short-term rentals have had difficulty enforcing the prohibition and widely believe property owners to be renting anyways.

8. Given this information, would you prefer to see the City of Indian Wells:

<u>Answer</u>	<u>Response %</u>	<u>Response Count</u>
a. Allow vacation rentals with strict regulations that prohibit nuisance issues such as noise and over-occupancy through citations, fines, and an ability to immediately evict tenants	57%	53
b. Prohibit vacation rentals and adopt as strict of rules as possible to respond to nuisance issues such as noise through citations and fines, with limited ability to regulate use of property.	43%	40

MERITS OF COMPETING APPROACHES

This section takes an overview approach to advantages and disadvantages of whether or not to allow vacation rentals.

Prohibition of vacation rentals

Pros:

- Clear and easily understood rules regarding vacation rentals
- Eliminates need for additional staffing
- Maintains neighborhoods as strictly residential in nature
- Eliminates competition for resorts in Indian Wells

Cons:

- According to other cities, it is difficult to enforce prohibition of vacation rentals
- Does not allow for collection of transient occupancy tax
- May not solve the problem of problem properties without further municipal code changes
- Limits the tools for enforcement of vacation rentals
- Provides opportunity for proactive enforcement through undercover efforts, but at a cost to the City that may not be fully recoverable
- Limits property rights

Allowance of vacation rentals

Pros:

- City can set clear restrictions and oversight provisions on property use in residential neighborhoods
- Allows for the collection of transient occupancy tax
- Provides more tools for enforcement of vacation rentals – e.g. noise, occupancy limits, parking restrictions, contract provisions, emergency contact information, immediate eviction, and age restrictions
- Provides opportunity for proactive prevention as opposed to reactive enforcement
- Creates database of registered properties and management firms which helps in overall regulation

Cons:

- May cause disruptions in residential neighborhoods from time to time
- Creates a competition with resorts in Indian Wells
- Causes disconnect between City rules and those of most HOA's
- Would require additional staffing to oversee the increase in proactive enforcement (cost should be offset by fees for permit and TOT)

STAFFING AND COVE COMMUNITIES INTERESTS

In conversations with staff counterparts at both the cities of Rancho Mirage and Palm Desert, there was interest in reacting to vacation rentals in a uniform manner. This would include enacting similar ordinances with matching provisions guiding vacation rentals in all three cities. This would benefit all three cities in the area of enforcement. The Sheriff Department patrols for all three cities and would benefit greatly from greater uniformity in approach to enforcement of vacation rentals. Instead of having to train officers on three different methods of response, one uniform response protocol could be utilized, thereby streamlining the Sheriff's training with patrol personnel.

There was also some interest in partnering through the Cove Commission to spread the costs of added Code Enforcement amongst the three cities. Both Palm Desert and Rancho Mirage each have robust Code Enforcement programs, with one officer nearly fully dedicated to vacation rentals. Both cities have weekend officers and utilize a 'flex' schedule during the Coachella Festival, Stagecoach, and during other popular times like college graduation and spring break. This allows them to have Code Officers on duty during the late night hours when issues arise from vacation rentals disrupting neighborhood peace. Both cities felt this elevated focus on enforcement was necessary during the busy times, but were generally open to contracting for some combined services for the remainder of the year. No further details were discussed.

FISCAL IMPACT:

COST OF PROHIBITION OF VACATION RENTALS

If the City were to prohibit the use of residential property for vacation rentals there are a couple of variable fiscal impacts it could have. With a strict-prohibition, it is likely the City would still seek to bolster existing municipal code language for noise and parking violations. These sections of municipal code would be most appropriate to deal with any residential property that causes issues within a neighborhood.

Reactive Enforcement Effort – similar to other cities that have prohibited vacation rentals, Indian Wells could take a minimalist approach in oversight of the prohibition. This would include investigating allegations of vacation rentals, enforcing updated noise and parking ordinances, and otherwise operating under the current status-quo of reactive to complaints. This approach would have little to no additional fiscal impact to the City.

Proactive Enforcement Effort – the City could be more proactive in enforcement of a vacation rental prohibition and any modifications to the noise or parking ordinances. This may include “sting” operations during targeted periods of the busy season, such as Christmas time, spring break weeks, Coachella Fest/Stagecoach, and early summer. This would include investigating advertised vacation rentals, contacting owners, and attempting contact with probable renters. The City Attorney would need to produce a memo regarding ability of the City to administer fines based on covert operations leading to a property owner renting to City officials, which could impact City costs.

Assuming the City could administer fines based on proactive investigations of likely vacation rentals, this alternative would have an additional fiscal impact on the City. The City could utilize continued services from Vacation Rental Compliance (i.e. Cindy Gosselin), a vacation rental consultant, at a contract price of ranging anywhere from \$10,000-\$30,000 per year to provide a desired level of proactive investigation. The investigative efforts could then be turned over to City Code Enforcement. This would have an impact on existing Code Enforcement staff. It is unknown the level of impact may be seen.

Potential for Litigation – though the courts have established a precedence for a jurisdictions right to restrict property use for preservation of residential community character, it is possible the City could face potential litigation from homeowners upset with a restriction on their property rights. This is a variable with unknown costs.

Another alternative would be for the City to increase Code Enforcement staffing and reprioritize CSO enforcement efforts to focus on rental prohibition, noise, and parking violations. In this effort the City would conduct all investigative work in-house through expanded Code Enforcement staffing and effort. Staff estimates a half-time Code Enforcement Officer would likely be necessary at a cost of approximately \$65,000 per year (includes 60% cost of benefits per City policy).

Finally, prohibition of rentals would require the City to incur added enforcement costs, if desired, without offsetting revenues. There would be no revenue through rental license fees and TOT collection. Therefore, prohibition of vacation rentals, if proactive enforcement is desired, would result in need for added General Fund budget.

COST OF ALLOWANCE OF VACATION RENTALS

As compared to prohibition, the allowance of vacation rentals has far more variables on how vacation rentals would impact the City financially. The City should, and likely would, increase the level of staffing to oversee a well-designed, robust vacation rental program. As compared to prohibition, these increase in costs would likely be fully offset by added revenues through rental license fees and TOT, and may even produce some surplus revenues to offset other general fund expenses.

Reactive Enforcement Effort – the City’s recent issues with vacation rentals stemmed from a reactive enforcement effort from both City Code Enforcement and Police. If the City were to allow for vacation rentals, it is not recommended that the City continue with a reactive response process. This would mean that residents wishing to lodge a complaint against a rental would have limited effectiveness during the late-night hours, and staff would respond with administrative fines on Monday morning for any violation of the rental ordinance. This would have little to no additional fiscal impact to the City, but would likely result in a perpetuation of issues within neighborhoods.

Proactive Enforcement Effort – if the City were to allow for vacation rentals, it would be recommended to have a robust, proactive enforcement program to ensure that vacation rentals comply with any vacation rental ordinance provisions. A proactive program would include multiple facets:

- Vacation Rental Compliance Contract – the City would benefit from contracting with VRC (Cindy Gosselin) for proactive investigation, outreach, and education to property owners renting their properties. This would ensure that rentals who do not register through City licensing process are contacted, educated on the City’s rental guidelines, and warned of possibility of administrative fines. This contract would also include access to the regional Vacation Rental Hotline, which dispatches rental property emergency contacts when residents call to report issues at a vacation rental

in their neighborhood. This service would be outside of City staffing and leverage the economies of scale of enforcement efforts already going on regionally. Such a contract would likely range anywhere from \$20,000 to \$35,000 per year depending on the Indian Wells volume of vacation rentals.

- **Additional Code Enforcement Personnel** – from research of other jurisdictions, the City would require an additional Code Enforcement Officer. Most cities studied who had robust vacation rental programs dedicated a full-time Code Officer to oversight and regulation of vacation rentals. A full-time Code Enforcement Officer would cost anywhere from \$107,000 to \$125,000 per year (including 100% cost for all benefits per City policy), depending on starting salary. This Officer would respond to complaints, investigate problem properties, issue administrative fines to property owners out of compliance, and work a flexible schedule during high-volume rental times such as Christmas time, spring break weeks, Coachella Fest/Stagecoach, early summer, and Tennis Tournament. Based on rental volume within the City, an added full-time Code Officer could also augment current City code enforcement capacities.
- **Specialized Training of Sheriff Personnel** – part of an effective enforcement program for rentals would include the utilization of CSOs for investigation of violations of vacation rental codes (i.e. drive to a home with a complaint of noise violation and utilize noise metering equipment, subjective authority, or determine if noise could be heard from property line, or additional parking enforcement). Additionally, Patrol Officers would need training in updated City codes in order to make contact with renters for issuance of misdemeanor citations. The training required for Sheriff Personnel would likely be minimal to no additional cost.
- **Marketing of Vacation Rental Program Guidelines** – the City would likely focus some part of marketing and advertising efforts to educate the public on the vacation rental program. Though this expense may not be an indefinite cost, the first few years would likely see annual costs upwards of \$5,000 per year to adequately educate the public on regulations and procedures for responding to issues.
- **Rental License Issuance** – as previously discussed, best practices are to issue a separate license or permit specific to vacation rentals. Such a program would increase staff costs for time issuing a secondary, special permit. However, prior to initiation of a vacation rental licensure program

staff would conduct a study to ensure that all costs are offset through an appropriate user fee.

- *Potential for Litigation* – though land use designations are one of the primary protections afforded to local government, it is possible the City could face potential litigation from residents who do not view vacation rentals as an appropriate use of residential property. This is a variable with unknown costs.

Taking into account the best practices and associated costs listed, a conservative estimate for proactively enforcing a robust vacation rental program would range anywhere from \$125,000 to \$170,000 per year. This does not take into account any additional costs for unknown litigation.

Potential vacation Rental Revenues – the City currently collects TOT on all 54 registered vacation rentals. Staff projects vacation rental TOT revenues in Fiscal Year 2014/15 to be as high as \$74,000. This is based on the historical number of nights rented, average nights rent, year-to-date collections, and number of currently registered rentals (through the moratorium process) at the current TOT rate of 11.25%. This projection does not take into account any permanent prohibition, should Council make that decision this year, or any business licensing fees. Business license fees simply offset staff time costs for processing the license.

In order to estimate a future revenue projection from vacation rentals, staff utilized historical data to determine:

- Annual average night stay: 49
- Average nightly rent rate: \$250
- Current TOT rate: 11.25%

Based on historical averages, staff extrapolated the following TOT estimates:

<u>Est. # of Rental Properties</u>	<u>Est. TOT Collection</u>
54	\$74,000
100	\$137,000
150	\$206,000
200	\$275,000

Taking into account the estimate of costs for administering a robust vacation rental program, the City would likely need a minimum of 100 vacation rentals operating at the historical average number of nights and rents in order to make a vacation rental enforcement program cost neutral. This estimate is considered plausible based on the additional number of 30–40 property owners Ms. Gosselin spoke to during the moratorium grace-period who decided to wait to register their vacation rentals in order to see City Council final direction on the topic.

Other Coachella Valley cities, upon adopting a vacation rental program, saw substantial increases in vacation rentals that previously operated underground, or from property owners taking advantage of the explosion in the market for vacation rentals. This leads staff to believe the City would likely offset all costs for enforcement and oversight, and could produce surplus revenues to offset other General Fund expenditures.

ALTERNATIVES:

Based on staff research the two primary alternatives appear to be:

1. Prohibit vacation Rentals and modify existing noise ordinance and/or parking ordinance provisions to provide additional enforceable rules for City Police and Code Enforcement; or
2. Allow vacation Rentals and adopt strict guidelines for the use of residential property to limit the negative issues that come with unrestricted, non-regulated vacation rental properties.

Any additional alternatives discussed by Council are welcomed.

End Notes

¹ http://www.tripadvisor.com/PressCenter-c7-Survey_Insights.html

² TXP study was commissioned by the Short Term Rental Advocacy Center, an interest-based organization founded by prominent online vacation rental websites with the goal of promoting best practices in rental regulations. Report available at <http://www.stradvocacy.org/media/TXP-STRAC-Impact-Report-Coachella-0312141.pdf>

17 Recommended Code Provisions for Enforcement:

1. Allow vacation rentals in Indian Wells only by fee-title property owners, or through an agent on behalf of a fee-title property owner.
2. Prohibit the subleasing of property for vacation rental purposes.
3. Require property owners to obtain a Short-term Rental Permit from the City for each property rented, and a business license for the owner and any managing agent – fee set by Council Resolution.
4. Require owners to provide an Emergency Contact required to respond to a nuisance complaint at a property within 45 minutes.
5. Require property owners to register renters through a City-run online database providing the name and contact information for the responsible party renting the property, along with dates of stay and number of occupants during stay. Must register at least forty-eight (48) hours prior to arrival.
6. Require each property to post a copy of the Rental Permit and City vacation rental rules in a conspicuous place, and provide each renter with a copy of the City's Good Neighbor Brochure (available at www.cityofindianwells.org/rentals).
7. Prohibit vacation rentals from activities such as weddings, receptions, and large parties without obtaining a Temporary Use Permit (TUP) from the City.
8. Require all rental agents representing properties on behalf of fee-title owners to register for, and maintain, a City Business License.
9. Require property owners to include 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.
10. Require rental agreements to include responsible party acknowledgment of the Indian Wells Vacation Rental rules and their liability for any fines incurred by occupants.
11. Establish a two-tiered penalty for any violation of the Municipal Code for:
 - o **Responsible Party for Vacation Rental** - may be cited with a misdemeanor fine upon any violation of the short-term rental ordinance, including violation of the noise ordinance, in the following manner:
 1. First Offense – Warning by Police or Code Enforcement;

2. Second Offense within any sixty (60) days of posting a notice of warning (see paragraph below) - \$500 misdemeanor citation;
3. Third and Subsequent Offenses within sixty (60) days of posting a notice of warning - \$1,000 misdemeanor citation.

Responding law enforcement will issue the First Offense warning by making contact with occupants and posting a Notice of Violation warning on the front door. The warning will be required to remain on the front door for sixty (60) days, notifying all occupants (current and future 60 days) that a Second Offense, or subsequent offenses, automatically results in citation to responsible person and property owner. Additionally, it will make it an automatic offense to remove the warning within the sixty (60) day period.

- **Property Owner** – will receive an administrative citation for any violation of the Municipal Code or noise ordinance by the owner or occupant in the following manner:
 1. First Offense - Warning by Police or Code Enforcement;
 2. Second Offense within any twelve (12) month period - \$2,000 administrative fine;
 3. Third Offense within any twelve (12) month period - \$5,000 administrative fine and revocation of the vacation rental permit for a period of twelve (12) months effective immediately;
 4. Any Offense during permit revocation period - \$5,000 misdemeanor violation for each offense and one additional year of permit revocation.
 5. All City fines get processed through a third-party vendor who sends violators to collections. Unpaid collections fines will be a mark reported to credit agencies. If non-payment persists after collections, a lien is recorded with the County and fines are collected through property tax bills.
12. Establish a multi-property ownership violation limitation of five (5) violations on any combination of owned properties within the City within any twelve (12) month period - upon five (5) violations, all owner Rental Permits will be revoked effective immediately.
 13. Establish a multi-property agent violation limitation of five (5) violations on any combination of represented properties within the City within any twelve (12)

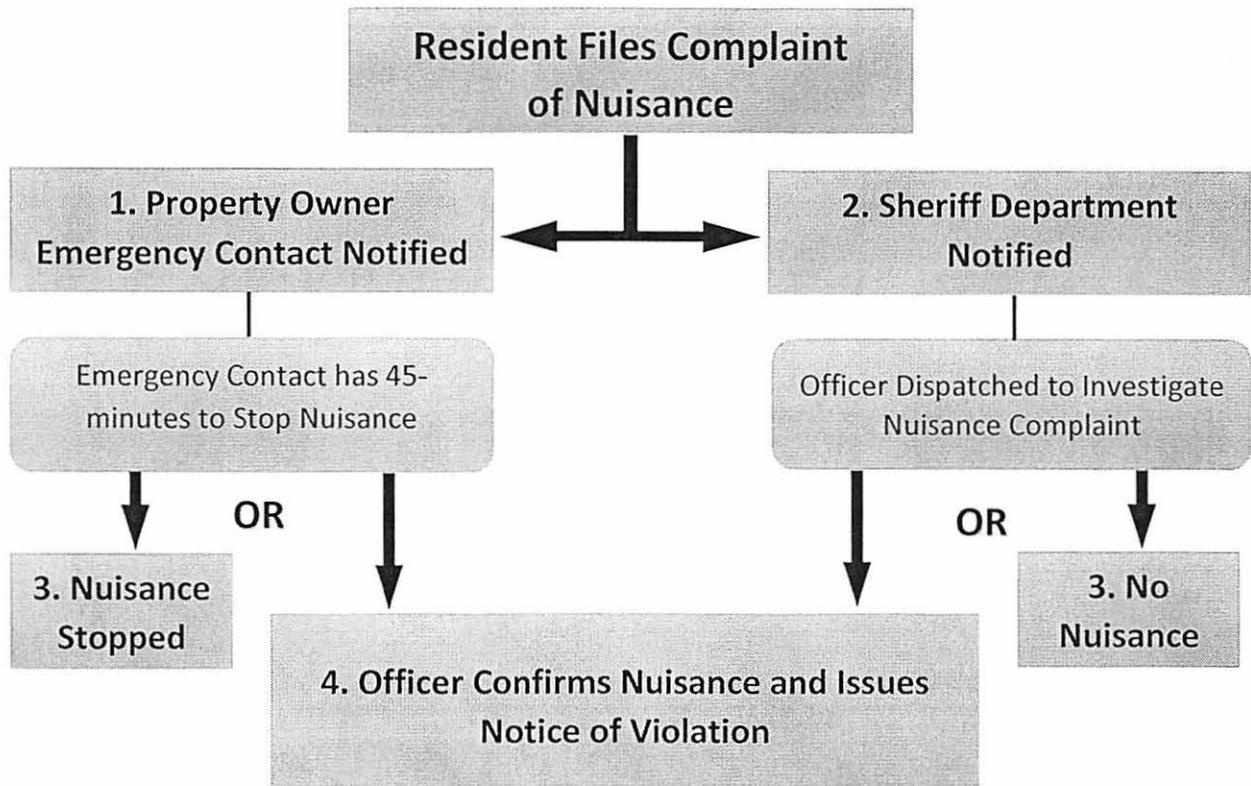
month period – upon five (5) violations, agent business license will be revoked immediately.

14. Require owners to remit quarterly Transient Occupancy Tax collected for vacation rentals.
15. Provide City authority to conduct random inspections of Vacation Rental properties to ensure compliance with provisions of the Vacation Rental code.
16. Require a permit number to be listed on all rental advertisements.
17. Create an administrative fine for any rental advertisement not in compliance with all vacation rental laws as established by City ordinance.

Policy Discussion Topics:

- **Neighbor Notification** – should property owners be required to notify all neighbors of intention to rent property short-term?
- **Age Restriction** – should the Responsible Party – person signing a rental agreement – be required to be a minimum age?
- **Occupancy Restriction** – should the current code of two occupants plus two per bedroom be reduced, or hard capped?
- **Parking Restriction** – should a City-wide parking restriction/permit program be created to prevent vacation renters from parking on the street?
- **Minimum Stay** – what should be the minimum stay in a vacation rental?

Vacation Rental Enforcement Procedure



The following procedure details the process of enforcement once a resident files a nuisance complaint through the Vacation Rental Hotline (hotline to be established).

1. Hotline staff's first contact is Property Owner's Registered 24/7 Emergency contact. Property Owner's Emergency Contact has 45-minutes to respond to the nuisance in an effort to quickly cease the issue. Lack of response by Emergency Contact results in automatic Notice of Violation.
 2. Hotline staff's second contact is Sheriff's Department. Sheriff dispatches law enforcement personnel to investigate nuisance complaint at the property reported to the Hotline.
 3. Emergency Contact will either stop the nuisance through interaction with renter or the Police investigation will find no nuisance at the property as reported. In this instance, a report will be filed with the City who will contact the Property Owner to inform them of complaint received. On a case-by-case basis, Code Enforcement may issue a Notice of Violation to Property Owner if deemed necessary.
- OR**
4. Officer confirms nuisance and Emergency Contact is unable to stop nuisance through contact with renter. Officer then issues a Notice of Violation at the property. Officer will then file a report with Code Enforcement who issues Notice of Violation to Property Owner.

Vacation Rental Fact Sheet

- Indian Wells currently has 52 registered Vacation Rentals under the moratorium set in place by Urgency Ordinances No. 677 (May 5, 2014) & No. 678 (June 5, 2014).
- There were 72 noise complaints received by the Sheriff's Department in 2014. 25 of those (or 34.7%), were from nine known vacation rental properties. Nine of the complaints (or 12.5%) were for severe issues at one property on Mary Lane. The three worst properties received nearly 24% of the noise complaints.
- Eight currently registered vacation rental properties (of the 52 registered under the Moratorium) had noise complaints in 2014 – this represents 15% of currently registered vacation rentals having received at least one noise complaint.
- Three months (March, April, and May) produced nearly 50% of noise complaints in the prior three years (47% in 2012, 46% in 2013, and 47% in 2014).
- 36 of the 52 currently registered vacation rentals (or 69%) are in HOA's whose CC&R's restrict rentals to a 30-day minimum.
- 38 of the 52 currently registered vacation rentals (or 73%) are managed directly by owner.
- Four California Cities Prohibit Vacation Rentals (30-day minimum) – a review of one rental website found the following:
 - Carmel-by-the-Sea – Currently has 212 rentals advertised on VRBO
 - Del Mar – Currently has 220 rentals advertised on VRBO
 - Santa Monica – Currently has 346 rentals advertised on VRBO
 - Healdsburg – Currently has 183 rentals advertised on VRBO

For Comparison:

- Indian Wells – Currently has 163 rentals advertised on VRBO
- 121 property owners advertising their properties for vacation rentals have been contacted and brought into compliance with the current moratorium on vacation rentals. Staff monitors websites weekly and makes contact with property owners advertising rentals out of compliance with the Moratorium. Currently, 17 notice of violations and \$12,000 in fines have been issued.
- As a tourist destination, one economic impact study showed that the Coachella Valley benefited from \$272 million in economic activity resulting from short-term vacation rentals in 2013¹.
- Greater Palm Springs Convention and Visitors Bureau stated "Short-term vacation rentals are an important component of the Coachella Valley tourism industry driving additional visitation and revenue for the destination."

¹ The Local Economic Impact of Participating Coachella Valley Short Term Rentals by TXP, Inc. Study commissioned by Short Term Rental Advocacy Center <http://www.stradvocacy.org/media/TXP-STRAC-Impact-Report-Coachella-0312141.pdf>