
Special City Council Agenda

Wednesday, April 1, 2015

10:00 a.m.

Indian Wells Golf Resort, Celebrity Ballroom

44-500 Indian Wells Lane, Indian Wells



Indian Wells City Hall

TELECONFERENCE LOCATION FOR COUNCIL MEMBER TED MERTENS: HILTON HOTEL, 10 E. GRAND AVENUE, CHICAGO ILLINOIS 606611 (REGISTERED J MERTENS)

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. COUNCIL POLICY IS A 3-MINUTE TIME LIMIT. 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 AREA 44-950 ELDORADO DRIVE, INDIAN WELLS DURING NORMAL BUSINESS HOURS.

Meeting will begin once the Housing Authority has concluded its meeting.

1. CONVENE THE SPECIAL CITY COUNCIL MEETING, PLEDGE OF ALLEGIANCE AND ROLL CALL

MAYOR TY PEABODY
MAYOR PRO TEM DANA REED
COUNCIL MEMBER RICHARD BALOCCO
COUNCIL MEMBER DOUGLAS HANSON
COUNCIL MEMBER TED J. 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 FORM IN ADVANCE AND HAND IT TO THE CLERK. 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. AT THE APPROPRIATE TIME, PLEASE COME FORWARD TO THE PODIUM AND STATE YOUR NAME FOR THE RECORD. COUNCIL POLICY IS A THREE-MINUTE LIMIT. 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.

- A. Public comments concerning any matters within the subject matter jurisdiction of the Council.

4. GENERAL BUSINESS

- A. Discussion of City Goals and Action Plans for Budget Years 2015-17 and Council Direction for Any Revisions.

RECOMMENDED ACTION:

COUNCIL **DISCUSSES** THE CITY GOALS AND ACTION PLANS PROPOSED BY STAFF AND PROVIDES **DIRECTION** TO STAFF FOR ANY REVISIONS.

A lunch break for Council and staff is scheduled from Noon to 1:00 p.m. City business will not be discussed during lunch break so as to insure compliance with the Brown Act.

Discussion of General Business item #B will begin promptly at 1:00 p.m.

- B. Discussion and Direction Relating to Short-term Residential Rental Standards and Requirements.

RECOMMENDED ACTION:

COUNCIL DISCUSSES AND PROVIDES **DIRECTION** TO STAFF RELATING TO IMPLEMENTATION OF A MINIMUM STAY REQUIREMENT FOR SHORT-TERM RESIDENTIAL RENTALS BY ZONING OVERLAY OR ANY OTHER ALTERNATIVE APPROACH AS DIRECTED BY THE COUNCIL.

ATTACHMENTS:

2015 HOMEOWNERS ASSOCIATIONS LIST
HOA BOUNDARY MAP
NON-HOA NEIGHBORHOOD MAPS
MEMO FROM COUNCIL MEMBER BALOCCO
PRIOR STAFF REPORTS ON VACATION RENTALS

- C. Designation of Delegate to Southern California Association of Government General Assembly.

RECOMMENDED ACTIONS:

COUNCIL **DESIGNATES** A DELEGATE AND ANY ALTERNATE TO REPRESENT THE CITY AT THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENT GENERAL ASSEMBLY HELD IN PALM DESERT ON MAY 7-8, 2015; AND

AUTHORIZES ANY NORMAL AND REASONABLE REIMBURSEMENT OF EXPENSES INCURRED.

5. CONSENT CALENDAR

- A. Approve FAMD Warrants and Demands.

RECOMMENDED ACTION:

COUNCIL **APPROVES** APRIL 2, 2015 FAMD WARRANTS AND DEMANDS.

ATTACHMENT:

APRIL 2, 2015 FAMD WARRANTS AND DEMANDS

B. Approve City Warrants and Demands.

RECOMMENDED ACTION:

COUNCIL **APPROVES** APRIL 2, 2015 CITY WARRANTS AND DEMANDS.

ATTACHMENT:

APRIL 2, 2015 CITY WARRANTS AND DEMANDS

6. ADJOURNMENT

TO A REGULARLY SCHEDULED MEETING OF THE CITY COUNCIL TO BE HELD AT 1:30 P.M. ON APRIL 16, 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 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

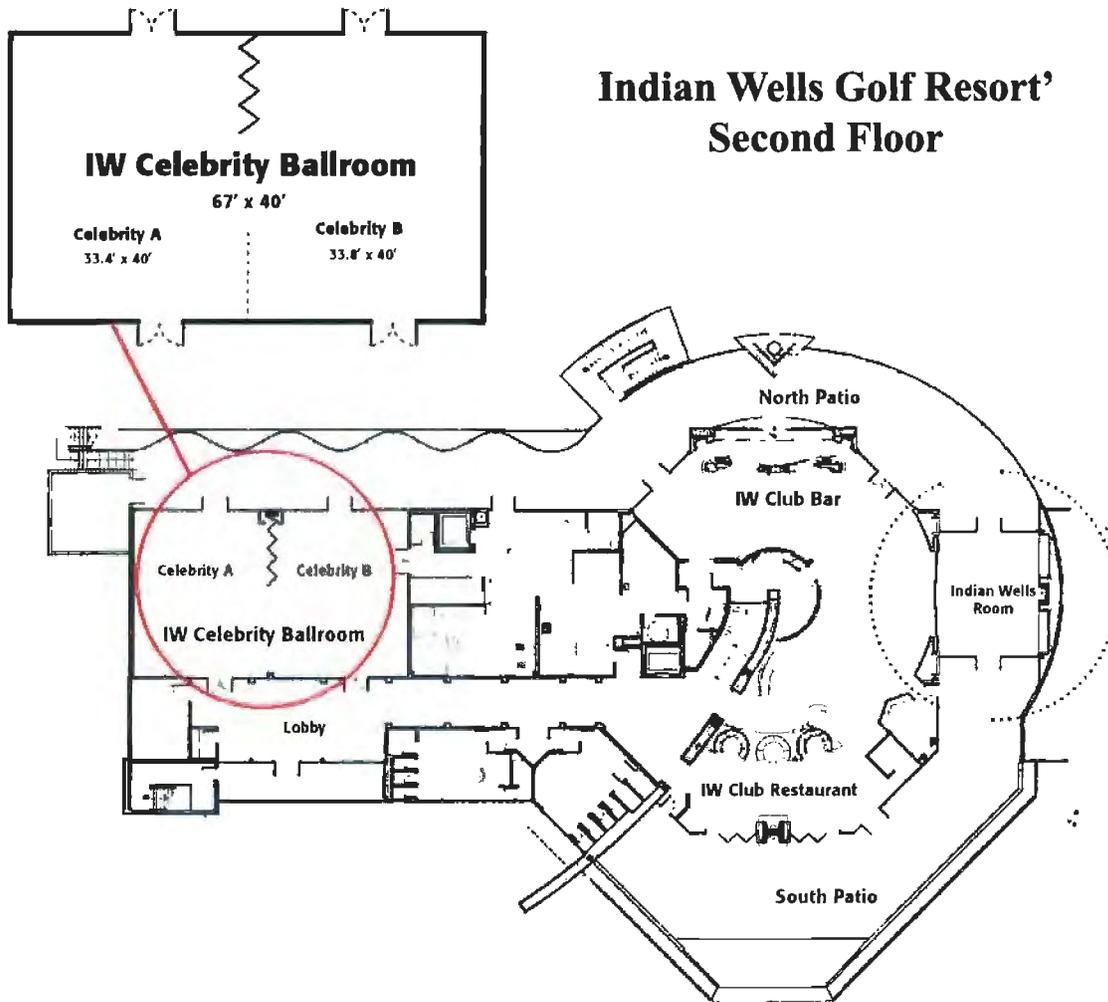
AFFIDAVIT OF POSTING

I, Anna Grandys, certify that on March 27, 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 Wednesday, April 1, 2015 at 10:00 a.m. at the Indian Wells Golf Resort, Celebrity Ballroom.

Notices were posted at Indian Wells Civic Center, Village 1 [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



Warren Morelion

From: susankblais@aol.com
Sent: Tuesday, March 31, 2015 4:48 PM
To: Warren Morelion; ggassaway@indianwells.com
Subject: Please pass my thoughts on to the Council regarding short term rentals

I object to a more than seven day rental requirement. I support the regulations that I have read regarding renting private homes in Indian Wells.

Again, my intention is to enjoy my own home most of the time and to rent for a few week long periods to pay the taxes and the gardner. Otherwise,

I will be forced to sell and many others will have the same repercussions. I know a 30 day or more allowable rental will seriously reduce the prices of

Indian Wells homes for some citizens. We need the restaurant life and shopping to be boosted with life brought in by tourist dollars. The

hotels do a great job with the weekend golf warriors who are out for a few days of R and R but the wealthy East Coast freezing come here for a couple

of weeks where they gather with their friends to spend money and NOT spend their time cooking but out and about. I am one of them and everyone

who has been to my house, friend/family or paying guest is the same. They don't go to hotels for more than four or five days which makes my home

to the right people perfect.

I realized when I called IWCC to find out about their cancellation policy for my membership that you have a huge decision to make that would affect

so many and will be echoed throughout the valley. I wish you enlightenment in your decision.

Susan Blais
76801 Iroquois Drive
Indian Wells

CC/HA ACTION _____ MTG. DATE: 4-1-15
APPROVED _____ DENIED _____ REC/FILE _____ CONT _____
OTHER: Directed to ADD + W Golf
VOTE: YES _____ NO _____ ABSTAIN _____
Report component to strategy:
April 1, 2015
and provided further direction
on beautification of Highway 111.

Indian Wells City Council
Staff Report – City Manager’s Office

Discussion of City Goals and Action Plans for Budget Years 2015-17 and Council Direction for Any Revisions

RECOMMENDED ACTION:

Council **DISCUSSES** the City Goals and Action Plans proposed by staff and provides **DIRECTION** to staff for any revisions.

DISCUSSION:

The purpose of strategic planning is to anticipate the future, envision what the organization must become in order to operate effectively with that future, and make plans for moving the organization from what it is to what it needs to become to be successful. The Strategic Plan identifies strategic issues, establishes broad goals, and states general priorities.

The Indian Wells the strategic planning effort coordinates organizational priorities on a citywide basis. The City Council annually reviews and updates the City’s Strategic Plan.

The City’s Mission Statement is:

Create an unsurpassed quality of life for our residents and guests by providing superior public safety, exceptional service and outstanding amenities that will further enhance our image as a prestigious community and international resort destination.

The City Council Strategic Planning Workshops:

Don Maruska facilitated the Strategic Planning workshop held February 11-12, 2015. The City Council discussed shared hopes for the future and community priorities. The Council identified a list of issues facing the City and worked to prioritize the list to focus the City's efforts for the upcoming two-year budget cycle.

Highest Priority Goals:

Create a Ten Year Financial Strategy

Encourage and Expand Economic Development Opportunities

Create a Flood Mitigation Plan with Community Partners

Beautify the Highway 111 Corridor

Create a City Communications Plan

The City Council also identified two specific Action Plans for the 2015-16 year:

- Strengthen Contract Administration
- Provide Property Owner privileges to Lessee's through a Resident Identification Card

The City Council identified other "Important Goals to Achieve" which, while important will not be programmed into the work plan until the Highest Priority Goals identified above are completed. Some work on these goals may occur as part of the Council and Staff regular work plan. They include:

- Protect the quality of the Highway 111 corridor
- Conduct a City Charter Review
- Provide additional recreational and educational programs for Residents through Desert Recreation District funding
- Explore options to reduce LLMD fees

The following is a list of these goals and action plans for the City to accomplish in the two year, 2015-17 budget period. The plan may be amended from time to time by the City Council replacing a new goal with one stated here or redirecting certain efforts which will come through ongoing conversations and quarterly reports at regular City Council Meetings. Naturally some of the action plans will implement multiple goals, for clarity they are listed in only one section.

Goal No. 1: **Create a Ten Year Financial Strategy**

Co-Champions: David Gassaway, Assistant to the City Manager
Kevin McCarthy, Finance Director

Desired Outcome: Council and community have understanding of the City's long-term financial position in order to identify the revenue necessary to maintain the high quality standards of Indian Wells.

Action Plans:

□ **Comprehensive long-term expenditure analysis**

- Capital replacement and reserve needs study.
- Contract services study and trends analysis.
- Special revenue sources expenses (Enterprise funds).

□ **Comprehensive long-term revenue analysis**

- Review of special revenue funds.
- Analysis of major general fund revenues and trends.
- Review project billing and accounting costs.

□ **Describe funding gaps**

- Compare bottom line revenue and expenditure outcomes.
- Review variance in revenue sources vs. operating expenses.
- Review variance in reserve fund growth vs. capital replacement needs.

□ **Build strategies for funding gaps**

- Pursue targeted grant opportunities.
- Explore strategic economic development projects.
- Review fees and cost recovery.

Goal No. 2: **Encourage and Expand Economic Development Opportunities**

Champion: Warren Morelion, Community Development Director

Desired Outcomes: Refine development process and partner with developers where projects offer desirable benefits to the City.

Action Plans:

- **Continue to improve the development review process**
 - Update building permit checklist to assist with submittal of a complete packet to expedite processing.
 - Update development submittal checklist to assist with submittal of entitlements.
 - Investigate Municipal Code amendment options to streamline the entitlement process.

- **Develop a Comprehensive Economic Development Plan**
 - Research community demographic and psychographics information to influence future economic development.
 - Identify optimal types of development and complementary infrastructure to promote long term economic sustainability.
 - Develop priorities and standards for business and development incentive decisions.
 - Identify and pursue high priority, target markets for new development.

- **Process Indian Wells Tennis Garden Stadium 3 project**
 - Fast track the entitlement and permit process.
 - Expedite inspections to meet December 2015 completion date.

- **Coordinate Renaissance Indian Wells Villas and Waterpark development**
 - Assist in establishment of a public engagement process for the project.
 - Analyze the potential for developer incentives based on project design, quality and potential TOT revenue.

Goal No. 3: **Create a Flood Mitigation Plan with Community Partners**

Champion: Ken Seumalo, Public Works Director

Desired Outcome: Facilitate the process for stakeholders to reach a community solution for flood control.

Action Plans:

- **Identify the City's role in facilitating the process**
 - Develop public engagement process.
 - Coordinate the process with community stakeholders.

- **Research existing conditions**
 - Develop legal understanding of local requirements for flood control.
 - Review existing City and regional storm drain system.
 - Engage with drainage experts to address issues with existing system.
 - Cooperate with CVWD in identifying flood trouble spots.
 - Assemble Flood Inundation (FEMA) maps.

- **Develop a City analysis report**
 - Prepare analysis report including history, existing system, and legal obligation.
 - Prepare exhibits such as existing system, jurisdiction boundaries, and cross section of 100-year flood.
 - Present information report to City Council, FAMD and stakeholders.

- **Develop a Communication Plan**
 - Provide simplified FEMA flood map on City website.
 - Provide informational updates with City Council, FAMD, and stakeholders.

Goal No. 4: **Beautify the Highway 111 Corridor**

Co-champions: Warren Morelion, Community Development Director
Ken Seumalo, Public Works Director

Desired Outcome: Beautiful Highway 111 corridor retaining the unique character of Indian Wells.

Action Plans:

- **Define Cook Street and Highway 111 improvements**
 - Develop design alternatives based on City Council direction, to include no art alternative, cleanup site and replacement of palm trees.

- **Improve frontage appearance of commercial properties**
 - Require property owners to clean and maintain their property frontages by removing unsightly vegetation and installing new screen fencing and mulch and/or landscaping.

- **Determine use of Arts in Public Places funds**
 - Identify amount in the fund upon completion of the Carl Bray project.
 - Identify possible art projects and locations in the City.
 - Establish review and approval process.

Goal No. 5: **Create a City Communications Plan**

Champion: Nancy Samuelson, Marketing & Community Relations Director

Desired Outcomes: Continue to engage the community through effective communication and education on community issues. Implement a plan to bridge any gaps between citizens and government.

Action Plans:

□ **Create a Communication Plan that includes:**

- Indian Wells Brand Guidelines.
- "Best Practices" Strategies.
- Robust Outbound Communication Programs.
- Media Outreach & Engagement.
- Citizen Engagement Approaches & Tactics.
- Process where citizens can connect with Council & Staff.
- Ways to boost participation in local government and the public process.

□ **Enhance and Upgrade Website**

- Consolidate the City's two websites (City & Tourism).
- Create new cutting-edge design on City site to enhance use and citizen engagement.
- Bring events and sign-up forms to forefront for residents to find easily.
- Enhance the availability of public documents on website.

The Council also identified the following two action plans to be completed in Fiscal Year 2015-16.

Action Plan No. 1: **Strengthen Contract Administration**

Co-Champions: Anna Grandys, Chief Deputy City Clerk
Wade McKinney, City Manager

Desired Outcomes: Council and residents have a clear understanding of the life cycle of a contract, and the internal management of contracts. Enhance web-based accessibility of City contracts by the public.

Objectives:

- Written report to Council on types of contracts, number of, and outline how departments manage said contracts.
- Expand financial software (Eden) module pilot program to include contracts over \$25,000.
- Add to City website "Contracts approved within last 60 days" section to include a link to the contract, short description of contract, contract amount and contract administrator information.
- Expand existing availability of contracts on City website and establish a user friendly contract organization structure.
- Quarterly report outlining City Attorney's Office work product to include: code enforcement activity, costs and reimbursements; any reimbursable work product for third party; personnel matters; litigations; and major work projects.

Action Plan No. 2: **Provide Property Owner Privileges to Lessee's Through a Resident Identification Card**

Champion: Kevin McCarthy, Finance Director

Desired Outcome: Extend property owner privileges to long-term lessees.

Objective:

- Draft policy for Council consideration providing a Resident Identification Card to long-term lessees. Policy will include:
 - Minimum 1-year lease.
 - Lessees shall have same privileges as Property Owner Identification Card holders
 - The property owner shall relinquish Property Owner Identification Card for subject property.

The Council identified "Important Goals to Achieve" but did not rank them as priority. Some work on these goals may occur as part of the Council and Staff regular work plan.

Additional Goals Identified:

Protect the quality of the Highway 111 corridor

Conduct a City Charter Review

Provide additional recreational and educational programs for Residents through Desert Recreation District funding

Explore options to reduce LLMD fees

CC/HA ACTION _____ MTG. DATE: 4-1-15
 APPROVED _____ DENIED _____ REC/FILE _____ CONT. _____
 OTHER Directed Staff & Return
 VOTE: YES 4 NO 1 ABSTAIN _____
 Peabody
 April 1, 2015

Indian Wells City Council

Staff Report – City Manager’s Office

To Council w/ an ordinance to: allow min of 7 days; operators to register/licenses/permits grandfather existing rentals & 45 day approval for

Discussion and Direction Relating to Short-term Residential Rental Standards and Requirements

new property owners to apply license & permit; non-registered prop. owners ineligible to rent for less than 29 days; Carve out for tennis tournament period; Reduce fines previously imposed in Feb 2015; remove neighbor notification & remove daytime occupancy limit.

RECOMMENDED ACTIONS:

Council discusses and provides **DIRECTION** to Staff relating to implementation of a minimum stay requirement for short-term residential rentals by zoning overlay or any other alternative approach as directed by the Council.

REPORT IN BRIEF:

Council previously directed staff to research a zoning overlay to allow Short-term Residential Rentals (“Vacation Rentals”) in Home Owners Association neighborhoods, with a prohibition of Vacation Rentals in neighborhoods without a Home Owners Association. This report presents information and alternatives on a zoning overlay to meet Council’s direction, details timeframes for implementation, and estimates fiscal impact.

At the April 1st Council Work Session, Staff’s objective is to present and clarify information provided in this staff report, hear public input, and provide assistance to Council during discussion on implementation of a permanent solution to the minimum length of stay for Vacation Rentals. Staff is seeking Council direction to proceed with one of the recommendations presented in this report.

DISCUSSION:

Background

At the January 22, 2015 Council Work Session on Vacation Rentals, Council proposed and discussed a zoning overlay to allow for vacation rentals for a shorter minimum night stay in neighborhoods with Home Owners’ Associations (“HOAs”), and prohibit them in non-HOA areas (prohibition through a 30-day minimum rental). The direction to Staff at that meeting was to look into the possibility of the idea and pursue it as an alternative.

On February 5, 2015, staff presented, and Council voted to introduce, Ordinance No. 685 modifying rules for Vacation Rentals. During Staff's presentation, Council confirmed interest in an overlay, or Municipal Code text amendment to Chapter 5.20 (Short-Term Residential Rentals), that would allow rentals in HOAs and disallow them in non-HOA neighborhoods.

In both instances, Council also suggested some desire to pursue an exception to the non-HOA prohibition during the annual tennis tournament.

Attachment 5 provides all of the prior staff reports presenting Staff research into the topic of Vacation Rentals. This is provided as further background to the voluminous effort to date, and helps detail the progression of discussion that lead to Ordinance No. 685.

Objective

This report presents Staff's research and findings in creating a City policy that allows Vacation Rentals in HOAs and disallows them in non-HOA neighborhoods. Staff is seeking Council discussion of the overlay concept and direction on implementation of an overlay policy. Alternatives are additionally presented in this report to help facilitate Council discussion.

HOA Defined

For purposes of clarity, the definition of a Home Owners Association used herein comes from the California Civil Code Section 4080: "Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

A common interest development is further defined in California Civil Code Section 4100 as: "Common interest development" means any of the following:

- a) A community apartment project.
- b) A condominium project.
- c) A planned development.
- d) A stock cooperative.

The California State Library Research Bureau, in a report requested by the Legislature, help to further interpret California Civil Code to clarify common interest developments ("CIDs") as:

[CIDs] are characterized by the individual ownership of a house or condominium coupled with the shared ownership or right to use common areas. These common areas can include streets, parks, and

recreational facilities. CIDs are managed and maintained by an association, which all homeowners belong to by law. A board of directors, elected by the development's homeowners from their ranks, governs the association. The board is responsible for collecting monthly assessments to fund day-to-day expenses and for the upkeep and replacement of major infrastructure components over time.

The report goes on to further describe a CIDs power:

A CIDs primary governing document is its covenants, conditions and restrictions (CC&Rs), but also includes by-laws. The board of directors is charged with enforcing the CC&Rs and maintaining property values. The CC&Rs state, with very little flexibility, the responsibilities, and the duties of the association and its directors. Homeowners can amend CC&Rs by following the procedures spelled out in their CIDs CC&Rs. If there is no provision in the CC&Rs, Davis-Sterling [the common name for the Legislation creating Section 4000 of California Civil Code,] allows for the majority to change them.

The rules and regulations are the other governing component of CIDs. The board [of directors] has more flexibility in the creation of rules. These are not part of the CC&Rs and may not require membership approval.

Using the definitions provided for in Section 4000 of California Civil Code, and the California Research Bureau's interpretation of CIDs, the City of Indian Wells currently has 56 CID's represented on the 2015 Homeowners Association list (**Attachment 1**). These 56 Homeowners Associations ("HOAs") are represented on the attached graphical map detailing the known boundaries of all listed HOAs in Indian Wells (**Attachment 2**).

Zoning Overlay vs. Municipal Code Text Amendment

The options for implementing an HOA/non-HOA policy can be completed through either a Zoning Map Overlay, or a Municipal Code text amendment to Chapter 5.20 of the Municipal Code. City Attorney's office provided the following information on which option is preferable. The decision comes down to legal defensibility of the policy.

Zoning Overlay

Although both of the approaches described in this report are legally defensible, adoption of an overlay provides an approach that is somewhat more defensible than a simple text amendment. This is due to a couple of factors:

- Zoning or re-zoning of property to include an overlay is a quasi-legislative act that, when reasonable in object and not arbitrary in operation, constitutes a justifiable exercise of police power. Under the City's police power (the promotion of public safety and welfare) it could be reasonably justified that the existence of an HOA, through the authority of CC&Rs or rules and regulations and the potential ability for localized security patrol, provides a neighborhood sufficient ability to address issues with Vacation Rentals, and therefore prevent nuisance conditions through local restriction.

Conversely, non-HOA neighborhoods do not possess such ability to prevent nuisance issues through local restrictions. Therefore, the City's police power, through prohibition of rentals less than thirty (30) days in length, is justified to prevent nuisance situations that may be caused by the existence of Vacation Rentals and which are significantly less likely to be prevented by local homeowner control.

- Any legal attack or challenge to a zoning amendment to include an overlay is limited to ninety (90) days from adoption, and places burden of evidence of arbitrary or capricious action on the challenger.

A zoning overlay would allow the City to provide findings justifying the necessity for restrictions in non-HOA areas as it relates to Vacation Rentals. Plus, the limitations and burden of proof placed on any party that wishes to challenge the City's findings as arbitrary provides somewhat greater legal defensibility to the City's action.

Chapter 5.20 (Short-term Residential Rental) Text Amendment

In the Vacation Rental Chapter 5.20 of the Municipal Code, text could be modified describing prohibition of rentals of less than thirty (30) days in length in non-HOA areas of the City. Through the recitals of an Ordinance, or otherwise, the City could provide similar justification of police power as a zoning overlay, thereby justifying the necessity to differentiate non-HOA neighborhoods from HOAs.

A simple text amendment would arguably present somewhat greater opportunity for any legal challenge as arbitrary or capricious. Additionally, the limitations for filing action and burden of proof are not effectively present, therefore extending ability of a challenge. Finally, without a simple and clear overlay map, enforcement of just a text provision will be more difficult.

Stated more simply, the amount of court precedence citing a City's ability to modify zoning based on findings of police power would provide a greater level of legal defensibility through a zoning overlay than would a simple municipal code text amendment.

Zoning Overlay Procedure

To establish a zoning overlay, as recommended by the City Attorney, a Municipal Code Amendment, Zone Map, and Zone Text Amendment would be required. The Zone Map Amendment and Zone Text Amendment, per City policy, are required to go to Planning Commission for review, followed by final approval by City Council, both through public hearings.

Quickest Timeframe

Timing for a zoning overlay depends largely on the determination by Council as to how detailed the HOA vs. non-HOA areas will be. **Attachment 3** used the HOA definition presented in this report to highlight the neighborhoods that are not known to be HOAs. Only those highlighted neighborhoods would be subject to 30-day minimum rentals (prohibited) under this definition.

Utilizing this methodology to determine the neighborhoods where Vacation Rentals would be prohibited, Staff estimates the time necessary to complete a zoning overlay that meets City Attorney's determined requirements would be approximately four (4) months:

- One (1) month to draft language, create exhibits, and produce a staff report; and
- One (1) month to publish the notice of public hearing and present to Planning Commission; and
- Two (2) months to modify the report for public hearing before Council with two (2) readings of the ordinance and a required thirty (30) day adoption appeal period.

Longer Timeframe

Should Council desire to use a more complex definition of neighborhoods to determine where Vacation Rentals would be allowed or disallowed, based on findings of City's police power, staff estimates the process could take six (6) or more months.

- One (1) month to prepare for Council Work Session to determine criteria for justification of police power in differently defined boundaries for Vacation Rentals;
- One to two (1-2) month(s) to draft language, create exhibits, and produce a staff report; and
- One (1) month to publish the notice of public hearing and present to Planning Commission; and
- Two (2) months to modify the report for public hearing before Council with two (2) readings of the ordinance and a required thirty (30) day adoption appeal period.

The one to two (1-2) month(s) for staff preparation of documents is provided given the unknown nature of complexity that could result from a Council Work Session. More complex criteria used for determination of which neighborhoods would prohibit Vacation Rentals creates greater complexity to the language and mapping required. Staff has erred on the side of caution in order to not overpromise the timeframe.

Chapter 5.20 Text Amendment

An amendment to Chapter 5.20 of the Municipal Code would represent the quickest timeframe for implementation. Utilizing the HOA definition as presented here (**Attachment 3**), Staff anticipates the timeframe for completion to be two (2) months. This would include the Staff time necessary to prepare the ordinance language, as well as the two (2) readings of the ordinance and required thirty (30) day adoption appeal period given an ordinance.

This timeframe, too, would be extended should Council desire to conduct a more complex description of criteria determining police power for prohibition of Vacation Rentals. Staff anticipates an additional two months to allow adequate time for a Council Work Session to determine criteria.

Non-HOA Neighborhood Exceptions

Council's previous direction to Staff included the provision of a "carve-out" time period providing an exception for the allowance of Vacation Rentals during the annual BNP Paribas Tennis Tournament. If Council desired to make this exception through the zoning overlay process, it could be included in the amendment process. This would allow Vacation Rentals to operate legally during the tennis tournament in March, so long as the owner complied with all of the rules and regulations in Chapter 5.20 of the Municipal Code, as amended by the Vacation Rental Ordinance No. 685 or subsequent changes.

An additional suggestion by Council was to provide a process for making additional exceptions to allow for Vacation Rentals within non-HOA neighborhoods or allow currently registered rentals to be grandfathered in. The former would be possible through the standard Conditional Use Permit process currently reserved to approve certain uses as deemed appropriate for a particular area or zone in the City. As for grandfathering existing rentals, an exception in the zoning overlay can be include if Council desired.

It should be noted that Conditional Use Permits require City Council approval. Conditional Use Permits currently cost around \$2,000 to process. Depending on the number of exception requests submitted, this option could be costly and time consuming to process.

FISCAL IMPACT:

Zoning Overlay Costs

Staff estimates costs to be around fifteen thousand dollars (\$15,000) to cover staff time and materials for a zoning overlay based on the HOA definition provided. This is the cost that would be charged to any private entity submitting an entitlement application that includes a zoning change.

Chapter 5.20 Text Amendment Costs

Staff anticipates the cost for drafting an ordinance to modify Chapter 5.20 of the Municipal Code to be drastically cheaper than a zoning overlay. As this is not a standardized process, it is also more difficult to estimate exact costs. Staff's rough estimate is less than \$4,000 in staff time.

Transient Occupancy Tax ("TOT") Impact

If Vacation Rentals are prohibited in non-HOA neighborhoods, there will be an impact to estimated TOT collection as compared to Citywide allowance of Vacation Rentals. **Table 1** estimates the TOT impact in non-HOA areas.

Table 1

Currently Registered Vacation Rentals	47	VRBO Advertised Vacation Rentals	161
Non-HOA Areas	14	Non-HOA Areas	36
Representation	30%	Representation	23%
Total Est. TOT Collection	\$65,000	Total Est. TOT Collection	\$222,000
Non-HOA Area TOT Share	\$19,500	Non-HOA Area TOT Share	\$51,000
Note: TOT collection estimates based on City's historical average of annual TOT collections per property of \$1,378.			

The non-HOA neighborhoods have fourteen (14) of the forty seven (47) currently registered Vacation Rentals, or about thirty percent (30%). These neighborhoods additionally represent about twenty-three percent (23%), or thirty-six (36) of the vacation rentals currently advertised on VRBO.com (currently 161 total properties advertised).

ALTERNATIVES:

Adoption of a minimum stay requirement Citywide would be an alternative to a zoning overlay. Any uniform minimum stay less than thirty days in length (Staff maintains the shorter the better based on research conducted) would be the least complex, quickest, least expensive to implement, and most likely to maximize TOT revenues. Additionally, no cities that have attempted a thirty (30) day minimum stay have had success in keeping Vacation Rentals out of their community.

To do a uniform minimum stay, a revision to Chapter 5.20 of the Municipal Code would be required through the standard ordinance adoption process. The timeframe would be approximately two (2) months to draft an ordinance to present to Council for two (2) readings and a required thirty (30) day adoption appeal period.

Staff previously recommended a three (3) day minimum stay. Experiences from other cities researched revealed that the shorter the minimum stay, the greater the likelihood property owners participated and complied with city regulations. Council may consider a longer length of stay minimum.

One additional alternative would be to allow for any length of stay, but limit the total number of rentals allowed in a given period of time (i.e. two rentals per month maximum). This alternative was not found to be utilized by any other cities researched by Staff, but could present a viable alternative. The primary challenge identified with this alternative, similar to challenges presented with thirty (30) day minimums, would be the City's burden of proof for any rentals over the designated maximum.

RECOMMENDATION:

In order of preference, Staff recommends each alternative presented in the following order:

1. Direct Staff to introduce an ordinance adopting a uniform Citywide minimum stay requirement of three (3) days, allowing Vacation Rentals;

IF NOT 1, THEN:

2. Direct Staff to draft and introduce a Zoning Overlay allowing Vacation Rentals in HOAs for a uniform minimum stay, and disallow Vacation Rentals in non-HOA neighborhoods through a thirty (30) day minimum stay requirement;

IF NOT 2 THEN:

3. Direct Staff to prepare work on criteria necessary to justify the City's police powers for the creation of a more complex Zoning Overlay allowing Vacation Rentals in neighborhoods that meet detailed criteria. This option would require an additional work session for Council input into the criteria to determine which neighborhoods would allow Vacation Rentals vs. those that would not.

Council Member Balocco submitted to the City Manager for inclusion on this topic a memorandum detailing his thoughts on Vacation Rentals. It is provided in this report as **Attachment 4**.

Vacation Rental Moratorium

On February 5, during introduction of Vacation Rental Ordinance No. 685, Council voted to maintain the Moratorium on Vacation Rentals of less than thirty (30) days for unregistered properties, and maintain the prohibition on new property registrations, until the minimum length of stay issue was settled. Urgency Ordinance No. 677, and subsequently modified by Urgency Ordinance No. 678, established the moratorium on new Vacation Rentals. Urgency Ordinance No. 678 will expire on May 5, 2015. None of the alternatives presented here by Staff would settle the minimum length of stay issue prior to the May 5, 2015 expiration of the moratorium.

Staff recommends Council, at the next available regular meeting of the City Council, extend Urgency Ordinance No. 677 for an amount of time appropriate to implement Council's direction on the minimum length of stay. The Moratorium would be obsolete upon permanent action and will be removed as part of final resolution of minimum length of stay.

ATTACHMENTS:

1. 2015 Homeowners Associations list
2. HOA Boundary Map
3. Non-HOA Neighborhood Maps
4. Memo from Council Member Balocco
5. Prior Staff Reports on Vacation Rentals



*We promise exceptional experiences for our residents, guests,
and colleagues by being pleasant, professional, and efficient.
We are dedicated to enhancing the quality of life in Indian Wells.*

HOMEOWNERS ASSOCIATIONS

**City of Indian Wells
Planning Department**

44-950 Eldorado Drive
Indian Wells, CA 92210
760-776-0229 (V)
760-346-0407 (F)
www.CityofIndianWells.org

March, 2015

**(INFORMATION IS SUBJECT TO FREQUENT CHANGES.
PLEASE CHECK WITH APPLICABLE HOMEOWNERS
ASSOCIATION WITH QUESTIONS.)**

CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
12TH FAIRWAY HOA 4 UNITS IWRC HOA #1	Mr. Erwin Schulze, President 46-401 Mountain Cove Drive Indian Wells, CA 92210 760-345-2823 (TEL) anwebiwin@yahoo.com Alternate Address: 4410 Sequanota Club Lane North Charlevoix, MI 49720 231-547-4203 (TEL)	Ms. Sandy Daba 72-175 Painter's Path Palm Desert, CA 92260 760-346-1543 (TEL) Alternate Contact Mr. Bill Groeniger, VP 46-409 Mt. Cove Drive Indian Wells, CA 92210 760-345-9097 (TEL) 760-200-6218 (CELL)
CASA DORADO @ INDIAN WELLS ASSOCIATION 116 UNITS		Albert Association Management Ms. Tiffany Goff 75-061 Mediterrean Avenue Palm Desert, CA 92260 760-346-9000 (TEL) 760-346-9997 (FAX) tgoff@albertmgt.com
CASA ROSADA 50 UNITS (SUN COVE HOA)	Mr. John Aerts, President 45-315 Vista Santa Rosa Indian Wells, CA 92210 714-305-3222	Personalized Propety Management Mr. Mike Livingston 68-950 Adelina Road Cathedral City, CA 92234 760-325-9500 mlivingston@ppminternet.com
CLUB VIEW 186 UNITS	Ms. Cate Austin 46-700 Mountain Cove #6 Indian Wells, CA 92210 760-218-5588	Personalized Property Management Mr. Ron Doerr 68-950 Adelina Road Cathedral City, CA 92234 760-325-9500 (TEL) rdoerr@ppminternet.com
COLONY COVE HOA 97 UNITS	Mr. Ted Mertens, President 74-972 Saguaro Lane Indian Wells, CA 92210 760-776-8186 (TEL) 4tmjm@verizon.net	Albert Association Management Ms. Wendy Zumwalt 75-061 Mediterrean Avenue Palm Desert, CA 92260 760-346-9000 (TEL) 760-346-9997 (FAX) wendy@albertmgt.com

CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
THE COLONY AT INDIAN WELLS 65 UNITS	Mr. Tony Trocino, President 76-863 Inca Drive Indian Wells, CA 92210 760-610-1761 (TEL)	Brentwood Management Services, Inc 4501 East Sunny Dunes Road, St B Palm Springs, CA 92264 760-778-5417 (TEL)
THE COVE AT INDIAN WELLS 64 UNITS	Mr. Rodger Pilley, President 74-892 S Cove Drive Indian Wells, CA 92210 760-779-0114 (TEL)	Desert Management Ms. Carrey Gordon Derth PO Box 799 42-427 Rancho Mirage Lane Rancho Mirage, CA 92270 760-862-1202 (TEL) cgordon@desertmanagement.com
COVE POINTE HOA 17 UNITS	Mr. Brooke Thrall, President 46-795 Mountain Cove Indian Wells, CA 92210 760-360-9105 (TEL)	Gold Coast Enterprises Mr. Ron Olson, Manager 34-400 Date Palm Dr., Suites A & B Cathedral City, CA 92234 760-202-9880 x233 (TEL) kent@goldcoastent.com
DESERT HORIZONS OWNERS ASSOCIATION 510 UNITS	Mr. Jerome Jenko, President	Ms. Kay Ladner PO Box 12920 Palm Desert, CA 92255 760-340-5501 (TEL) 760-776-5544 (FAX)
DORADO VILLAS 120 UNITS	Mr. John Burns, President Indian Wells, CA 92210 760-346-0331	Personalized Property Management 68-950 Adelina Road Cathedral City, Ca 92234 760-325-9500 (TEL)
ELDORADO BARRANCA PROPERTY OWNERS ASSOCIATION 24 UNITS	Mr. Don Paradise, President 76-485 Fairway Drive Indian Wells, CA 92210 760-341-3204 (TEL)	Self Managed
ELDORADO COUNTRY CLUB PROPERTY OWNERS ASSOCIATION 296 UNITS	Mr. Rich Mogan, President Property Owners Association 46-000 Fairway Drive Indian Wells, CA 92210 760-423-1540 Mr. Fredrick Green, President Cottage Owners Association 46-000 Fairway Drive Indian Wells, CA 92210 760-423-1587	Architectural Review Mr. Brian Akers Eldorado Country Club Cottage & Property Owners Assoc. 46-000 Fairway Drive Indian Wells, CA 92210 760-423-1540 (TEL) 760-776-1323 (FAX)
THE ESTATES AT INDIAN WELLS 3 HOMES PLUS 10 VACANT LOTS	Ms. Barti Vaidya, Developer 8687 Grand Avenue Yucca Valley, CA 92284 760-365-1068 (TEL) barti.vaidya@yahoo.com	Self Managed

CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
FIRE ACCESS MAINTENANCE DISTRICT FAMD	Mr. Larry Bonafide Indian Wells, CA 92210 760-345-8316 (TEL) (H) larrybonafide@verizon.net	Desert Resort Management Ms. Dana Brown PO Box 14387 42635 Melanie Place #103 Palm Desert, CA 92211 760-346-1161 x124 (TEL)
INDIAN SPRINGS RACQUET CLUB 18 HOMES PLUS 1 VACANT LOT No Mail to Indian Wells Address Contact Ms. Monroe	Mr. Les Jensen, President 45-492 Osage Court Indian Wells, CA 92210	Ms. Pamela S. Monroe, CPA PO Box 1857 Palm Desert, CA 92261-1857 760-346-2491 (TEL)
INDIAN WELLS VILLAGE #1 20 UNITS	Mr. Skip Kuhn 44652 Elkhorn Trail Indian Wells, CA 92210 overton.kuhn@macerich.com	J & W Management Mr. Jim McPherson PO Box 1398 Palm Desert, Ca 92261 760-568-0349 (TEL)
INDIAN WELLS VILLAGE #2 20 UNITS	Mr. Bill Brooks, President 77379 Blackfoot Drive Indian Wells, CA 92210 949-285-4244 (CELL)	Self Managed
INDIAN WELLS VILLAGE #3 18 UNITS	Mr. Mike Fullmer, President 44-220 Elkhorn Trail Indian Wells, CA 92210 253-344-9363 (TEL) 206-933-7891 (TEL) Mr. Robert Amos, Vice President 77-379 Arapahoe Vista Indian Wells, CA 92210 760-345-1970 (TEL)	Self Managed ARCHITECTURAL REVIEW Mr. Gary Buebel #5 Chandler Place Las Flores, CA 92688 949-709-2150 (TEL) Business Ms. Becky Fuhrman 18226 Bushard Street Fountain Valley, CA 92708 714-962-7070 (TEL)
INDIAN WELLS VILLAGE #4 24 UNITS	Mr. Ron Podojil, President 44-680 Dakota Trail Indian Wells, CA 92210 760-345-5842 (TEL) 760-413-3220 (CELL) pegpotts1@verizon.net	Self Managed
INDIAN WELLS VILLAGE #5 20 UNITS	Ms. Lynne Fishel 44-463 Warner Trail Indian Wells, CA 92210 760-469-2372 (TEL) lynne.fishel@gmail.com Mr. Goy Casillas, Co-President 44-551 Warner Trail Indian Wells, CA 92210 310-379-1192 (TEL)	Lordon Management Darelyn Kaufman (Manager) 1275 Center Court Covina, CA 91724 (616) 695-1438 (TEL)

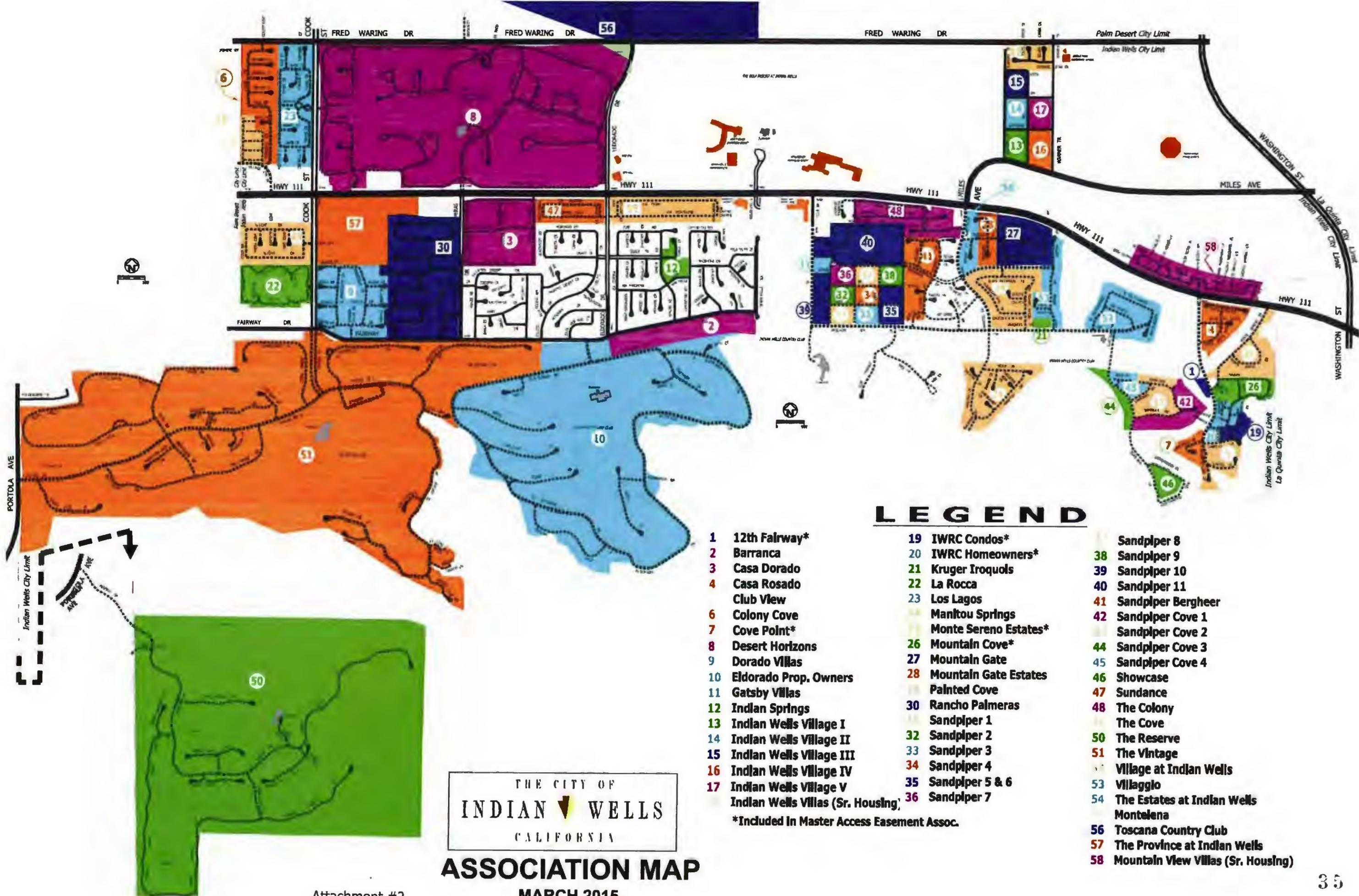
CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
INDIAN WELLS VILLAS (SENIOR HOUSING) 90 UNITS	<i>Hyder & Company (Interim Mgmt)</i> Michelle Pruitt, Director Phone: (760) 591-9737 Fax: (760) 591-9784	<i>Hyder & Company</i> Michelle Pruitt, Director 1649 Capalina Road, Suite 500 San Marcos, CA 92069-1226 Phone: (760) 591-9737 Fax: (760) 591-9784
IWRC CONDOS 40 UNITS	Mr. Rick Lumsden, President 46-621 Arapahoe Lane Unit A Indian Wells, CA 92210 760-610-1367 (TEL)	Self-managed
IWRC HOA #1 32 UNITS	Mr. John Witten, President Palm Desert, CA 92261	Avail Property Management Cam Anderson, Manager 47-350 Washington Street Suite 101 La Quinta Ca 92253 760-771-9546 (TEL)
Send Mail to Management Co. Only	760-345-2209 (TEL) 760-568-0324 (TEL)	760-771-9546 (TEL)
KRUGER IROQUOIS 4 UNITS 4 HOMEOWNERS SHARE EASEMENTS IN POOL/TENNIS COURT NO FORMAL HOMEOWNERS ASSOCIATION		
LA ROCCA HOA 68 UNITS	Mr. Robert Cordova, President 74-874 Via Royale Indian Wells, CA 92210 760-340-2575 (TEL)	Desert Resort Management Ms. Donna Gorton PO Box 4772 Palm Desert, CA 92261 760-346-1161 (TEL) dgorton@drmineternet.com
LOS LAGOS HOA 90 UNITS	Mr. Richard Bretz 74-977 Havasu Court Indian Wells, CA 92210 760.346.3001	Iyad Khoury, CMCA Avail Property Management 51350 Desert Club Drive, Ste 4 La Quinta, CA 92253-8905 760-771-9546 FAX 760-771-1655
MANITOU SPRINGS HOA 76 UNITS	Mr. Dick Hedwall, President 46-065 Manitou Drive Indian Wells, CA 92210 760-360-6168 (TEL) iwrah@aol.com	Albert Association Management Mr. Tom Albert, Manager PO Box 12920 41865 Boardwalk, Suite 101 Palm Desert, CA 92255 760-346-9000 (TEL) tom@albertmgt.com
MASTER ACCESS EASEMENT ASSOC. 375 UNITS COMPRISED OF THE FOLLOWING HOA'S CASA ROSADA/COVE POINTE MONTE SERENO/CLUB VIEW	Mr. Stan White, President 78-505 Vista Del Sol Indian Wells, Ca 92210 760-341-3411 (TEL)	Gold Coast Enterprises Mr. Kent Robbins, Manager 34-400 Date Palm Drive Suites A/B Cathedral City, Ca 92234 760-202-9880 ext 223 (TEL) kent@goldcoastent.com

CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
MONTELENA 79 UNITS	Mr. Steve Espinosa, President 76-047 Via Fiore Indian Wells, CA 92210 760-399-6887 (TEL)	
MONTE SERENO ESTATES 29 UNITS	Ms. Mary Pinnow, President 46-375 Monte Sereno Drive Indian Wells, CA 92210 760-772-3745 (TEL) mpinnow@dc.rr.com Alternate Address 928 Leeward Court Oshkosh, WI 54901 920-233-8535	Personalized Property Management Mr. Mike Livingston 68-950 Adelina Road Cathedral City, CA 92234 760-325-9500 (TEL) mlivingstone@ppiminternet.com
MOUNTAIN COVE HOA 34 UNITS	Mr. Bill Campbell, President 78-525 Yavapa Indian Wells, CA 92210 (No number listed at this time)	Self Managed
MOUNTAIN GATE MOUNTAIN GATE ESTATES 66 UNITS	Mr. Gene Poma, President 45-483 Espinazo Street Indian Wells, CA 92210 760-360-2315 (TEL)	Personalized Property Mgn. Mr. Dayton Dicky 68-950 Adelina Road Cathedral City, CA 92234 760-325-9500 (TEL)
MOUNTAIN VIEW VILLAS (SENIOR HOUSING) 128 UNITS	Hyder & Company (Interim Mgmnt) Michelle Pruitt, Director Phone: (760) 591-9737 Fax: (760) 591-9784	Hyder & Company 1649 Capalina Road, Suite 500 San Marcos, CA 92069-1226 Phone: (760) 591-9737 Fax: (760) 591-9784
PAINTED COVE HOA 62 UNITS	Mr. David Rollo, President 45-770 Indian Canyon Road Indian Wells, CA 92210 760-772-3749 (TEL)	J & W Management Mr. Jim McPherson PO Box 1398 Palm Desert, CA 92261 760-568-0349 (TEL)
RANCHO PALMERAS PROPERTY OWNERS ASSOCIATION 188 HOMES	Mrs. Pat Fredricks, (President) 75375 Painted Desert Dr. Indian Wells, CA 92210 760-702-0963 (TEL)	Architectural Review Mr. Dick Coste Architectural Board Chairman 75-475 Desert Park Drive Indian Wells, CA 92210 760-346-1025 (TEL) ccawells@aol.com Accounting Ms. Sheila Gill 75-365 Montecito Drive Indian Wells, CA 92210 760-340-4912 (TEL)

CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
THE RESERVE COMMUNITY ASSOCIATION 241 HOMES	Mr. Bill Ebert, Manager 74-001 Reserve Drive Indian Wells, CA 92210 760-779-5680 (TEL) 760-836-0539 (FAX)	Self Managed Architectural Review Ms. Brook Marshall 760-219-8057 (TEL) brook@dc.rr.com Landscape Review Mr. Victor Horchor 714-747-6609 (TEL)
SANDPIPER #1 - NATIVE SPRINGS 16 UNITS	Mr. Jay Andre, President 76-795 Lark Drive Indian Wells, CA 92210 760-772-6269 (TEL)	Personalized Property Management Mr. Mike Livingston 68-950 Adelina Road Cathedral City Ca 92234 mlivingston@ppminternet.com
SANDPIPER #2 - NATIVE OASIS 16 UNITS	Mr. Scott Hunt, President 77760 Cherokee Road Indian Wells, CA 92210 760-834-8774 scott@fpsnet.com	Gold Coast Enterprises Mr. Kent Robbins, Manager 34-400 Date Palm Drive Suites A/B Cathedral City, Ca 92234 760-202-9880 ext 223 (TEL) kent@goldcoastent.com
SANDPIPER #3 - MOUNTAIN VIEW 16 UNITS	Mr. Bob Gutschlag, President 76-870 Iroquois Rd Indian Wells, CA 92210 760-360-0998 (TEL)	Desert Management Ms. Bonnie Hagerman PO Box 799 42-427 Rancho Mirage Lane Rancho Mirage, CA 92270 760-862-1202 (TEL) bhagerman@desertmanagement.com
SANDPIPER #4 - DESERT VIEW 16 UNITS	Chris Folkstead, President 76890 Lark Drive Indian Wells, CA 92210 760-341-2053 (TEL) 760-779-9396 (FAX)	Hutcheson Bookkeeping PO Box 4626 Palm Desert, CA 92261 760-341-2053 (TEL) 760-779-9396 (FAX) Management Company: Self Managed
SANDPIPER #5 and #6 - IROQUOIS 32 UNITS	Mr. Jan Kubiak, Representative 45-700 Pima Road Indian Wells, Ca 92210 760-772-2281 (TEL)	Personalized Property Management Mr. Mike Livingstone 68-950 Adelina Road Cathedral City, Ca 92234 760-325-9500 (TEL)
SANDPIPER #7 - ROADRUNNER 16 UNITS	Mr. Mark Longer, President 76-790 Robin Drive 760-405-3700 (TEL)	Sun Properties 42-800 Bob Hope Drive (Suite 207-K) Rancho Mirage CA 92270 760-837-1100

CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
SANDPIPER #8 - QUAIL 16 UNITS	Mrs. Lovell Bonnie, President 45-660 Hopi Road Indian Wells, CA 92210 760-345-3759 (TEL) legal@bonniebros.com Alternate Address: 2743 Superior Drive Livermore, CA 94550 925-872-9129 (CELL)	J & W Management Mr. Jim McPherson PO Box 1398 Palm Desert, CA 92261 760-568-0349 (TEL)
SANDPIPER #9 16 UNITS	Mr. Charlie Reynolds, President 76-935 Sandpiper Drive Indian Wells, CA 92210 760-360-4098 (TEL)	
SANDPIPER #10 - THE INDIAN WELLS VILLAS HOA 16 UNITS	Ms. Jeannie LoBue, President 76-675 Robin Lane Indian Wells, CA 92210 760-345-2529 (TEL)	Gold Coast Enterprises Mr. Kent Robbins, Manager 34-400 Date Palm Dr., Suites A & B Cathedral City, CA 92234 760-202-9880 x223 (TEL) kent@goldcoastent.com
SANDPIPER #11 82 UNITS	Mr. Richard Olson, President 76-843 Roadrunner Drive Indian Wells, CA 92210 760-345-5586 (TEL) govdick@aol.com Alternate Address:C44 2015 Oakmont Eugene, OR 97401 541-344-0507 (TEL)	The Monarch Group Mr. Steve Barrett PO Box 13710 Palm Desert, CA 92255 760-776-5100 ext 321 (TEL) 760-776-5111 (FAX)
SANDPIPER COVE ASSOCIATION #1 30 UNITS	Mr. Woody Woodcock, President 77-665 Seminole Road Indian Wells, CA 92210 760-345-6396 (TEL) baryent1@aol.com	Desert Management Ms. Bonnie Hagerman PO Box 799 42-427 Rancho Mirage Lane Rancho Mirage, CA 92270 760-862-1202 (TEL) bhagerman@desertmanagement.com
SANDPIPER COVE ASSOCIATION #2 34 UNITS	Mr. Scott Hunt, President 77760 Cherokee Road Indian Wells, CA 92210 760-834-8774 scott@fpsnet.com	Desert Management Ms. Bonnie Hagerman PO Box 799 42-427 Rancho Mirage Lane Rancho Mirage, CA 92270 760-862-1202 (TEL) bhagerman@desertmanagement.com
SANDPIPER COVE ASSOCIATION #3 12 UNITS	Mr. Bart Bruno, President 46-315 Quail Run Lane Indian Wells, CA 92210 831-626-8645 bbruno2000@aol.com	Self Managed

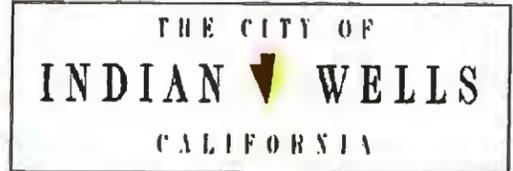
CITY OF INDIAN WELLS HOMEOWNERS ASSOCIATIONS	HOA PRESIDENT OR REPRESENTATIVE	MANAGEMENT COMPANY
SANDPIPER COVE ASSOCIATION #4 14 UNITS	Mr. Sam Boghosian, President 46-390 Dove Road Indian Wells, CA 92210 760-345-2901 (TEL)	Gold Coast Enterprises Mr. Kent Robbins, Manager 34-400 Date Palm Dr., Suites A & B Cathedral City, CA 92234 760-202-9880 x223 (TEL) kent@goldcoastent.com
SANDPIPER DRIVE HOA (BERGHEER) 59 UNITS	Mr. Ivan Willingham, President 45-450 Delgato Drive Indian Wells, CA 92210 (No telephone number listed)	J&W Management Ms. Kate Alexander 73-320 El Paseo Drive Palm Desert, CA 92255-4387 760-568-0349 (TEL) kate@jandwmgmt.com
SHOWCASE HOA 18 UNITS	Dr. Lewis Waldeisen, President 77-905 Cottonwood Cove Indian Wells, CA 92210 760-345-8284 (TEL)	Self Managed
SUNDANCE AT INDIAN WELLS 45 UNITS	Mr. Michael Kruppe, President 75-797 Camino Cielo Indian Wells, CA 92210 760-776-1541 (TEL)	Albert Association Management Ms. Wendy Zumwalt, Manager PO Box 12920 41-865 Boardwalk, Suite 101 Palm Desert, CA 92255 760-346-9000 (TEL) 760-346-9997 (FAX) wendy@albertmgt.com
TOSCANA COUNTRY CLUB 312 HOMES PLUS 312 VACANT LOTS	Mr. Kerry Leavitt, Manager 300 Eagle Dance Circle Palm Desert, CA 92211 760-772-7000 (TEL) 760-772-7259 (FAX)	Self Managed
TRACT 9847 - STREET MAINTENANCE ASSOCIATION - 110 UNITS TOTAL IW CONDOS - 40 UNITS IW CLUB - 32 UNITS FINAL PHASE - 34 UNITS 12TH FAIRWAY - 4 UNITS	Mr. John Whitton, President 760-345-2209 (TEL)	Gold Coast Enterprises Mr. Kent Robbins, Manager 34-400 Date Palm Dr., Suites A & B Cathedral City, CA 92234 760-202-9880 x223 (TEL) kent@goldcoastent.com
THE VILLAGE AT INDIAN WELLS 31 HOMES	Mr. Bob Thompson, President Indian Wells, CA 92210	Brentwood Management Services Inc 4501 East Sunny Dunes Road St B Palm Springs CA 92264
VILLAGGIO 85 HOMES	Mrs. Victoria Boden, President 77-640 Iroquois Drive Indian Wells, CA 92210 760-345-6248 (TEL)	Monarch Mgmt Co. The Mgmt Trust Mrs. Jamie Hansen, Manager 39755 Berkey Dr, Suite A Palm Desert, CA 92255 760-776-5100
THE VINTAGE CLUB 475 HOMES	Mr. Thomas Hart General Manager 75-001 Vintage Drive West Indian Wells, CA 92210 760-862-2203 (TEL) thart@thevintageclub.com	Self Managed Architectural Review Mr. Dan Scott 75-001 Vintage Drive West Indian Wells, CA 92210 760-862-2885 (TEL) 760-862-2550 (FAX)



LEGEND

- | | | |
|--------------------------------------|--------------------------|---------------------------------------|
| 1 12th Fairway* | 19 IWRC Condos* | 38 Sandpiper 8 |
| 2 Barranca | 20 IWRC Homeowners* | 39 Sandpiper 9 |
| 3 Casa Dorado | 21 Kruger Iroquois | 40 Sandpiper 10 |
| 4 Casa Rosado Club View | 22 La Rocca | 41 Sandpiper 11 |
| 6 Colony Cove | 23 Los Lagos | 42 Sandpiper Bergheer |
| 7 Cove Point* | 24 Manitou Springs | 43 Sandpiper Cove 1 |
| 8 Desert Horizons | 25 Monte Sereno Estates* | 44 Sandpiper Cove 2 |
| 9 Dorado Villas | 26 Mountain Cove* | 45 Sandpiper Cove 3 |
| 10 Eldorado Prop. Owners | 27 Mountain Gate | 46 Sandpiper Cove 4 |
| 11 Gatsby Villas | 28 Mountain Gate Estates | 47 Showcase |
| 12 Indian Springs | 29 Painted Cove | 48 Sundance |
| 13 Indian Wells Village I | 30 Rancho Palmeras | 49 The Colony |
| 14 Indian Wells Village II | 31 Sandpiper 1 | 50 The Cove |
| 15 Indian Wells Village III | 32 Sandpiper 2 | 51 The Reserve |
| 16 Indian Wells Village IV | 33 Sandpiper 3 | 52 The Vintage |
| 17 Indian Wells Village V | 34 Sandpiper 4 | 53 Village at Indian Wells |
| 18 Indian Wells Villas (Sr. Housing) | 35 Sandpiper 5 & 6 | 54 Villaggio |
| | 36 Sandpiper 7 | 55 The Estates at Indian Wells |
| | | 56 Montelena |
| | | 57 Toscana Country Club |
| | | 58 The Province at Indian Wells |
| | | 59 Mountain View Villas (Sr. Housing) |

*Included In Master Access Easement Assoc.



ASSOCIATION MAP MARCH 2015



Vicky's of Santa Fe
 Indian Wells Resort Hotel

76900 Tomahawk Run

77288 Sky Mesa Ln

76830 Sandpiper Dr

76995 Sandpiper Dr

77095 Sandpiper Dr

45765 Pueblo Rd

77430 Iroquois Dr

77337 Iroquois Dr

77312 Sioux Dr

46250 Manitou Dr

46405 Quail Run Ln

78175 Cabrillo Ln #49, Indian Wells, CA 92210, USA
 78175 Cabrillo Ln #48, Indian Wells, CA 92210, USA

78205 Cortez Ln #178, Indian Wells, CA 92210, USA
 78180 Cortez Ln #178, Indian Wells, CA 92210, USA

48750 Mountain Cove Dr #16, Indian Wells, CA 92210, USA

46644 Arapahoe Cir, Indian Wells, CA 92210, USA

46646 Arapahoe

LEGEND

Non Association Area 

Vacation Rental 

Google



Fred Waring Dr



Fred Waring Dr



Evening Star Cir



77371 Evening Star Cir



Arapahoe Vista



77455 Evening Star Cir

44265 Dakota Trail



Warner Trail

Blackfoot Dr

Warner Trail

Elkhorn Trail

Dakota Trail

Cheyenne Dr



77361 Cheyenne Dr



44652 Elkhorn Trail

Warner Trail

Miles Ave

Miles Ave

Ent Las Brisas

Desert Breezes Resort

Via Gibraltar

First California Bank

Fred Waring Dr

Fred Waring Dr

Fred Waring Dr

Ent Las Brisas

Ent Las Brisas

Southwest Church

Ent Las Brisas

Indian Wells
Tennis Garden

LEGEND

- Non Association Area
- Vacation Rental



DATE: April 1, 2015
TO: City Council
COPY: City Manager, City Attorney
FROM: Richard Balocco, Council Member
SUBJECT: Vacation Rental Regulations

Our community has struggled with the Vacation Rental issue for more than a year. I believe we must pursue a complete package solution and I am concerned that the steps we have taken do not provide for a smooth and effective process for the entire community. I propose that we consider:

1. 7 day minimum stay
2. Must have updated business license and registered permits.
3. HOA's make their own rules

To complete the solution, I believe we need to make the following changes to the Ordinance we have already considered.

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 complaint at a property within 1 hour.
5. 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).
6. Prohibit vacation rentals from activities such as weddings, receptions, and large parties without obtaining a Temporary Use Permit (TUP) from the City.
7. Require all rental agents representing properties on behalf of fee-title owners to register for, and maintain, a City Business License.

8. 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.
9. Require rental agreements to include responsible party acknowledgment of the Indian Wells Vacation Rental rules and their liability for any fines incurred by occupants.
10. Establish a two-tiered penalty for a violation of the Municipal Code for:
 - o **Responsible Party for Vacation Rental (Renter)** - may be cited with a 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 during current occupancy - \$500 misdemeanor citation;
 3. Third and Subsequent Offenses during current occupancy - \$1,000 misdemeanor citation.
 - o **Property Owner** – will receive an administrative citation for a 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 - \$ \$1,000 administrative fine;
 3. Third Offense within any twelve (12) month period - \$1,500 administrative fine and possible revocation of the vacation rental permit for a period of twelve (12) months effective immediately;
 4. Any Offense during permit revocation period - \$ 2,500 misdemeanor violation for each offense and possible revocation of vacation rental permit for an additional year.
 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.

11. 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.
12. 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.
13. Require owners to remit quarterly Transient Occupancy Tax collected for vacation rentals.
14. Require a permit number to be listed on all rental advertisements.
15. Create an administrative fine for any rental advertisement not in compliance with all vacation rental laws as established by City ordinance.
16. Code changed to allow for a maximum overnight occupancy of two occupants per bedroom (exception made for children 6 and under who do not count against maximum occupancy).

September 18, 2014 Staff Report

Sp. COMA ACTION _____ MTG. DATE: 9-18-14

APPROVED _____ DENIED _____ REC/FILE _____ CONT. _____
OTHER: Directed Staff & Research

VOTE: YES _____ NO _____ ABSTAIN _____
on issues mentioned at Council

Indian Wells City Council

September 18, 2014

Staff Report – City Manager’s Office

mtg. & Report back to Council w/ findings in January 2015.

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.

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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.ⁱ 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

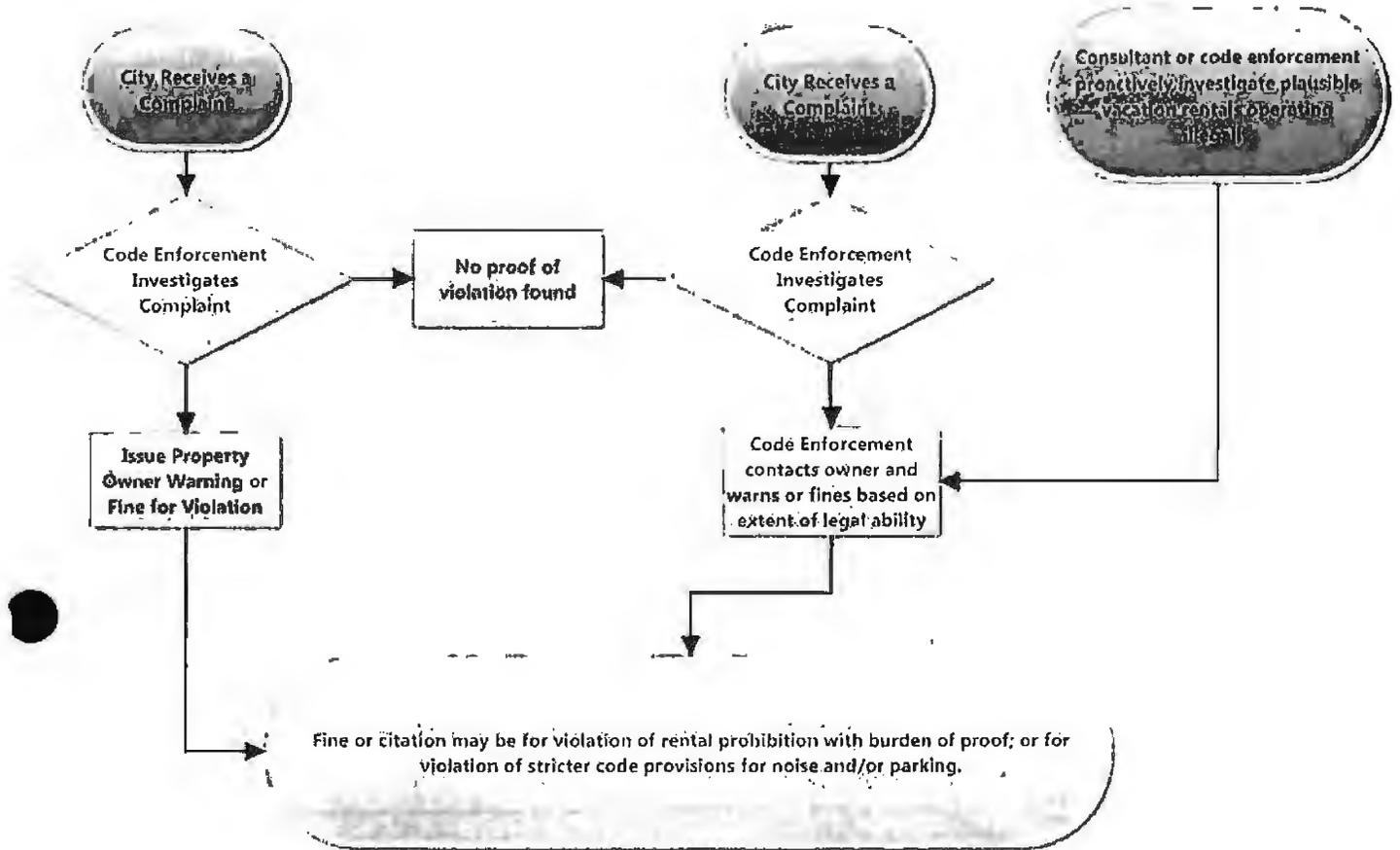
Any provisions considered for the prohibition or regulation of vacation rentals must take into account the enforcement abilities of the City. All cities reviewed in the research of this topic had larger law/code enforcement teams than does Indian Wells. Currently, the City contracts with the Sheriff 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).

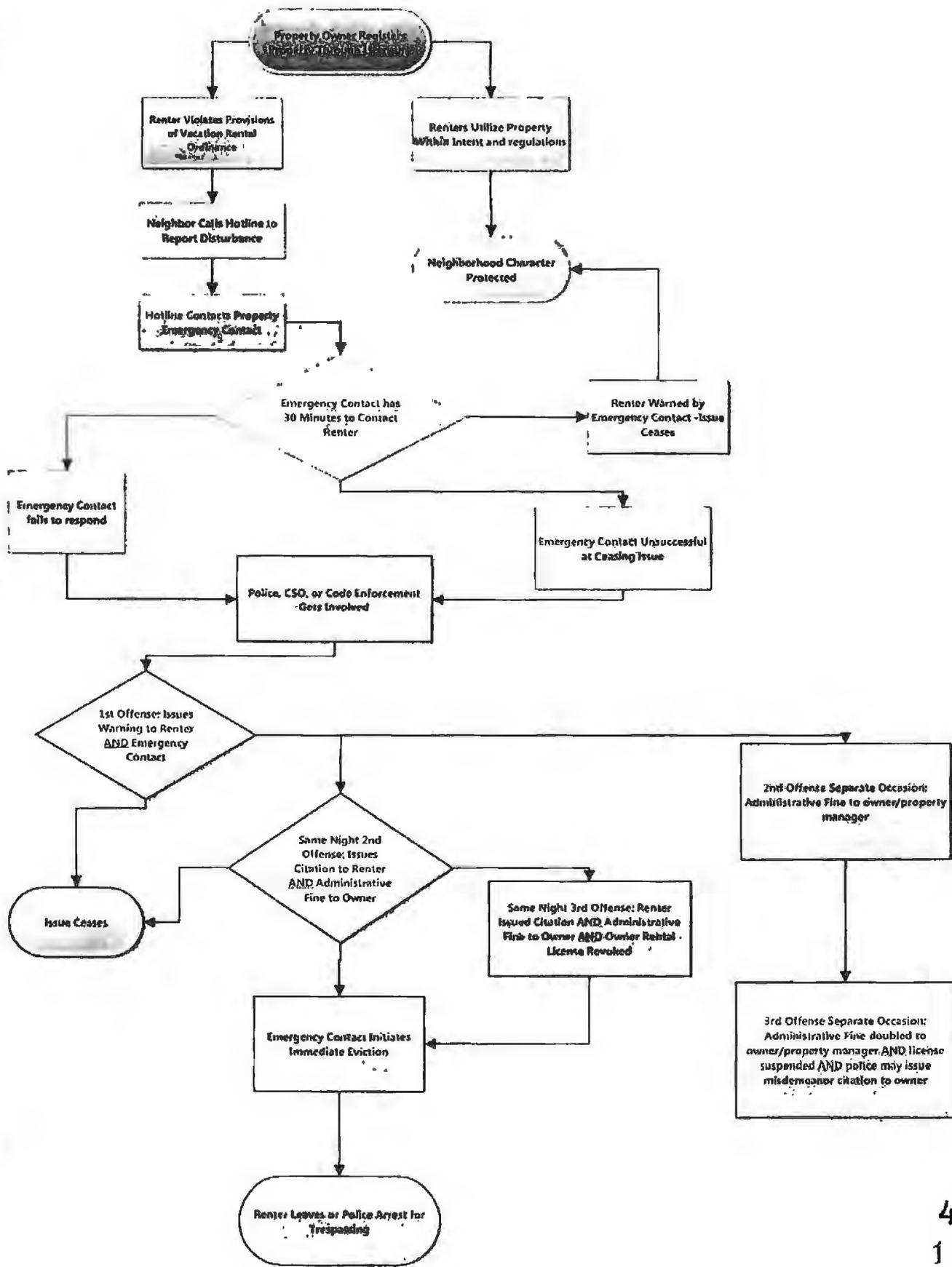
Prohibit Vacation Rentals

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 limits, 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 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:

Est. # of Rental Properties	Est. TOT Collection
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

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

ⁱⁱ 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>

September 18, 2014

City of Indian Wells

Recommendations on Residential Rentals

1. City Staff continue to research this issue. Currently there are 214 distinct Indian Wells Properties listed for rent on VRBO and/or AirBnB. There is considerable work to do to document the extent of residential rentals in our City. Interesting that on the VRBO site, a number of homes which have licenses with the City to rent do not list a minimum of seven days.
2. Compliance with existing and the new Ordinance. Compliance with License Agreement. Who Monitors?
3. Fees for License plus TOT plus Fines. Do not hesitate to raise fees and fines as necessary. Might also be required to cover additional staffing costs and Police Cost Rescue.
4. TOT and other fees. I believe the City Staff has mistakenly felt that this can be a revenue positive for City. I do not believe this will happen due to need for additional staffing and other costs to monitor and enforce. This will be expensive to do correctly.
5. I like the suggestion to consider a joint program on residential rentals with our Cove Communities.
6. City Staff needs to have totally vetted Cindy Gosselin and her company – Vacation Rental Compliance. Please guarantee that there are no possible conflicts of interest especially as relates to private rental companies and realtors.
7. Enforcement – This is the key to the entire process. Rules need to make sense. Issues such as Occupancy limits, parking, noise hours, have to be adequately addressed. Code Enforcement staff will need to work flexible hours including weekends and holidays. The three weekends of Coachella and Stagecoach are easily the most problematic thus we need to pay to have extra city staff and police. We can anticipate now that these weekends will be challenging.
8. Procedures need to be simple and straightforward. I like the suggestion of a hotline for any IW resident to call that is easy to reach and that launches enforcement process.
9. Number of Days has been a “hot” topic. I still believe seven days is not adequate but would be willing to compromise between 7 days and 30 days.
10. Age of renter/ contract signer. This could have a positive impact. 30 years of age and older?

Submitted by John T. Schwarzlose

75309 Desert Park Drive gibbyfalcon@ymail.com

TO Ted Mertens

September 17, 2014

TO WHOM IT MAY CONCERN:

RE: Short-term rentals vs. 30 days or more

While the City of Indian Wells and its residents are spending a great amount of time and energy in dealing with **short-term residential rentals vs. 30-days or more residential rentals**, and many of us are anticipating the structuring of a new "rental ordinance" that will include easlier solutions in dealing with noise violations, I share with you some of my thoughts based on 40 years of owning and renting out various residences in California.

Should the new ordinance be a "Residential Occupancy Ordinance" and not necessariy a "rental ordinance"?

While I oppose, like many of you, any City approvals of residential rentals for less than 30 days, let's look closer at how we might remedy the noise problems within our neighborhoods—especially during the Coachella and Stagecoach Festivals.

While the matter of short-term residential rentals vs. 30-days or more residential rentals is a very important one, what's just as important—if not more important—is how this City handles nuisance violations—violations by tenants and violations by property owners themselves.

You see...noise and other nuisances can come directly from not only a short or long-term tenant but also from a property owner and/or his/her invited guests (even uninvited guests). What if tenants and other occupants have NOT entered into short or long-term rental agreements? Would a new "residential occupancy ordinance" better serve us when it could be argued that the occupants are not "tenants" but just invited house guests?! An owner's grandson and his friends "just visiting" for the weekend would not be consider tenants. Would this type occupancy fall outside a new "rental ordinance" and put us in the same predicament as before? A new occupancy ordinance can contain requirements and penalties for both residential rentals and residences that have no tenants but do have noisy occupants like invited (or uninvited) weekend visitors.

Does the word "**RENTAL**" in any new ordinance seem limiting to you? Can it make a property owner believe that it's not in his/her best interest to read it—because, "Gee, I don't rent out my house, but I do have invited guests from time-to-time, so there's nothing in this that will affect me"?

Some of my thoughts for inclusion in a new occupancy ordinance:

1. As previously discussed at meetings, have a strong-to-severe penalty for all nuisance violations.
2. Penalize the property owner/landlord for violations, including "noise" nuisances. When complaints are validated by neighbors and/or the police, and once these complaints are of record with the City, the City then sends citations to the property owner requesting payment for said violations.
3. If the property owner fails to pay the penalty within a stated period of time, the City places a lien on that property for non-payment. Eventually the City will receive payment including the legal rate of interest. And, if it was a tenant causing the nuisance, he/she shall be responsible to the property owner for reimbursement of the fine/penalties paid by the owner. In the event the property owner him/herself violates the ordinance, or one of his/her guests causes a valid complaint of a nuisance, this property owner remains directly responsible to the City for payment of a fine/penalty, if cited.

Continued on page 2...

4. Regarding rental contracts: Obviously, with a new occupancy ordinance in place (short-term rentals, long-term rentals or otherwise) it will be prudent for all landlords within the City to incorporate into their residential rental agreements a provision whereby each tenant (or group of tenants) agrees to reimburse the owner/landlord for the exact amount of nuisance penalty assessed by the City if said penalty is a direct result of a noise (or other) nuisance by the tenants. While the City would not be involved in any landlord/tenant contracts, it would be the responsibility of each owner/landlord to seek counsel, if necessary, in the wording of and insertion of a "NUISANCE PENALTY REIMBURSEMENT TO LANDLORD" clause. And it would be the responsibility of owners/landlords (who use property managers) to insist that their professionals incorporate similar language into any pre-rental documents such as "on the top of" rental applications as well as within each rental contract.
5. Perhaps the City may wish to host a "workshop" with invited professionals versed in the area of property management and contract law, to assist owners who rent out their homes to understand the importance of incorporating "penalty reimbursement language" into rental documents and to better understand why owner/landlord oversight is imperative for good rental-property operations.
6. Speaking of "property management": While there are those absentee owners/landlords who depend totally on their property managers to deal with "all rental matters", this new ordinance could underline the fact that each and every property owner is responsible for his/her real property within the City. A good property manager should be responsible to the owner and tenant. A tenant is responsible to the owner. But, in many cases, tenants communicate ONLY with a property manager. However, this does not relieve the property owner from responsibility for his/her own property.

Regardless of how this "rental matter" turns out, the City will continue to collect licensing fees, permit fees, and transient occupancy taxes.

It's imperative that the City notify each and every residential property owner and deliver to each owner the new ordinance regarding residential occupancy—with full explanation of nuisance violations, the citations and the fines/penalties—as well as the provisions that include rental property and "property not subject to written rental contracts but are occupied by owners and/or guests without occupancy agreements".

Again, in the event a property owner's tenant violates the noise (or other nuisance) ordinance without having executed a rental agreement, the property owner remains bound by the new ordinance and is subject to the citations, fees and penalties as if he/she as owners violated the ordinance him/herself.

Again, it's obvious that "noise and other nuisances" can come from other than actual short or long-term tenants, and the new ordinance and veribage therein should blanket ALL residential properties within our beautiful City.

There are owners/landlords who sincerely care—as well as tenants and other occupants who care—but this new ordinance needs to have strength and heavy penalties for those who care more for the dollar and less about their property and less about the City of Indian Wells.

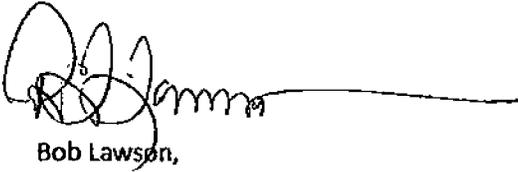
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Page 3

There may be some redundancies above, so please forgive me. I'm rushing to get this out for some of you who care about how future nuisance (noise) violations might be remedied.

I can tell you that if I ever rent out my Indian Wells home, and if any of my tenants violate any of the new ordinance provisions including nuisance (noise) violations, I shall promptly pay the City a fine/penalty, if cited, and immediately bill my tenants for reimbursement of a like amount, using the court system if necessary.

If any of you feel this is worthy of presentation to the City Council meeting on Sept. 18th, you have my permission to do so. I cannot be present due to geographical limitations. Or, if you feel others could benefit from any of the above, please share it with them.

A handwritten signature in black ink, appearing to read 'Bob Lawson', with a long horizontal line extending to the right.

Bob Lawson,

Indian Wells residential property owner.

Please read at the City Council Meeting 9/18/14 in the absence of Cathe and Chip Dyer.

9/15/14

To the Indian Wells Town Council,

Please make up your mind to protect our very special home as well as our Indian Wells neighborhood from short-term rentals.

We understand that you are hosting the most important meeting affecting our **quality of life** in Indian Wells. Interesting that you should plan the short-term home rentals discussion, when most second homeowners are away. **Who is standing up for homeowners who do not rent, but actually live in and care for our special community?**

Before we left in May the council voted clearly that nothing shorter than 30-day rentals would be allowed. We left proud of our new town's speedy and thoughtful vote to protect our **quality of life**.

Now this topic continues to be unresolved and we are puzzled as to why the town council members can be bought by short-term rental income ignoring the **quality of life** many of us homeowners counted on when buying in what was the prestigious community of Indian Wells.

We live at 45711 Indian Wells Lane. While we love our home (purchased in 2012) and hope to continue to live and get more involved here for years to come, we would **NEVER** have purchased in Indian Wells if we knew you allowed short-term rentals. **NEVER!**

Please know that I have written to each and every one of you through the town portal this summer and have not received one response. I did hear from the town lawyer.

Not one of you seems to have any idea what it would be like to live next door to a rental home. **The national trend is growing as VRBO and others are taking over hotel short stays.** We beg you not to make the wrong decision. Do come on over, visit a few different neighborhood homes before a final vote. There is a reason for our complaints.

The revolving doors of short-term rentals and all they bring is **NOT WHY WE BOUGHT IN INDIAN WELLS.**

Perhaps many of you live in neighborhoods with associations that protect you from short-term rentals. We do not and we are **COUNTING ON YOU TO PROTECT US FROM short-term rentals, which totally affect our quality of life. Thank you.**

Cathe and Chip Dyer - 970-270-7898 - cathedyer@me.com

life of adjacent property owners, they have a negative fiscal impact on our city. (Even if they generated money for the city, I would still hold that this issue is about the preservation of our community and not about generating revenue.)

The website, VRBO, lists 147 rental properties in Indian Wells but Indian Wells has only 53 sanctioned rentals. **Right now, we have 94 properties in violation!**

Urgency Ordinance No. 678 states the use of any property for short-term rental less than 7 days is a public nuisance and that this is a violation of Chapter 5.20 of the Indian Wells Municipal Code. **Attached are 46 listings for properties blatantly violating the ordinance.**

Anyone attending this meeting and touting the benefits of short-term rentals must be asked two questions.

#1. Do they have a financial interest in Indian Wells permitting short-term rentals?

AND

#2. If they are rental property managers or owners are they in compliance with the current ordinance?

BECAUSE

#1. This is NOT a financial issue. This is a quality of life issue.

AND

#2. If they are not currently in compliance, they are acting as a public nuisance and are contributing to the problem. This is like taking fire prevention advice from an arsonist.

In summary, based on the VRBO statistics, our city has 147 vacation rentals. Nearly half (66) advertise for at least 1 month. 46 advertise for less than 1 week and should be fined, if they haven't been already. Only 34 listings honor the 7-day minimum. **Prohibiting rentals less than 30 days would affect the 34 homeowners that are following the city's ordinance.**

Based on these findings, here's the math:

94 violations for running a hotel without a business license (94x\$2000) \$188,000

46 violations for advertising less than 1 week minimum (46x\$2000) \$92,000

That's **\$280,000** in fines that the city should be collecting, assuming that all violations are first-time offenses. **INDIAN WELLS MUST ENFORCE THEIR ORDINANCE!** And Indian Wells must send a message to investors and prospective homebuyers that this is a community of residents, not transients.

TO BE READ AT THE 9.18.14 CITY COUNCIL MEETING REGARDING VACATION RENTALS ON MY BEHALF

Name: Jennifer Vorster

Address: 75306 Palm Shadow Dr.

As a full-time resident of Indian Wells for over the past ten years I am seeing the detrimental effect short-term rentals are having on our community and our peaceful quality of life. Indian Wells is unique. Our city is located in the heart of the Coachella Valley. We have the most beautiful and highly desirable un-gated neighborhoods. We are surrounded by hotels, restaurants, golf courses, and the Tennis Gardens. We are home to an abundance of music and art festivals, golf tournaments, car shows, and, of course, the tennis tournament. This area is extremely attractive to visitors looking to have a great vacation in one of our many hotels.

If short-term rentals were so desirable and benefitted the community in any way, why are they banned in so many HOAs? Indian Wells is a wonderful community to live and raise a family. Short-term renters entering our community for less than thirty days do not have the same sense of pride and respect for our neighborhoods. Our tranquility is being threatened by investors turning homes into money-making machines. This is at the direct expense of the neighbors who want nothing more than the private, peaceful enjoyment of their homes.

***Section 5.32.010 of the Riverside Municipal Code defines "Hotel" as "any structure, which is occupied or intended or designed for use or occupancy by transients, including ...any hotel, inn, tourist home or house....". Furthermore, "Transient" is defined as "any person who exercises occupancy ... for a period of thirty consecutive calendar days or less..."**

People renting properties for less than 30 days are, according to our county, running a hotel in a residential neighborhood. We live in a RESIDENTIAL community, not a COMMERCIAL zone! These "hotels" are detrimental to the quality of life of the residents of Indian Wells.

Some may argue that our city needs these additional hotels, especially during the Tennis Tournament. Do you have any idea how many hotels are here? **Within less than a 10-mile radius of the Indian Wells Tennis Gardens I found 62 hotels!** I have personally called 48 of them and found a combined total of 8183 available rooms. As I write this, there are still 14 hotels I haven't had time to call. Within less than a 20 mile radius there are an additional 114 hotels. And this doesn't include the 1506 Marriott Desert Springs Villas and the Western Desert Willow Villas that are timeshares which are frequently rented to the public.

I have no doubt that if this issue was put to a vote in our next election, the majority of would vote to ban short-term rentals. However, since large amounts of money are involved, the people whose "hotels" would be shut down are protesting loudly. If there was any question about the root of this problem, one just has to follow the trail of dollars lining the pockets of people who have no regard for the best-interest of our community.

The City of Indian Wells Staff Report states there are currently 53 sanctioned and licensed rentals projected to generate \$74,000 in revenue in 2014. The cost of effectively managing and enforcing them is estimated to cost \$125,000-\$170,000 per year. So, not only do vacation rentals reduce the quality of

January 22, 2015 Staff Report

0120'15 PH0104 city of IW

Public Comments

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

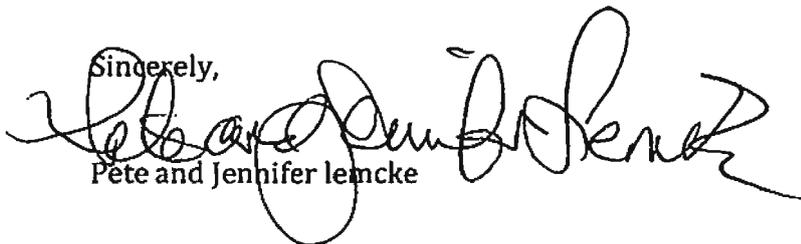
Council Members

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.

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

Sp. 1

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

penalties 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 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:

"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
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.](#)

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.

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- 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
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 CC/HA ACTION 4B MTG. DATE: 1-22-15

APPROVED _____ DENIED _____ REC/FILE _____ CONT. _____

OTHER incorporate 17 code provisions;

VOTE: YES _____ NO _____ ABSTAIN _____

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

Indian Wells City Council

Staff Report – City Manager’s Office

January 22, 2015

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:	Answer:
Can we provide more subjective authority to the Police Department to proactively respond to noise violations at residential properties?	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.
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?"	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".
How does our Zoning Code deal with this type of use in a residential neighborhood? Do we need Zoning Code changes?	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:

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?

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

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

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

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

Answer:

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.).

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.

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.

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

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 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

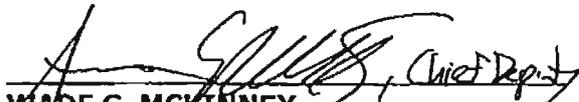
I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Interim Urgency Ordinance No. 677, the reading in full thereof unanimously waived, was duly passed and adopted at a special meeting of the City Council held on the 5th day of May, 2014,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

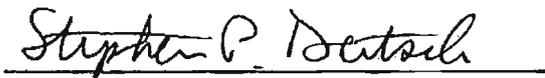
AYES: Hanson, Mullany, Peabody, Roche
NOES: None
ABSENT: Mertens

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.

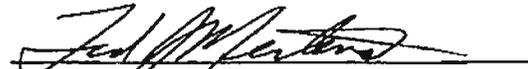
SECTION 3. Severability. If any sentence, clause, or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would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

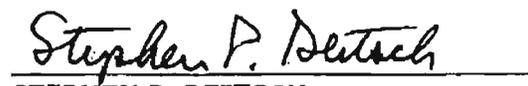
AYES: Hanson, Mertens, Mullany, Peabody, Roche
NOES: None

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 Strategists², 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

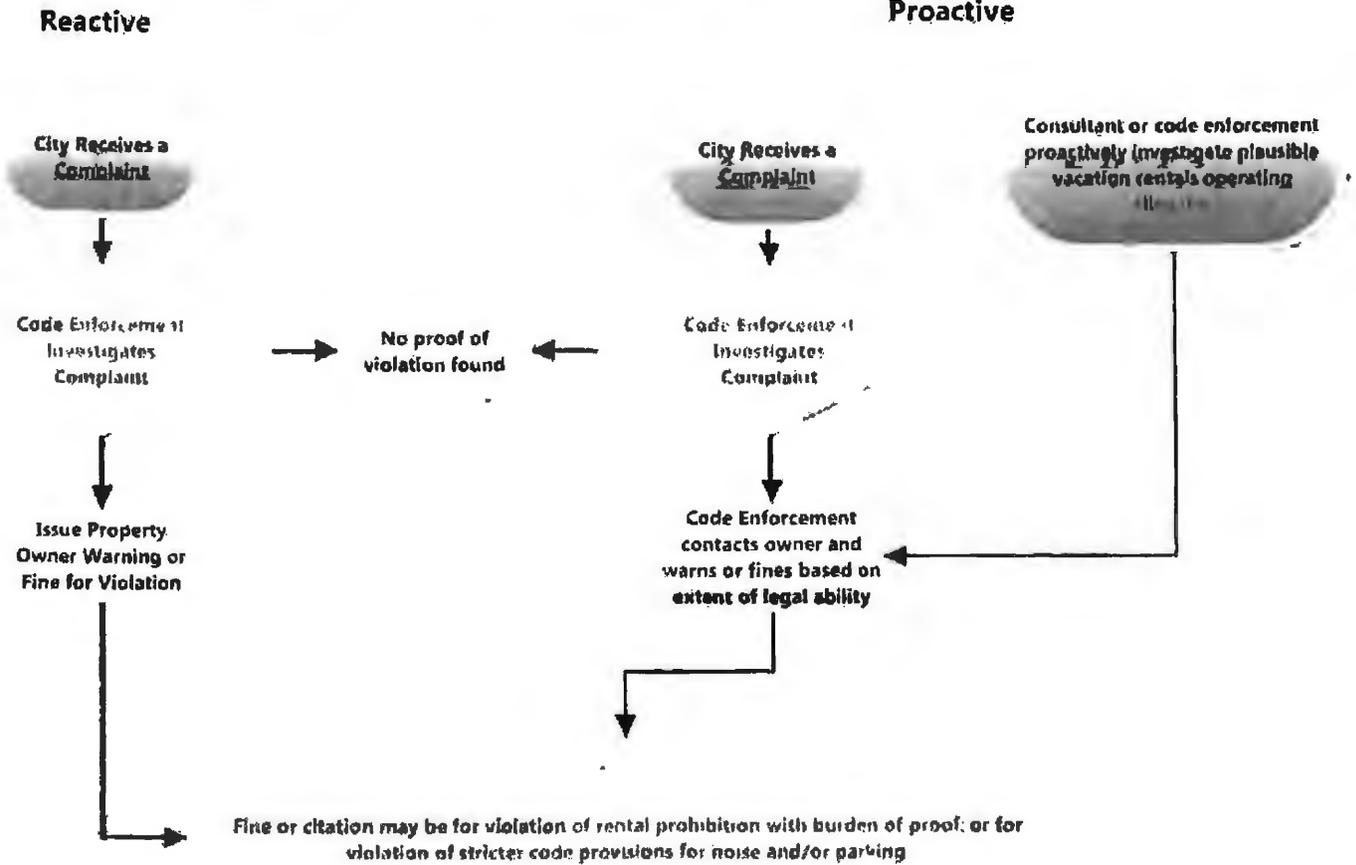
Most cities require a minimum age of the responsible renter for vacation rentals. Most commonly the age is 18 or 21 years of age. However, Palm Springs provides that a renter must be 25 years of age and Rancho Mirage recently made headlines for raising their age restriction to 30. The rationale behind 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

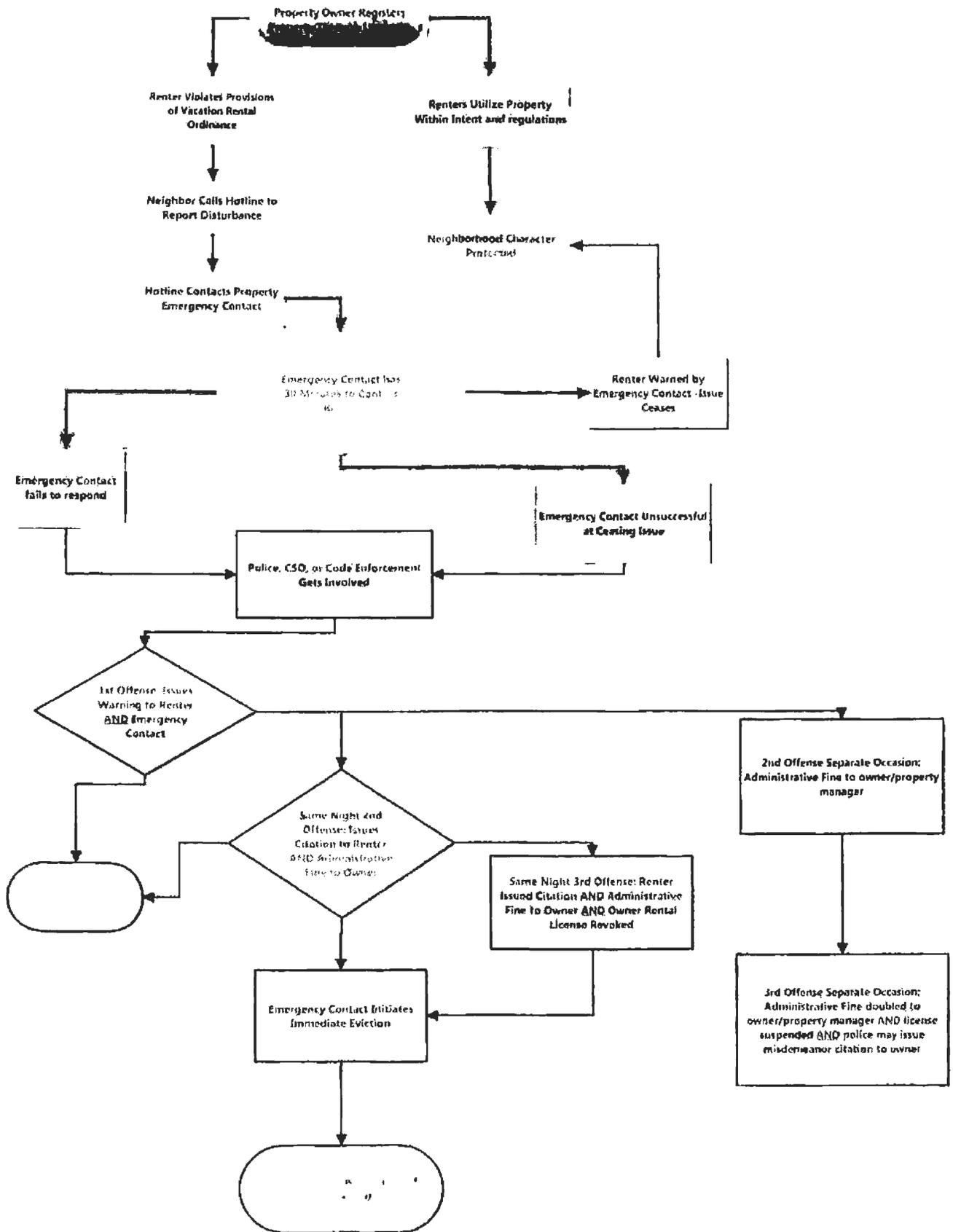
Any provisions considered for the prohibition or regulation of vacation rentals must take into account the enforcement abilities of the City. All cities reviewed in the research of this topic had larger law/code enforcement teams than does Indian Wells. Currently, the City contracts with the Sheriff 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



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 limits, 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?

Answer	Response %	Response Count
a. No	72%	67
b. Yes	28%	26

6. Which noise enforcement options would be preferable?

Answer	Response %	Response Count
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?

Answer	Response %	Response Count
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:

Answer	Response %	Response Count
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.

- o **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)

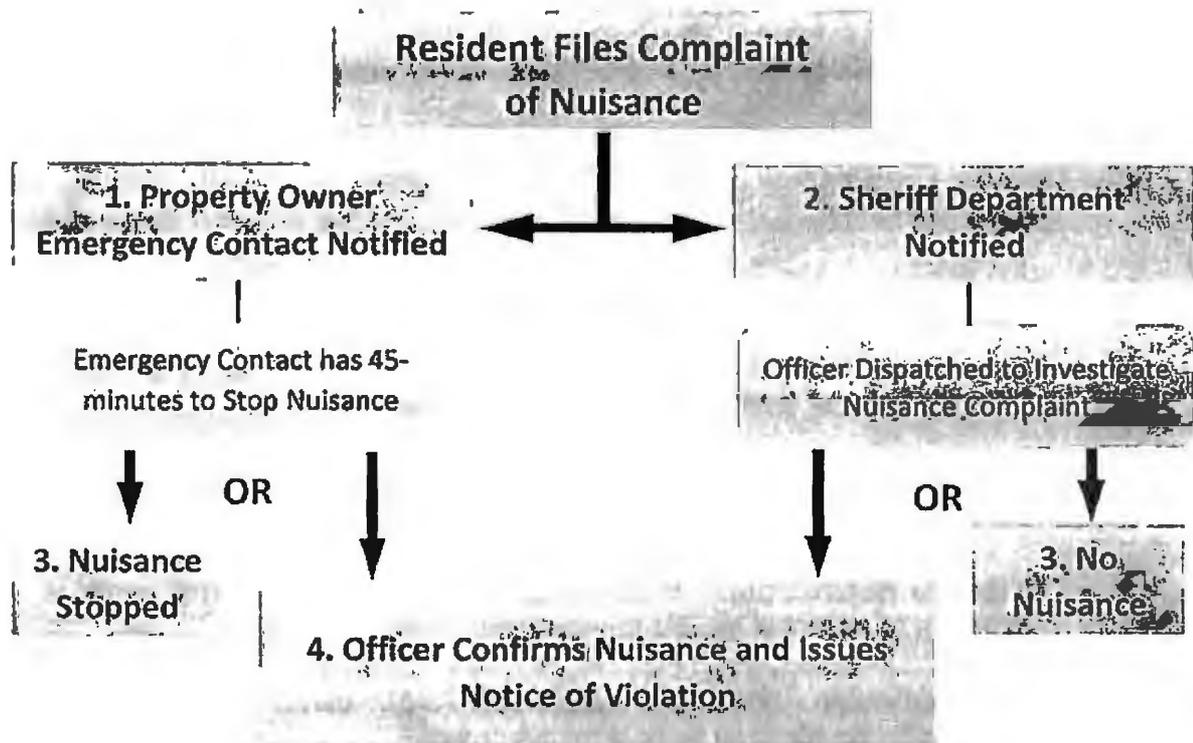
month period – upon five (5) violations, agent business license will be revoked immediately.

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>

February 5, 2015 Staff Report

CC/HA ACTION _____ MTG. DATE: 2-5-15

APPROVED DENIED _____ REC/FILE _____ CONT. _____

OTHER _____

VOTE: YES 5 NO 0 ABSTAIN _____

Indian Wells City Council *As Amended* February 5, 2015 Staff Report – City Manager’s Office

Introduce Ordinance Amending Municipal Code Chapter 5.20 Regarding Short-Term Vacation Rentals, Provide Further Direction to Staff on Zoning Overlay for Establishing Minimum Stay Requirements, and Any Other Issues Related to Short-Term Vacation Rentals

RECOMMENDED ACTIONS:

Council **INTRODUCES** Ordinance Bill No. 2015-03 (“Ordinance”) amending Indian Wells Municipal Code Chapter 5.20 regarding regulations for Short-term Vacation Rentals in the City; and

provides further **DIRECTION** to Staff on a Zoning Overlay to establish minimum stay in Short-term Vacation Rentals throughout the City and any other issues related to Short-term Vacation Rentals.

DISCUSSION:

Summary:

City Council discussed best practice provisions for establishing a Short-term Vacation Rental (“Vacation Rentals”) Ordinance at the January 22, 2015 special meeting. Council directed Staff to bring back and introduce an Ordinance (**Attachment 1**) with provisions establishing a clear, enforceable regulatory process for Vacation Rentals.

Staff presented seventeen (17) recommended provisions (**Attachment 2**) to establish a strong regulatory process, found to be effective in other cities at stopping nuisance Vacation Rentals. City Council determined all provisions to be favorable and directed them to be included in the Ordinance.

Council additionally directed Staff to include two other provisions:

1. Modification to Municipal Code Section 5.20.120 Occupancy, reducing the number of overnight occupants in a Vacation Rental to two (2) persons per bedroom, with an exception for children under six (6) years of age; and

2. Addition of a requirement to notify neighboring properties (within 200 feet) that an owner has been issued a Vacation Rental license. The notification process will be implemented by City Staff with the cost for processing to be included in the Vacation Rental license fee.

The Council also discussed minimum stay for a vacation rental. Staff was directed to create a new Zoning Overlay process to provide:

- Thirty (30) day minimum stay in areas of the City with no Homeowners' Association (HOA);
- Provide a "carve-out" during the tennis tournament to allow for shorter stays in non-HOA areas;
- Stipulate three (3) day minimum stay in areas with HOA's and allow each HOA to determine its minimum stay if the HOA desired a longer than three (3) day minimum;
- Provide a mechanism that would allow property owners not in a HOA to request an exception to the 30-day minimum stay by following a notice and hearing process; and
- Investigate the impact of this zoning overlay structure on Transient Occupancy Tax collection.

Staff has begun the research for this type of zoning overlay, but will require until summer to develop the process and initiate conversations with all 58 HOA's in the City.

Staff requests Council confirm this understanding of developing the overlay process, or clarify and provide further direction to Staff.

Analysis:

In June of 2014 City Council adopted Urgency Ordinance No. 678 implementing a Moratorium on Vacation Rentals until May 5, 2015. The Moratorium modified the fines for violation of the Urgency Ordinance, provided a 30-day window to register Vacation Rentals with the City, and set the minimum stay at seven (7) days for registered Vacation Rentals and thirty (30) days for non-registered properties (a prohibition of short-term rentals not registered). How today's Ordinance effects the Moratorium provisions should be considered by Council.

Adoption of the Ordinance, as presented, would supersede certain provisions of the existing Vacation Rental Moratorium. Council will need to determine if the Ordinance No. 2015-03 should overrule language in the Moratorium. Specifically, three aspects:

1. Urgency Ordinance No. 678 set in place citation amounts for violation of the moratorium of:
 - a. \$2,000 for first violation;
 - b. \$3,000 for second violation;
 - c. \$5,000 for third and subsequent violations.

This is incongruent with the recommended citation amounts and process presented to Council on January 22. Those amounts are as follows:

- a. Written warning for first violation with notice posted on property;
- b. \$500 citation for renter and \$2,000 citation for owner on second violation;
- c. \$1,000 citation for renter and \$5,000 and one year revocation of rental license for owner on third violation (any additional violations \$5,000 and year extension of citation suspension).

Staff's recommendation is Ordinance No. 2015-03 should supersede the moratorium language for aspect #1 as it puts in place more stringent regulations for Vacation Rental violations.

2. Urgency Ordinance No. 678 provided a 30-day window for property owners to register for a Vacation Rental license. That window closed on July 11, 2014. The moratorium no longer allows for registration of vacation rentals.

Ordinance No. 2015-03 establishes that Property Owners shall apply for a Vacation Rental permit for each property they wish to rent, as well as a Vacation Rental Business License to operate. There are currently only 52 properties registered under the moratorium.

Staff is seeking Council decision on whether the Moratorium prohibition on new Vacation Rental registrations should be removed or maintained? If the Moratorium prohibition maintains, only the 52 currently registered properties would be allowed to operate, and would be the only properties subject to the enforcement provisions in the Ordinance. Additionally, the decision on this aspect has ramifications on number three (3).

3. Urgency Ordinance No. 678 established a seven (7) day rental minimum for registered properties, and a thirty (30) day minimum for all others (prohibition on short-term rentals unless registered). The zoning overlay process will resolve length of stay later in 2015. However, until permanent resolution to length of minimum stay is adopted, the Moratorium length of stay needs discussion.

If the Moratorium on new registrations is lifted, it will allow for new registrations and result in more properties rented for a seven (7) day minimum. If the Moratorium prohibition on new registrations is maintained, then all new registrations will be declined. This would cause the enforcement provisions adopted in the Ordinance to only apply to the 52 currently registered Vacation Rentals. All other properties would require 30-day minimum stay and would not be subject to the enforcement provisions.

Council needs to direct whether the moratorium for minimum stay continues in place – maintaining a seven (7) day minimum for registered properties? This decision is in consideration of whether or not new properties are allowed to register. If Council allows new registrations, but maintains the Moratorium for minimum stay, then the City would be allowing seven (7) day Vacation Rentals.

FISCAL IMPACT:

Fee Assessment:

The Ordinance allows City Council to set, by resolution, the fee charged for issuance of Vacation Rental permits ("Permit"). Staff has begun analysis of the direct costs associated with issuance of the Permit. Preliminary estimates have the permit fee between \$140 and \$175 per property. Staff will finalize calculations and introduce a resolution to set the fee with the second reading of the Ordinance.

The Ordinance requires a first warning (as presented on January 22nd) stay posted on the front of a property for a sixty (60) period. The fine for removal of that warning within the sixty (60) day period is recommended at \$250. This amount matches the fine for violation of the revised Noise Ordinance No. 2015-01. The fine for violation is also established through resolution. If Council approves of the \$250 amount, it will be introduced with the second reading of Ordinance No. 2015-03.

Financial Estimates:

Council's decisions regarding continuance of the Moratorium, as detailed above, have varied financial impacts. The following two tables highlight estimates of revenues and expenditures. Table 1 lists financial estimates based on continuance of the Moratorium prohibition on new rentals. Table 2 shows estimates based on the removal of the prohibition of new rentals.

Table 1
If Moratorium Restrictions are Maintained

LINE ITEM REVENUES	Low	High
License Fee's Collected (52) existing properties	\$7,280	\$9,000
TOT Collection	\$37,000	\$71,000
Est. Revenues	\$44,280	\$80,000
LINE ITEM EXPENSES		
Vacation Rental Compliance Consultant & Hotline	\$20,000	\$35,000
Marketing of New Rules	\$0	\$5,000
Code Enforcement (10% time)	\$13,000	\$13,000
Permit/License Issuance Staff Time (2.5% time)	\$2,700	\$2,700
Est. Expense	\$35,700	\$55,700
Est. NET	\$8,580	\$24,300

Table 2
If New Properties are Allowed to Register

LINE ITEM EXPENSES	Low	High
Est. New Licenses (120 existing & new)	\$16,800	\$21,000
TOT Collection	\$84,000	\$165,000
Est. Revenues	\$100,800	\$186,000
LINE ITEM EXPENSES		
Vacation Rental Compliance Consultant & Hotline	\$20,000	\$35,000
Marketing of New Rules	\$0	\$5,000
Code Enforcement (50% time)	\$54,000	\$62,500
Permit/License Issuance Staff Time (6% time)	\$6,200	\$6,200
Est. Expense	\$80,200	\$108,700
Est. NET	\$20,600	\$77,300

All revenue estimates based on TOT collection averages from prior years. All expense estimates based on quoted consultant costs and fully loaded staffing costs as percentage of full-time equivalent.

Note: there are currently 163 Vacation Rentals listed on VRBO, considered the most widely used advertisement website for residential Vacation Rentals in Indian Wells. This number of rentals, based on historical annual average night's stay, average rental rate, and the 11.25% TOT rate, would generate as much as \$225,000 in TOT.

ATTACHMENTS:

1. Ordinance No. 2015-03
2. 17 Recommended Code Provisions for Enforcement

ORDINANCE BILL NO. 2015-03

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

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

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

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

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

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

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

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

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

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

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

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

Sections:

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

5.20.010 Violation; nuisance; applicability.

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

5.20.020 Short-term residential rental, definitions.

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

"City" means the City of Indian Wells.

"Code" means the Indian Wells Municipal Code.

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

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

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

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

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

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

"Responsible Person" means the signatory of a short-term rental agreement for the use and occupancy of a short-term rental unit, who shall be an occupant of the subject short-term rental unit, and is legally responsible for ensuring that all occupants of the short-term rental unit, and/or their guests, comply with all applicable laws, rules and regulations pertaining to the use and occupancy of subject short-term rental unit, and who may be held liable for any violation of all applicable laws, rules and regulations set forth in this Chapter.

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

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

5.20.030 Conditions of operation.

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

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

5.20.040 Business license.

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

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

(c) Penalty for Violation. Failure to obtain and maintain a business license or continuing to operate a Short-term Residential Rental business after suspension or revocation of a business license, knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring a business license for Short-term Residential Rentals, or failing to pay the full amount of any business license tax when due, shall be punishable in accordance with the provisions of Section 5.01.0~~40~~ of this Code. An action against an Owner or any permittee of a business license for Short-term Residential Rentals who is in violation of any of the provisions of this Section may be

brought pursuant to Chapter 8.08 or Section 5.01.0450 of this Code, in addition to the business license suspension and revocation proceedings described Section 5.20.090.

5.20.050 Registration.

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

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

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

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

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

5.20.060 Personal availability.

(a) For each Short-term Residential Rental, a Local Contact Person ~~Either the Owner or a Managing Agency or Contact~~ shall be available by telephone on a seven (7) day per week, twenty-four (24) hour per day basis to respond ~~via telephone~~ to public safety calls, nuisances, or other complaints regarding the use, condition, operation, or conduct of occupants on the Premises. ~~The Local Contact Person shall respond within 45 minutes to satisfactorily correct any alleged nuisance or violation of this Chapter by occupants occurring at the Premises. If the Local Contact Person does not respond within 45 minutes or does not satisfactorily correct the alleged nuisance or violation pertaining to the call, the Owner shall be subject to citation pursuant to Section 5.20.170 of this Code.~~

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

5.20.070 Notice to occupants.

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

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

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

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

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

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

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

(g) A copy of the "Good Neighbor Brochure"; and shall be given to the Responsible Person;

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

5.20.080 Transient occupancy tax.

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

5.20.090 Statement of occupancies.

~~Either~~The Owner or a Managing Agency or Agent shall register the name and contact information for all Responsible Persons renting their Premises, through a City run online database, along with dates of stay no later than forty-eight (48) hours prior to occupant arrival, submit to the City, once per quarter, on or before March 31, June 30, September 30, December 31 of each year on a form prepared by the City or in a manner otherwise acceptable to the City, a statement of occupancies The ~~containing all of the following information shall be provided~~(whether or not the Premises has actually been occupied during the respective quarter):

- (a) Dates of any Short-term Residential Rentals of the Premises; and
- (b) Number of persons staying on the Premises during each Short-term Residential Rental; and
- (c) ~~Consideration~~Nightly rates collected for each Short-term Residential Rental; and
- (d) ~~Amount of Transient Occupancy Tax due and paid or payable to the City~~
- (d) Full name and telephone number of Responsible Person during each Short-term Residential Rental. The Responsible Person shall be at least thirty (30) years of age.

5.20.100 Signs/Advertisement.

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

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

- (a) The assigned short-term rental permit number; and
- (b) The number of occupants allowed to occupy the short-term rental. ~~and~~

Any sign or advertisement violations in violation of this Chapter shall be subject to a citation pursuant to Section 5.20.170 of this Code.

5.20.110 Noise.

It shall be unlawful for any owner, occupant, renter, lessee, person present upon, or person having charge or possession of the Premises to make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area, or violates any provision of Chapter 9.06 (Noise) of this Code. For the purposes of determining whether a violation of this Section has occurred, the standards of set forth in Chapter Section 9.06-050 (a) and (b) of this Code shall apply. Fines for violation of the noise provisions in the Municipal Code, as applicable to Short-term Residential Rentals shall be those established pursuant to Section 5.20.170 of this Code

5.20.120 Occupancy.

The maximum overnight occupancy on the Premises of the Short-term Residential Rental, from the hours of 11:00 p.m. through 6:00 a.m. on the following morning, shall not exceed two (2) persons; plus an additional ~~be two (2) persons per bedroom with~~ an exception for children under the age of six who may additionally occupy the Premises, and no additional occupants on the Premises shall be permitted. The maximum daytime occupancy on the Premises of the Short-term Residential Rental, from the hours of 6:00 a.m. through 11:00 p.m. on the same day, shall not exceed the maximum overnight occupancy, plus an additional one (1) person per bedroom. The Owner or Managing Agency or Agent shall only advertise available occupancy up to the maximum occupancy set forth above, consistent with this ordinance.

5.20.130 Maintenance of residential character.

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

5.20.140 Minimum duration of rental.

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

5.20.150 Parking.

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

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

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

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

~~(1) Upon a finding by the Community Development Director of a first violation within any twelve (12) month period, the business license shall be suspended for thirty (30) days and during said time the Premises shall not be utilized for a Short-term Residential Rental.~~

~~(2) Upon a finding by the Community Development Director of a third violation within any twelve (12) month period, the business license shall be revoked and the Owner or the Managing Agency or Agent who had been issued the business license shall not again be issued a business license for Short-term Residential Rental for a period of twenty four (24) months and during said time the Premises shall not be utilized for a Short-term Residential Rental.~~

(b) Appeal from Denial or Suspension or Revocation of a Business License for Short-term Residential Rental. Any applicant for a business license for the Business of Short-term Residential Rentals whose application was denied by the Community Development Director, and any licensee whose business license for a Short-term Residential Rental is suspended or revoked by the Community Development Director, may, within ten (10) days following such decision, appeal such decision to the Planning Commission, in which event the decision of the Community Development Director shall be vacated and the Planning Commission shall determine whether to affirm, reverse, or modify the decision of the Community Development Director in accordance with the requirements for Short-term Residential Rentals set forth in this Chapter. At least fourteen (14) days prior to the Planning Commission's meeting to consider the appeal of

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

5.20.170 Administrative citation.

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

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

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

Responsible Person:

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

1. First offense - Warning by City's police authority;

2. Second offense within any sixty (60) day period - \$500 fine;

3. Third and subsequent offenses within sixty (60) day period - \$1,000 fine.

Upon the first offense, the responding City's police authority will issue and post a notice of 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 within said 60 days) that a second offense, or subsequent offenses, automatically result in citation(s) to the Owner, and Responsible Person of the Premises at that time. It is a violation of this Chapter to remove the warning within the sixty (60) day period, and the fine applicable to any citation issued for such violation shall be \$200 or as otherwise established by resolution of the City Council. .

Owner:

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

4. First offense - Warning by City's police authority;

5. Second offense within any twelve (12) month period - \$2,000 fine;

6. Third and subsequent offences within any twelve (12) month period - \$5,000 fine and revocation of the vacation rental permit for a period of twelve (12) months effective immediately;

7. Any offense occurring during any permit revocation period - \$5,000 fine."

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

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

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

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

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

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

TY PEABODY
MAYOR

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

CERTIFICATION FOR ORDINANCE BILL NO. 2015-03

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance Bill No. 2015-03, having been regularly introduced at the meeting of February 5, 2015 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on this 19th day of February, 2015 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:

NOES:

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

ATTEST:

APPROVED AS TO FORM:

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

**STEPHEN P. DEITSCH
CITY ATTORNEY**

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.

- o **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?

- 5A. Introduce Ordinance Amending Municipal Code Chapter 5.20 Regarding Short-Term Vacation Rentals, Provide Further Direction to Staff on Zoning Overlay for Establishing Minimum Stay Requirements, and Any Other Issues Related to Short-Term Vacation Rentals

Staff Report will be provided under separate cover Monday, February 2, 2015.

CC/HA ACTION _____ MTG. DATE: 2-5-15
APPROVED DENIED _____ REC/FILE _____ CONT. _____
OTHER _____
VOTE: YES 5 NO 0 ABSTAIN _____

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 7:00 p.m. to 7:00 a.m. (except for commercially licensed businesses on non-residentially zoned property which will be subject to this restriction from 10:00 p.m. to 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."

*Intro Ordinance
of Amend
Ordinance on 2-19-15
changed
time to
10 PM
to
7 AM*

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 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 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, audible generating device 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 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, provided that the first citation shall be a fine of \$250 and each subsequent citation shall be a fine of \$500. 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

We, the residents of Indian Wells, support a 29-night minimum stay for vacation rentals in the non-gated, non-HOA region of Indian Wells.

Name	Address	Phone Number	Signature
H. LE MANSÉC	75570 Mary Lane	760 363 1916	<i>[Signature]</i>
Cynthia Diaz	75235 Purple Hills	760 518 8165	<i>[Signature]</i>
Kurt Compa	75250 PARKWAY	949 800 2433	<i>[Signature]</i>
Cathe + Chip DYER	45711 Indian Wells Ln	972 270 7898	<i>[Signature]</i>
JOSHO MEV	75251 Desert Desert	760 466 3799	<i>[Signature]</i>
Judy Scurd	75-465 Montecito	760-562-3774	<i>[Signature]</i>
W. H. FORD	75 288 Palm Shadow	562-7221	<i>[Signature]</i>
John Stewart	75-288 Palm Shadow	346-6245	<i>[Signature]</i>
Edna Landa	75-284 Skyline Tr.	30 913 5913	<i>[Signature]</i>
MARK McBowen	76070 Via Chianti 1W	760 340 3337	<i>[Signature]</i>
Jillan Royer	75-465 Stardust Lane	760-346-3553	<i>[Signature]</i>
Paul + Jane Raymond	75387 Stardust Ln	760-610-2426	<i>[Signature]</i>
David M. Moore	75437 Montecito		<i>[Signature]</i>
Michael Scurd	75465 Montecito	760 408 6416	<i>[Signature]</i>
Judy Scurd	75465 Montecito	760-415-2031	<i>[Signature]</i>
RICK HOFERD	75289 Palm Shadow	415 994 9902	<i>[Signature]</i>
PETER HUCKLE	75451 PALM SHADOW	206 883 5159	<i>[Signature]</i>
LAROL HUCKLE	75451 " "	" "	<i>[Signature]</i>
Michael W. Clark	75475 Desert Park Dr.	(760) 346-1025	<i>[Signature]</i>
Richard A. Coste	" " " "	" "	<i>[Signature]</i>
John R. Burton	75270 Desert Park Dr.	951 772	<i>[Signature]</i>
Dina C. White	75452 Desert Park Dr.		<i>[Signature]</i>
Jane Zwer	75403 DESERT PARK DR.	JAMES TOWER/KATHI	<i>[Signature]</i>
DEN MEAD	75340 " " "	" "	<i>[Signature]</i>
Doreen Pent Mead	75-340 Desert Park Dr 1W		<i>[Signature]</i>

We, the residents of Indian Wells, support a 29-night minimum stay for vacation rentals in the non-gated, non-HOA region of Indian Wells.

Name	Address	Phone Number	Signature
John Schwarbro	75309 Desert Park	760-340-1494	[Signature]
Tom & Donna Lee	75391 Sky Lark Trail	925-240-6008	[Signature]
Jim & Kathy Howe	45600 Carlita	760-610-2839	[Signature]
Tom McPhay	75555 Mary Ln	562-889-5242	[Signature]
Rebecca Andelson	75545 Mary Ln	760-861-3742	[Signature]
Michael Andelson	75545 MARY LN	760-409-4917	[Signature]
Richard E. Cottrell	45555 Camino Del Rey	760-773-9357	[Signature]
Gene Vesic	75200 Palm Shadow Dr	760-895-6710	[Signature]
Danuta Pejono	75474 Palm Shadow Dr		[Signature]

Anna Grandys

**To Council
02-05-15**

Subject: FW: Concerning short term rentals

From: David Gassaway
Sent: Thursday, February 05, 2015 12:55 PM
To: Anna Grandys
Subject: FW: Concerning short term rentals

This resident called me and asked this be put in the record as she is unable to attend the meeting today.

From: Lunddl [<mailto:lunddl@aol.com>]
Sent: Thursday, February 05, 2015 12:33 PM
To: David Gassaway
Subject: Concerning short term rentals

Dear City Council members,

This letter is to inform you that we are in favor of short term rentals and oppose placing limits on how long the home owner can rent out their property for the following reasons: We purchased our condo with the idea that we could rent it on occasion to allow us to be able to afford our home in the desert. We rent mostly to seniors who are so quite our neighbors have told us they do not even know someone is staying there. With the rent we receive we are able to maintain our home and offset some of the monthly expenses. We believe that it still looks better than other homes in the same area. We do not use real estate agents to rent our home and we carefully select who is coming into the home, and many of our friends rent from us. Right now, we pay the city tax of 11.25% on any rentals less than 30 days, and we are just barely making enough to keep our property. If we are not allowed short term rentals we will we will likely have to sell our home in the desert as we will not be able to afford it. How can you punish everyone for a very few who have made bad choices in renters? We believe that you should fine the people who are renting to bad tenants since it is not necessary to rent to people who are disturbing their neighbors. If you interview people and check them out before renting to them chances are very good that you can find out if they are going to be good people. We have too much government control in our lives as it is, and people are feeling like the government is not on their side, so please show us it is different this time, and punish the bad landlords and not the good ones who need the income to survive. If anything you might put a limit on the number of short term rentals to be no more than 12 annually, which would allow those of us who only have one or two rentals to survive. Also, February should be considered a 30 day month, since rentals are normally by the month.

Thank you for your consideration in this very important matter,

Dwayne & Mary Lund
Owners of 46835 Mountain Cove
Indian Wells, 92210
lunddl@aol.com

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We, the residents of Indian Wells, support a 29-night minimum stay for vacation rentals in the non-gated, non-HOA region of Indian Wells.

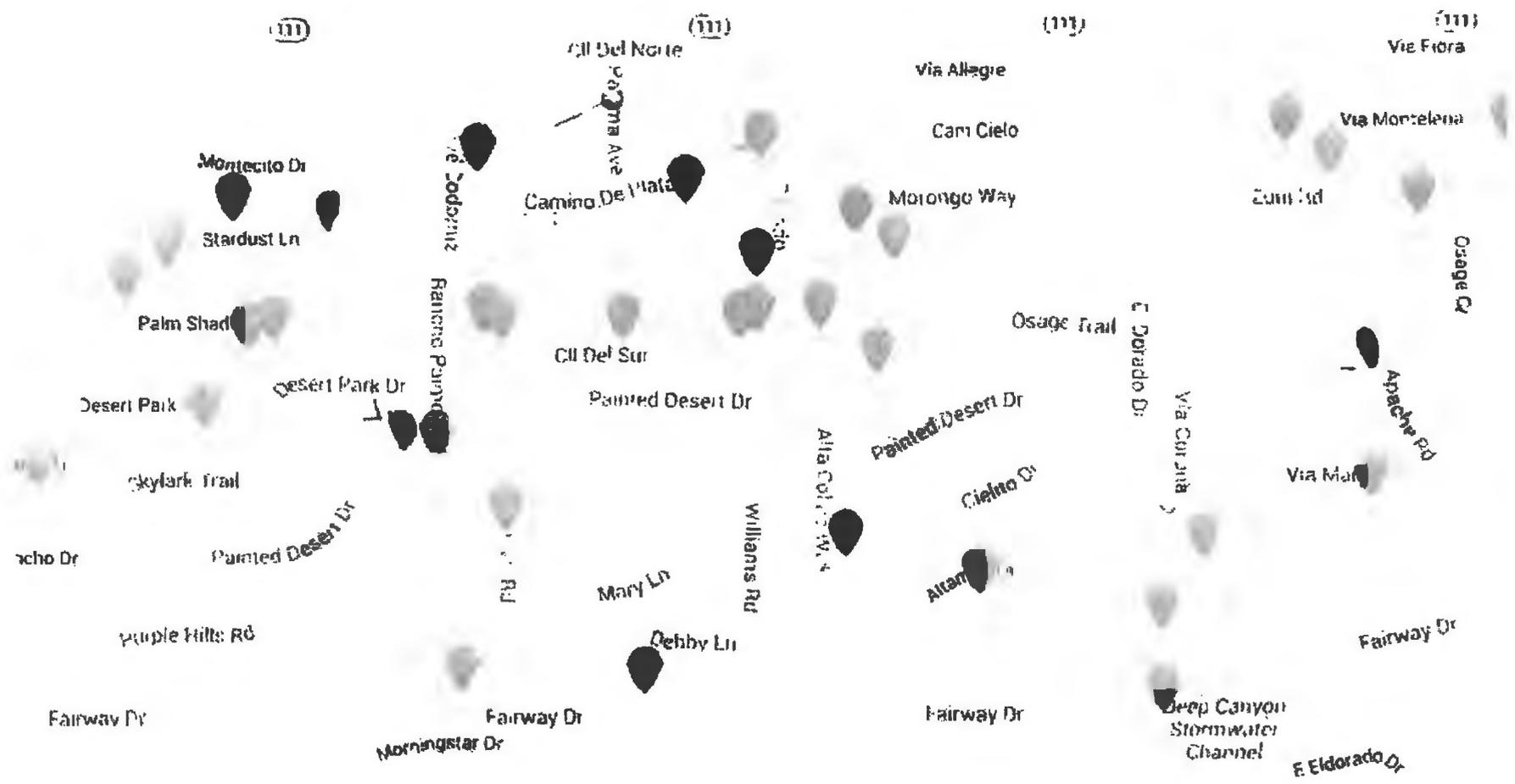
Name	Address	Phone Number	Signature
John Schwarbro	75309 Desert Park	760-340-1494	[Signature]
Tom + Donna Lee	75391 Sky Lark Trail	925-240-6008	[Signature]
Jim + KATHY HOWE	45600 Camino	760-610-2839	[Signature]
Tom + Mary Ann	75555 MARY LN	562-889-5211	[Signature]
Rebecca Andelson	75545 MARY LN	760-861-3742	[Signature]
Michael Andelson	75545 MARY LN	760-409-9917	[Signature]
Richard E. Cottrell	45255 Camino Del Rey	760-773-9557	[Signature]
Gene Vesic	75200 Palm Street	760-898-6910	[Signature]
Danuta Pejovic	75474 Palm Shadow Dr		[Signature]

At Dals, Item SA

Search by property number, keyword, or destination

Arrival Depart Search
I don't have dates yet

Rate: Any Sleeps: Any Bedrooms: Any Booking: Edit All filters: Add+ List



Feedback

Map Report a ma



Search by property number, keyword, or destination

Arrival

Depart

Search

I don't have dates yet

Rate: Any

Sleeps: Any

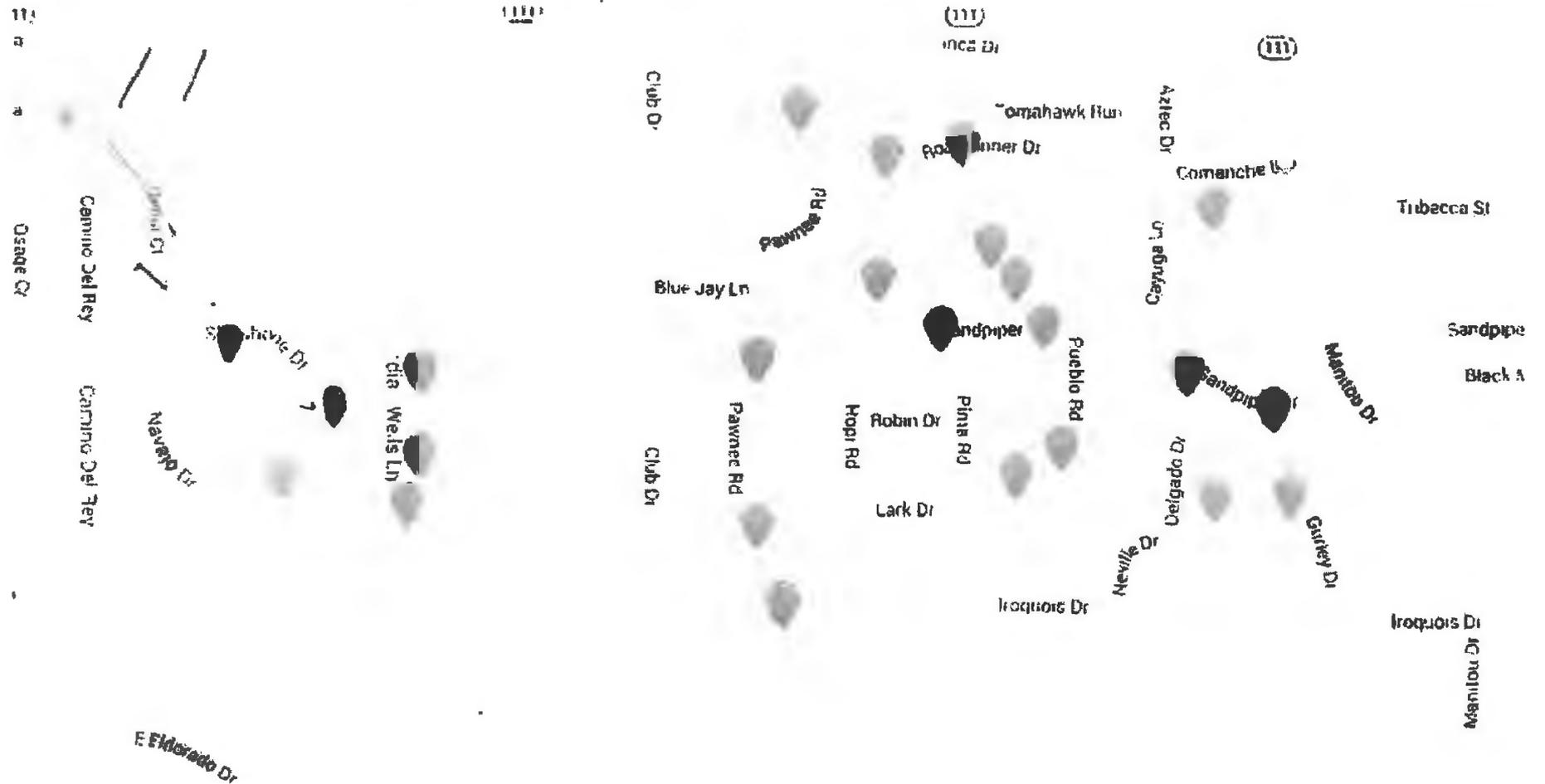
Bedrooms: Any

Booking: Edit

All filters: Add+

List

Map



Feedback

Map · Report a map error

Larry Bear Bonafide
Short Term Rental Policy Proposal
February 2, 2015 at 7:22 PM

l tpeabody@indianwells.com, dreed@indianwells.com, tmertens@indianwells.com, rbalocco@indianwells.com,
dhanson@indianwells.com
c wmkinney@indianwells.com, City of Indian Wells
Stephen P Deitsch

Honorable Mayor and Members of the Indian Wells City Council,

With the pending passage of stronger ordinances covering residential noise, occupancy and parking limits, along with the 17 + 4 short term rental regulations agreed to at the last Council Meeting, the City is well on its way to putting in place a plan that will contribute to preserving the exceptional quality of life we enjoy in Indian Wells.

"Minimum Stay Requirements", which is scheduled to be addressed at the February 5, 2015 Council Meeting, is by far the most controversial of all of the short term rental regulations. I respectfully ask that you consider adopting the following proposals:

ORDINANCE AMENDING MUNICIPAL CODE CHAPTER 5.20 REGARDING SHORT-TERM VACATION RENTALS "MINIMUM STAY REQUIREMENTS"

Ø Any registered Indian Wells property owner may rent all or part of their single family residence, *hosted or not hosted*, as follows:

1) No more than one rental contract/agreement per residence during any consecutive thirty (30) day time frame.

2) The Minimum Stay Requirements of the rental contract /agreement must be at least seven (7) days.

3) Exceptions:

§ A legal registered Home Owners Association that has a different length of Minimum Stay Requirements specifically defined in it's CC& R's or other HOA covenant would be exempt.

§ The City Council creates and approves, at it's discretion, a specific special area zoning exemption to the Minimum Stay Requirements.

PROPOSAL RATIONALE

Ø Provides for a fair and balanced short term rental ordinance for all residential property owners.

Ø Makes available some local controls of Minimum Stay Requirements by Homeowners Associations.

o Home Owners Associations would have the option to strengthen or weaken their Minimum Stay Requirements to suit their needs as follows:

o Choose to abide by the City's Minimum Stay Requirements Code/Ordinance and/or amend the provisions of their HOA's - CC&R's.

§ Note: should a HOA deviate their standards from the City's Minimum Stay Requirements, said HOA would be responsible for enforcement of those standards and administration of any punitive penalties they have agreed to.

- o The City would not be responsible for and/or join in any enforcement of deviated standards and administration of any punitive penalties.

TYPES OF RENTALS THAT WOULD BE SUBJECT TO MUNICIPAL CODE CHAPTER 5.20 REGARDING SHORT-TERM VACATION RENTALS:

Because of the following property type descriptions, having a "one size fits all" Minimum Stay Requirements would be very complicated and most likely very unfair to those homeowners that are not a part of a Home Owners Association.

- Ø Un-Hosted Single Family Home = owner and/or other custodian not present on the property during the term of the rental.
 - o i.e. VRBO - <http://www.vrbo.com/vacation-rentals/usa/california/deserts/indian-wells>
- Ø Hosted room only rentals in a single family home = owner and/or other custodian is present on the property during the term of the rental.
 - o i.e. airbnb - <https://www.airbnb.com/s/Indian-Wells--CA--United-States?checkin=03%2F03%2F2015&checkout=03%2F10%2F2015&guests=4&source=bb&ssid=0ptlppm2>
 - § There don't appear to be any short term hosted rental ads on airbnb for Indian Wells at this time, but it is likely given how much the concept is growing, as are our local major events such as the Tennis tournament, Coachella, Stagecoach, etc.
 - o There have been several recent City Council decisions in other Cities that have taken this phenomena on and strengthened their codes where as the number of available hosted short term rentals (rooms) approach or exceed the number of hotel rooms in the City. San Francisco is one example that has been in the news recently.

TYPES OF RESIDENCES THAT ARE AND WOULD BE SUBJECT TO MUNICIPAL CODE CHAPTER 5.20 REGARDING SHORT-TERM VACATION RENTALS

- Ø All single family Residences within the City Limits should be covered by a universal short term rental municipal ordinance's frequency of rental per 30 day period and "Minimum Stay Requirements".
 - Ø Single Family Residences *in un-gated areas with no Home Owners Association affiliation*
 - Ø Single Family Residences *in un-gated areas with a Home Owners Association affiliation*
 - Ø Single Family Residences *in gated areas with no Home Owners Association affiliation*
 - Ø Single Family Residences *in gated areas with a Home Owners Association affiliation*
 - Ø HOA's with and without frequency of rental per 30 day period and "Minimum Stay Requirements" covenants in their CC & R's

**ENFORCEMENT OF INFRACTIONS OF THE PROPOSED MUNICIPAL CODE CHAPTER
5.20 REGARDING SHORT-TERM VACATION RENTALS**

- Ø Residences that are represented by an HOA and/or CC & R's:
 - When an HOA's CC & R's and/or covenants are silent on Minimum Stay Requirements and/or frequency of rental per consecutive 30 day period, said HOA would have the option to either defer to the City's ordinance or adopt their own Minimum Stay Requirements.
 - § If an HOA and/or Association decides to stay silent on Minimum Stay Requirements and/or frequency of rentals per 30 days standard, the City may be called on to enforce the City's Municipal Code standards.
 - § Should the HOA and/or Association option for Minimum Stay Requirements that deviate from the City's Municipal Code, that Association would have to enforce their own policy and administer any and all penalties without help from the City.
- Ø Residences inside or outside of a gated community that are not represented by an HOA and/or Association would subject to all of the City's Short Term Rental conditions and penalties for infractions.

I submit that issue under consideration is as much the frequency of rentals per 30 day period as it is the Minimum Stay Requirements.

Thank you for considering this proposal and I look forward to discussion of this matter at the next council meeting under Item 5 – Ordinances For Introduction.

Respectfully,

Larry "Bear" Bonafide

February 19, 2015 Staff Report

CC/HA ACTION _____ MTG. DATE: 2-19-15
APPROVED DENIED _____ REC/FILE _____ CONT. _____
OTHER _____
VOTE: YES 5 NO 0 ABSTAIN _____

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 10:00 p.m. to 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 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 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 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, audible generating device 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 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, loudspeaker or sound amplifiers or other machine or device for the producing or reproducing of sound."

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, provided that the first citation shall be a fine of \$250 and each subsequent citation shall be a fine of \$500. 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 19th 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 amended and introduced at the meeting of February 5, 2015, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on this 19th day of February, 2015, and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
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

CC/HA ACTION _____ MTG. DATE: 2-19-15
APPROVED DENIED _____ REC/FILE _____ CONT. _____

ORDINANCE BILL NO. 2015-08 HER _____

VOTE: YES 4 NO 1 ABSTAIN _____

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

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

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

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

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

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

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

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

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

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

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

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

Sections:

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

5.20.010 Violation; nuisance; applicability.

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

5.20.020 Short-term residential rental, definitions.

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

"City" means the City of Indian Wells.

"Code" means the Indian Wells Municipal Code.

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

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

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

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

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

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

"Responsible Person" means the signatory of a short-term rental agreement for the use and occupancy of a short-term rental unit, who shall be an occupant of the subject short-term rental unit, and is legally responsible for ensuring that all occupants of the short-term rental unit, and/or their guests, comply with all applicable laws, rules and regulations pertaining to the use and occupancy of subject short-term rental unit, and who may be held liable for any violation of all applicable laws, rules and regulations set forth in this Chapter.

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

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

5.20.030 Conditions of operation.

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

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

5.20.040 Business license.

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

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

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

Residential Rentals who is in violation of any of the provisions of this Section may be brought pursuant to Chapter 8.08 or Section 5.01.040 of this Code, in addition to the business license suspension and revocation proceedings described Section 5.20.090.

5.20.050 Registration.

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

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

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

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

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

5.20.060 Personal availability.

(a) For each Short-term Residential Rental, a Local Contact Person shall be available by telephone on a seven (7) day per week, twenty-four (24) hour per day basis to respond to public safety calls, nuisances, or other complaints regarding the use, condition, operation, or conduct of occupants on the Premises. The Local Contact Person shall respond within 45 minutes to satisfactorily correct any alleged nuisance or violation of this Chapter by occupants occurring at the Premises. If the Local Contact Person does not respond within 45 minutes or does not satisfactorily correct the alleged nuisance or violation pertaining to the call, the Owner shall be subject to citation pursuant to Section 5.20.170 of this Code.

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

5.20.070 Notice to occupants.

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

- (a) The name of the Owner or Managing Agency or Agent and a telephone number at which each may be reached on a seven (7) day per week, twenty-four (24) hour per day basis; and
- (b) Notification of the maximum number of overnight and daytime occupants permitted on the Premises pursuant to this Chapter; and
- (c) Notification of the City's noise standards, as provided in Chapter 9.06 of this Code, as may be amended from time to time; and
- (d) Notification of the parking standards of this Chapter; and
- (e) A copy of this Chapter of the Indian Wells Municipal Code, as may be amended from time to time; and
- (f) Notification that an occupant may be cited or fined by the City, in addition to any other remedies available at law, for violating any provisions of this Chapter; and
- (g) A copy of the "Good Neighbor Brochure"; and
- (h) Owner or Managing Agency or Agent shall keep on file a signed agreement acknowledging that the Responsible Person and occupants agree to the general rules summarized in the Good Neighbor Brochure and rental contract, including without limitation the immediate termination provision in the rental contract for any violation of the Municipal Code by any occupant.

5.20.080 Transient occupancy tax.

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

5.20.090 Statement of occupancies.

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

- (a) Dates of any Short-term Residential Rentals of the Premises; and
- (b) Number of persons staying on the Premises during each Short-term Residential Rental; and
- (c) Nightly rates collected for each Short-term Residential Rental; and
- (d) Full name and telephone number of Responsible Person during each Short-term Residential Rental. ~~The Responsible Person shall be at least thirty (30) years of age.~~

5.20.100 Signs/Advertisement.

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

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

- (a) The assigned short-term rental permit number; and
- (b) The number of occupants allowed to occupy the short-term rental.

Any sign or advertisement in violation of this Chapter shall be subject to a citation pursuant to Section 5.20.170 of this Code.

5.20.110 Noise.

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

5.20.120 Occupancy.

The maximum overnight occupancy on the Premises of the Short-term Residential Rental, from the hours of 11:00 p.m. through 6:00 a.m. on the following morning, shall not exceed two (2) persons per bedroom with an exception for children under the age of six who may additionally occupy the Premises, and no additional occupants on the Premises shall be permitted. The maximum daytime occupancy on the Premises of the Short-term Residential Rental, from the hours of 6:00 a.m. through 11:00 p.m. on the same day, shall not exceed the maximum overnight occupancy, plus an additional one (1) person per bedroom. The Owner or Managing Agency or Agent shall only advertise available occupancy up to the maximum occupancy set forth above.

5.20.130 Maintenance of residential character.

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

5.20.140 Minimum duration of rental.

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

5.20.150 Parking.

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

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

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

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

(b) Appeal from Denial or Suspension or Revocation of a Business License for Short-term Residential Rental. Any applicant for a business license for the Business of Short-term Residential Rentals whose application was denied by the Community Development Director, and any licensee whose business license for a Short-term Residential Rental is suspended or revoked by the Community Development Director, may, within ten (10) days following such decision, appeal such decision to the Planning Commission, in which event the decision of the Community Development Director shall be vacated and the Planning Commission shall determine whether to affirm, reverse, or modify the decision of the Community Development Director in accordance with the requirements for Short-term Residential Rentals set forth in this Chapter. At least fourteen (14) days prior to the Planning Commission's meeting to consider the appeal of the applicant or licensee, the Community Development Director, City Clerk, or authorized designee, shall send, by United States mail, certified, return receipt requested, written notice to the applicant or licensee of the time and place at which the Planning Commission will consider the application, suspension or revocation, and the applicant or licensee shall be provided an opportunity to be heard by the Planning Commission prior to its decision being made. Subject to any appeal of the City Council as hereinafter permitted, the decision of the Planning Commission shall be final and the City Clerk shall notify the applicant or licensee, as applicable, in writing of the decision of the Planning Commission. If the Planning Commission affirms the decision of the Community Development Director denying an application or suspending or revoking a license, the applicant or licensee shall have the right to appeal the decision of the Planning Commission to the City Council in accordance with the provisions of Section 21.06.110 of this Code, as amended from time to time. The decision of the Planning Commission shall not be vacated during the pendency of any appeal to the City Council.

5.20.170 Administrative citation.

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

(b) All complaints against a Short-term Residential Rental for any violation of this Code may be handled by the City's police authority on a 24-hour basis. Any police report where the City's police authority has concluded that a violation of this Chapter has occurred, may be submitted to the City's Code Enforcement Department for review, processing and issuance of an administrative citation. Each and every day, or portion thereof, that a violation of this Chapter exists constitutes a separate and distinct violation

for which an administrative citation may be issued. Such an administrative citation shall be issued, notice given, and any appeals heard by the processes and in the manner prescribed by Sections 8.08.040 through 8.08.190 of this Code, as amended from time to time.

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

Responsible Person:

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

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

~~Upon the first offense, the responding City's police authority will issue and post a notice of 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 within said 60 days) that a second offense, or subsequent offenses, automatically result in citation(s) to the Owner, and Responsible Person of the Premises at that time. It is a violation of this Chapter to remove the warning within the sixty (60) day period, and the fine applicable to any citation issued for such violation shall be \$200 or as otherwise established by resolution of the City Council.~~

Owner:

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

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

7. Any offense occurring during any permit revocation period - \$5,000 fine."

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

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

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

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

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

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

**TY PEABODY
MAYOR**

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

CERTIFICATION FOR ORDINANCE BILL NO. 2015-03

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance Bill No. 2015-03, having been regularly introduced at the meeting of February 5, 2015 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on this 19th day of February, 2015 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

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

ATTEST:

APPROVED AS TO FORM:

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

**STEPHEN P. DEITSCH
CITY ATTORNEY**

CC/HA ACTION _____ MTG. DATE: 4-1-15
APPROVED DENIED _____ REC/FILE _____ CONT. _____
OTHER _____
VOTE: YES 4 NO 0 ABSTAIN _____
Mayor Pro Tem Reed as Delegate April 1, 2015

Indian Wells City Council
Staff Report – City Clerk

Designation of Delegate to Southern California Association of Government General Assembly

RECOMMENDED ACTIONS:

Council **DESIGNATES** a delegate and any alternate to represent the City at the Southern California Association of Government General Assembly held in Palm Desert on May 7-8, 2015; and

AUTHORIZE any normal and reasonable reimbursement of expenses incurred.

DISCUSSION:

The Southern California Association of Government ("SCAG") has requested the City designate a delegate and any alternate to the Southern Association of Government General Assembly held in Palm Desert on May 7-8, 2015. At this time, Mayor Pro Tem Reed is scheduled to attend this assembly.

SCAG has also requested the City to include the delegate selection as part of the City's annual assignment process. Staff will add SCAG to the list for future assignment.

**FIRE ACCESS MAINTENANCE DISTRICT (FAMD)
04/02/2015 MEETING WARRANT LIST**

<u>CHECK #</u>	<u>DATE</u>	<u>INVOICE #</u>	<u>VENDOR NAME/DESCRIPTION</u>	<u>INVOICE AMT</u>	<u>CHECK TOTAL</u>
47040	4/2/2015		UNIVERSAL PROTECTION SERVICE		
		1408076	FAMD SECURITY SVCS FOR JAN 30 TO FEB 26, 2015	57,023.76	
		1412868	FAMD SECURITY SERVICES FUEL REIMBURSEMENT FOR FEB, 2015	512.74	
		1273803	FAMD SECURITY SERVICES ADDITIONAL FUEL REIMBURSEMENT FOR OCT, 2014	162.07	
		1254295	FAMD SECURITY SERVICES ADDITIONAL FUEL REIMBURSEMENT FOR SEPT, 2014	50.46	57,749.03
47035	4/2/2015		M & M SWEEPING, INC.		
		38139	FAMD MONTHLY STREET SWEEPING & ADDITIONAL-MANITOU, IROQUOIS & CLUB FOR MAR, 2015	5,380.00	5,380.00
47033	4/2/2015		CONSERVE LANDCARE		
		9437	FAMD LANDSCAPE MAINTENANCE FOR MAR. 2015	1,755.00	1,755.00
47031	4/2/2015		AMS		
		8572	FAMD SECURITY COMPUTER SOFTWARE MONTHLY SUPPORT FOR JUL, 2014	1,200.00	
		10036	FAMD SECURITY CAMERA AFTER HOURS REPAIRS ON FEB 22 & MAR 6, 2015	237.50	
		10035	FAMD (2) MULTI-CODE 2-BUTTON CLICKERS	64.80	1,502.30
47037	4/2/2015		SOUTHERN CALIFORNIA EDISON CO.		
		2-04-020-2624	FAMD 45400 MANITOU DRIVE UTILITIES FOR FEB 17-MAR 18, 2015	691.29	
		2-04-020-2624	FAMD 45400 MANITOU DRIVE UTILITIES FOR FEB 17-MAR 18, 2015	627.61	
		2-01-570-2145	FAMD 45301 CLUB DR GATE UTILITIES FOR FEB 18-MAR 19, 2015	180.88	1,499.78
47034	4/2/2015		DESERT PROPERTIES LIGHT MAINT.		
		15131	FAMD FLAG POLE FIXTURE INSTALLATION SERVICE AND SUPPLIES FOR MAR, 2015	419.50	
		15153	FAMD CLUB & MANITOU ENTRIES LIGHTING INSPECTION & MONTHLY MAINT FOR FEB, 2015	95.00	
		15132	FAMD BAD SOCKET REPLACEMENT SERVICES FOR MAR, 2015	64.95	579.45
47032	4/2/2015		BEST, BEST & KRIEGER, L.L.P.		
		744274	FAMD LEGAL SVCS TELEPHONE CONFERENCE, EMAILS & ANALYSIS FOR FEB, 2015	397.20	397.20
47039	4/2/2015		TIME WARNER CABLE		
		8448410760024111	FAMD MANITOU DRIVE INTERNET SVC FOR MAR 23-APR 22, 2015	124.95	
		8448410760024103	FAMD CLUB DRIVE INTERNET SVC FOR MAR 23-APR 22, 2015	124.95	249.90

FIRE ACCESS MAINTENANCE DISTRICT (FAMD)
04/02/2015 MEETING WARRANT LIST

CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
47036	4/2/2015	67750	SIGN A RAMA (2) FAMD STREET SIGNS FOR "ROBIN" DRIVE	192.24	192.24
47038	4/2/2015	8380597030115	SPARKLETTS DRINKING WATER FAMD CLUB/MANITOU GATEHOUSE FILTRATION SYSTEM RENTALS FOR MAR,2015	124.48	124.48
10 checks in this report					
				TOTAL FAMD WARRANTS: 47031-74040	69,429.38

COCHA ACTION _____ MTG. DATE: 4-1-15
 APPROVED DENIED REC/FILE _____ CONT. _____
 OTHER _____
 VOTE: YES 4 NO 0 ABSTAIN _____
 Excused - 1
 (Msoteno)

CITY OF INDIAN WELLS
04/02/2015 MEETING WARRANT LIST

CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
47013	4/2/2015	SH0000025620	RIVERSIDE COUNTY SHERIFF DEPT SHERIFF DEPUTIES, MILEAGE, FORENSIC TECH, LIEUTENANT,CSO FOR NOV 13-DEC 10,2014	246,049.61	246,049.61
47027	4/2/2015	SI-156448 SI-154370	VINTAGE ASSOCIATES (19) CITYWIDE GENERAL FUND & LLMDS LANDSCAPE MAINT FOR MAR, 2015 HWY 111 MEDIANS LANDSCAPE MAINTENANCE FOR APR 1, 2014 TO JAN 31, 2015	43,855.13 4,500.00	48,355.13
46962	4/2/2015	744272 742888 744273 744277 744275 744278 744276 744279	BEST, BEST & KRIEGER, L.L.P. GENERAL CITY RETAINER LEGAL SERVICES FOR FEB, 2015 GENERAL CITY RETAINER LEGAL SERVICES FOR JAN, 2015 BALANCE DUE CODE ENFORCEMENT LEGAL SVCS EMIAL CORRESPONDENCE & ABATEMENTS FOR FEB, 2015 75256 DESERT PARK CODE ENFORCEMENT LEGAL SVC-CONFERENCE CALLS FOR FEB, 2015 77324 SIOUX DRIVE CODE ENFORCEMENT LEGAL SVC EMAIL CORRESPONDENCE FOR FEB, 2015 45313 CLUB DR CODE ENFORCEMENT LEGAL SVCS-DRAFTS & EMAIL CORRESPONDENCE FOR FEB 77220 IROQUOIS CODE ENFORCEMENT LEGAL SVCS EMAIL CORRESPONDENCE FOR FEB, 2015 75537 DESIERTO CODE ENFORCEMENT LEGAL SVC EMAIL CORRESPONDENCE FOR FEB, 2015	20,346.00 4,641.00 1,481.50 1,025.17 437.02 354.24 196.20 109.00	28,590.13
46958	3/3/2015	7384 5061 5493 2000 1864 2000 2000 2000 5061 2000 5061 2000 2000 1566 1566 2000 1566 4964 4964 5061 7384 5061 5493 5493 5493	PLATINUM PLUS FOR BUSINESS (1) DISHWASHER VALVE ACCESS FOR IW FIRE STATION #55 TRANSFORMING LOCAL GOV'T SEMINAR RENTAL CAR PROTECTION FEE FOR D.GASSAWAY MONTHLY FORECLOSURE COMPLETE PROPERTY PROFILE SEARCH SERVICE FOR JAN, 2015 (1) HOW GREAT DECISIONS GET MADE AUDIO COMPANION FOR W.MCKINNEY (1) ASSERTING YOURSELF BOOK FOR K.MCCARTHY CITY COUNCIL MEETING REFRESHMENTS & ASSORTED COOKIES FOR JAN 22, 2015 CITY COUNCIL MEETING ASSORTED COOKIES FOR JAN 8, 2015 CITY COUNCIL MEETING ASSORTED COOKIES FOR FEB 5, 2015 DIGITAL ACCESS OF THE DESERT SUN FOR JAN, 2015 (1) THE ASSOCIATED PRESS STYLEBOOK FOR W.MCKINNEY CREDIT EFFECTIVE SUPERVISORY PRACTICES SIX-PART SERIES FOR D.GASSAWAY FOOD & BEVERAGE COST FOR 2014 EMPLOYEE APPRECIATION/HOLIDAY PARTY ON DEC 9, 2014 (2) GAS DRYERS & (1) REFRIGERATOR WITH ICE MAKER FOR IW FIRE STATION RESIDENT POLO EVENT FOOD & BEVERAGE BALANCE DUE FOR FEB 5, 2015 EXECUTIVE MANAGEMENT STRATEGIC PLANNING RETREAT HOME RENTAL ON FEB 25-27, 2015 (2) TOP-LOAD WASHERS, FILL HOSES & ICE MAKER CONNECTOR FOR IW FIRE STATION (500) 17OZ MOOD STADIUM CUPS & (200) 11OZ MUGS FOR MARDI GRAS EVENT ON FEB 17 (1) GOPRO CAMERA, BATTERY BACPAC, REPLACEMENT BATTERIES & CHARGER (1) 1-YEAR ADOBE CREATIVE CLOUD TEAM LICENSE (1) 2015 TRANSFORMING LOCAL GOVERNMENT SEMINAR REGISTRATION D.GASSAWAY APR 12-15 CAL/OSHA COMPLIANCE SEMINAR REGISTRATION FOR K.SEUMALO, L.BURR & R.BOWEN 2015 LCC CITY MANAGERS DEPT MEETING HOTEL EXPENSE FOR D.GASSWAY ON JAN 28-30 2015 LCC PLANNING COMMISSIONERS ACADEMY REGISTRATION FOR LORELEE WILLIAMS 2015 LCC PLANNING COMMISSIONERS ACADEMY REGISTRATION FOR W.MORELION ON MAR 4-6 2015 LCC PLANNING COMMISSIONERS ACADEMY REGISTRATION FOR AJ STAPLES ON MAR 4-6	39.01 36.00 20.00 19.72 15.50 13.47 12.45 11.47 10.00 8.91 -1,148.70 5,246.52 3,690.36 2,250.00 1,895.95 1,809.28 910.85 684.14 599.88 575.00 537.00 532.68 525.00 525.00 525.00	

**CITY OF INDIAN WELLS
04/02/2015 MEETING WARRANT LIST**

CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
		7384	2015 PUBLIC WORKS OFFICER INSTITUTE & EXPO REGISTRATION FOR K.SEUMALO MAR 25-27	525.00	
		5061	(1) 2015 TRANSFORMING LOCAL GOVERNMENT REGISTRATION FOR N.WERNER ON APR 12-15	500.00	
		5061	(1) 2015 TRANSFORMING LOCAL GOVERNMENT REGISTRATION FOR K.MCCARTHY ON APR 12-15	500.00	
		5061	LCW ANNUAL PUBLIC SECTOR EMPLOYMENT LAW CONFERENCE REGISTRATION FOR D.GASSAWAY	500.00	
		1566	CAPIO CONFERENCE REGISTRATION FOR M.WILKEY ON APR 13-17, 2015	425.00	
		5493	PERMIT TECHNICIAN INSTITUTE REGISTRATION FOR T.BATISTE ON FEB 10-11, 2015	400.00	
		4964	AMAZON WEB OFFSITE BACKUP SERVICES FOR JAN, 2015	386.16	
		1566	(21) DOZEN BALLONS (37) WEIGHTS & (6) BOUQUETS FOR MARDI GRAS EVENT ON FEB 17	358.27	
		1566	(44) RESIDENT CABOT MUSEUM TOUR ENTRY FEE FOR FEB 27, 2015	308.00	
		5061	WRITTEN COMMUNICATION FACILITATOR TRAINING HOTEL EXPENSE FOR MARILOU CARLISLE	294.96	
		1566	RESIDENT MARDI GRAS PARTY DECORATIONS & PROPS FOR FEB 17, 2015	268.68	
		2000	CITY COUNCIL LUNCH FOR JAN 5, 2015 MEETING	250.70	
		1864	2015 CITY CLERKS ASSOCIATION OF CA RENEWALS S.HAPNER A.AVILA J.LUCAS & A.GRANDYS	250.00	
		2000	CITY COUNCIL MEETING LUNCH FOR JAN 22, 2015	241.43	
		7384	TEST SUPPLY OF LIGHTS FOR POSSIBLE 2015 HOLIDAY LIGHTING PROJECT	224.16	
		5061	2015 LCW ANNUAL PUBLIC SECTOR EMPLOYMENT LAW CONFERENCE HOTEL DEPOSIT D.GASSAWAY	173.16	
		2000	EXECUTIVE CONFERENCE ROOM KITCHENETTE AREA COFFEE SUPPLY FOR JAN, 2015	129.61	
		1864	SATELLITE PHONE SERVICE USAGE FOR DEC, 2014	111.05	
		4964	GOPRO CAMERA TRIPOD, MOUNT & CARRYING CASE FOR OFFSITE FILMING SERVICES	109.04	
		2000	(6) NOW WHAT? A PRACTICAL GUIDE FOR NEWLY ELECTED OFFICIALS-CITY COUNCIL	98.88	
		4964	(1) GOPRO LCD TOUCH BACPAC FOR OFFSITE FILMING SERVICES	79.99	
		4964	(1) 48-PORT WALL PLATES FOR CODE ENFORCEMENT OFFICE DESK RECONFIGURATION	79.35	
		4964	(3) 1-YEAR INDIAN-WELLS.INFO DOMAIN NAME RENEWALS	69.97	
		2000	(3) 10 EASY STEPS FOR REACHING AGREEMENT FOR CITY MANAGERS STAFF	57.71	
		4964	(4) WALL PLATES & (1) 2-PORT WALL PLATE FOR J.MOON DESK RECONFIGURATION	56.24	
		5061	LCW MOU REVIEW & AUDIT WEBINAR REGISTRATION FOR D.GASSAWAY ON FEB 3, 2015	55.00	
		4964	(1) GOPRO CAMERA PROTECTION CASE FOR OFFSITE FILMING SERVICES	49.99	
		4964	ADOBE CREATIVE CLOUD MONTHLY FEE FOR JAN, 2015	49.99	
		1566	BALANCE DUE ON CUSTOM PHOTO PRINTS FOR IW FIRE STATION	49.47	
		1864	(3) MANAGING, PEOPLE SKILLS & CONVERSATION REFERENCE BOOKS FOR K.MCCARTHY	49.19	
		1566	RESIDENT MARDI GRAS EVENT LUNCH MEETING FOR N.SAMUELSON & W.MILKEY ON JAN 12	44.79	
		2000	ASSORTED SNACK ITEMS & PASTRIES FOR CITY MANAGER'S ROUNDTABLE MEETING ON JAN 23	43.85	
		2000	(2) 10 EASY STEPS FOR REACHING AGREEMENT FOR CITY MANAGERS STAFF	39.45	26,123.58
46986	4/2/2015		HOSPITALITY EBUSINESS		
		23941	SEARCH ENGINE/EMAIL MARKETING, WEBSITE OPERATION, ACCOUNT MGMT FOR APR-JUN, 2015	13,845.00	13,845.00
47012	4/2/2015		RIVERSIDE COUNTY REGISTRAR		
		1734	MUNICIPAL ELECTION SVC,MEASURE Q,CANDIDATE STMTS & VERIFY SIGNATURES NOV 4,2014	8,619.45	8,619.45
46971	4/2/2015		CLEANSTREET		
		77074	CITYWIDE STREET SWEEPING FOR JAN, 2015	3,702.43	
		77367	CITYWIDE STREET SWEEPING FOR FEB, 2015	3,702.43	7,404.86

CITY OF INDIAN WELLS
04/02/2015 MEETING WARRANT LIST

CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
47010	4/2/2015		RA STRUCTURAL ENGINEERING		
		B00-012-032-1	72800 MILES AVE STADIUM-2 PLAN CHECK SERVICES FOR JAN 2, FEB 13 & FEB 25, 2015	3,770.00	
		B00-011-493-1	75460 PAINTED DESERT DR PLAN CHECK SERVICES FOR JUN 27, NOV 21, FEB 13 & MAR 5	2,990.00	6,760.00
47023	4/2/2015		TIME WARNER CABLE		
		00000001941GJ	IW VILLAGE UTILITY UNDERGROUNDING PEDESTAL COVER REPLACEMENTS FOR NINE LOCATIONS	5,884.74	5,884.74
47015	4/2/2015		SILVER INK COMMUNICATIONS		
		15-0307	COPYWRITING SERVICES FOR MEDIA ALERTS, E-BLAST, & 2015 BLOG POST FOR APR-JUN	2,500.00	
		15-0305	APR 2015 NEWSLETTER EDITORIAL PLANNING, INTERVIEW, RESEARCH, WRITING, EDIT/PROO	2,400.00	
		15-0306	AFFORDABLE HOUSING MANAGEMENT COMPANY PROJECT REQUEST FOR PROPOSAL	260.00	5,160.00
46961	4/2/2015		B.G. STRUCTURAL ENGINEERING		
		917.562	74675 WREN DRIVE PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	1,100.00	
		917.530	78-200 MILES AVENUE PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	800.00	
		917.555	75-542 CAMINO DEL PLATA PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	600.00	
		917.571	46805 ELDORADO DRIVE PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	462.50	
		917.572	45-790 RANCHO PALMERAS DR PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	337.50	
		917.573	46-300 MONTE SERENO DRIVE PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	312.50	
		917.583	49-353 HIDDEN VALLEY TRL PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	237.50	
		917.569	75-650 ALTAMIRA DRIVE PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	200.00	
		917.588	76-857 INCA DRIVE PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	137.50	
		917.584	77-449 MALLORCA PLACE PLAN CHECK SVCS-ENGINEER, ARCHITECTURE, ADMINISTRATION	137.50	4,325.00
46985	4/2/2015		HIGH TECH MAILING SERVICES		
		30373	NEWSLETTER MAILING, UPDATING MAILING LIST, IMPRINT ADDRESSES FOR MAR, 2015	3,848.57	3,848.57
46977	4/2/2015		ECONOLITE CONTROL PRODUCTS INC		
		119238	(1) ASC/3 CONTROLLER & CABINET POWER SUPPLY FOR CITY TRAFFIC SIGNALS	3,768.76	3,768.76
47005	4/2/2015		PERFECT IMAGES JANITORIAL		
		27860	CIVIC CENTER, CLUB DR BLDG JANITORIAL & WINDOW WASHING SVCS FOR FEB, 2015	3,495.00	3,495.00
47002	4/2/2015		MVT PUBLIC RELATIONS, LLC		
		31015	TWITTER MIRROR SOCIAL MEDIA REPORT FOR BNP PARIBAS OPEN 2015	3,000.00	3,000.00
46994	4/2/2015		LEAGUE OF CALIFORNIA CITIES		
		147376	ANNUAL CITY MEMBERSHIP DUES FOR 2015 & 2.4% OPTIONAL LITIGATION SURCHARGE	2,999.30	2,999.30
46999	4/2/2015		MARK CIESLIKOWSKI PHOTOGRAPHY		
		5610	RESIDENT MARDI GRAS PARTY PHOTOGRAPHY SHOOTING FEE & DVD BURNING SVC FOR FEB 17	1,625.40	
		5613	MODERNISM WEEK PHOTOGRAPHY SHOOTING FEE & DVD BURNING SVCS ON FEB 20, 2015	480.60	
		5609	DESERT TOWN HALL PHOTOGRAPHY SHOOTING FEE & DVD BURNING SVCS ON FEB 15, 2015	248.40	
		5614	IW ART FESTIVAL AWARD PHOTOGRAPHY SHOOTING FEE & DVD BURNING SVCS ON FEB 15, 2015	210.60	2,565.00

CITY OF INDIAN WELLS
04/02/2015 MEETING WARRANT LIST

CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
47017	4/2/2015		SOUTHERN CALIFORNIA EDISON CO.		
		2-28-811-9811	75-595 1/2 FAIRWAY DR UTILITIES FOR MAR, 2015	95.48	
		2-01-570-2186	44-900 ELDORADO DR FIRE STATION UTILITIES FOR MAR, 2015	807.57	
		2-10-366-7440	44-210 1/2 COOK & 76-105 1/2 FRED WARING UTILITIES FOR FEB, 2015	142.95	
		2-30-405-2939	75-254 1/2 HWY 111 UTILITIES FOR MAR, 2015	132.59	
		2-26-379-6526	77-601 1/2 & 77-801 1/2 MILES PED UTILITIES FOR MAR, 2015	114.33	
		2-28-811-8029	78-496 HWY 111 TC1 UTILITIES FOR MAR, 2015	103.60	
		2-26-446-8521	77-440 1/2 MILES AVE TC1 UTILITIES FOR MAR, 2015	101.97	
		2-02-275-6597	76-884 1/2 INCA DR UTILITIES FOR MAR, 2015	85.18	
		2-33-975-8682	45-200 CLUB DR UNIT B2 UTILITIES FOR MAR, 2015	84.17	
		2-28-811-8524	79 DESERT HORIZON/HWY 111 SIGNAL UTILITIES FOR MAR, 2015	82.90	
		2-10-366-7580	44-950 ELDORADO, 45-826 IW LN, ELDORADO/FW & PORTOLA/VINTAGE UTILITIES FOR FEB	80.33	
		2-04-013-0916	45-277 CLUB DR UTILITIES FOR MAR, 2015	79.44	
		2-19-255-7163	75980 1/2 HWY 111 UTILITIES FOR MAR, 2015	70.45	
		2-26-702-6078	45-002 1/2 MILES AVE PED UTILITIES FOR MAR, 2015	66.14	
		2-30-405-3051	75-256 1/2 HWY 111 UTILITIES FOR MAR, 2015	57.77	
		2-28-811-8276	79 HIGHWAY 111 MILES LOT UTILITIES FOR MAR, 2015	56.87	
		2-28-811-8367	79 HIGHWAY 111 CLUB LOT UTILITIES FOR MAR, 2015	53.33	
		2-28-811-8466	79 HWY 111-ELDORADO SIGNAL UTILITIES FOR MAR, 2015	51.12	
		2-28-811-8425	INDIAN WELLS/HWY 111 TC1 UTILITIES FOR MAR, 2015	50.61	
		2-36-295-8456	MILES AVE & WARNER TRL UTILITIES FOR FEB, 2015	44.52	
		2-31-473-5101	45-280 1/2 COOK ST LOT UTILITIES FOR MAR, 2015	43.06	
		2-35-253-2683	45-324 1/2 INDIAN WELLS LN UTILITIES FOR MAR, 2015	32.29	
		2-32-400-4498	45-300 CLUB DR UTILITIES FOR MAR, 2015	24.54	
		2-01-570-2202	77-250 SANDPIPER DR LOT UTILITIES FOR MAR, 2015	20.52	
		2-35-530-3157	FAIRWAY DR & WILLIAMS RD STREET LIGHT UTILITIES FOR FEB, 2015	11.16	2,492.89
47028	4/2/2015		WEST BOUND ELECTRICAL		
		18284	44350 ELKHORN ELECTRICAL, CABLE & COMMUNICATIONS CONDUIT INSTALLATION (RULE 20B)	2,409.25	2,409.25
46997	4/2/2015		LUMPKIN, RUSSELL L.		
		DTD 3/13/15	BLDG INSPECTION, PLAN REVIEW, PERMIT ISSUANCE & CODE ENFORCEMENT FOR MAR 2-MAR 13	2,064.00	2,064.00
47018	4/2/2015		SOUTHWEST NETWORKS		
		15-2501	CISCO SMARTNET IPS SOFTWARE UPGRADE MAINT FOR FEB, 2015	1,771.20	
		15-1506	CITY HALL OFFSITE STORAGE SERVICE OVERAGES FOR DEC, 2014	194.40	1,965.60
46966	4/2/2015		CANON FINANCIAL SERVICES, INC		
		14720439	IRC5051 & IR5075 CANON COPIERS LEASES & PROPERTY TAXES FOR APR, 2015	1,489.33	
		14678278	CW300 & SCEXPN WIDE FORMAT COPIER/SCANNER LEASE FOR MAR, 2015	453.33	1,942.66
47006	4/2/2015		PRINTING PLACE		
		150358	PRINT (5,000) 8-PAGE MARCH, 2015 NEWSLETTERS	1,695.00	1,695.00

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CITY OF INDIAN WELLS
04/02/2015 MEETING WARRANT LIST

CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
46988	4/2/2015		INNOVATIVE DOCUMENT SOLUTIONS		
		152329	CANON IR5075 & IRC5051 COPIERS MAINTENANCE FOR FEB, 2015	1,341.26	
		152328	CANON IR7105 & CANON IR4045 COPIER MAINTENANCE FOR FEB, 2015	263.63	
		152330	CANON IR3225 COPIER MAINTENANCE FOR DEC 1, 2014-FEB 28, 2015	20.78	1,625.67
46968	4/2/2015		CISLO & THOMAS LLP		
		488275	TRADEMARK LEGAL SERVICES FOR JAN, 2015	1,562.50	1,562.50
46998	4/2/2015		MAILFINANCE, INC. DBA HASLER		
		N5206987	MAIL MACHINE RENTAL FOR APR 8-JUL 7, 2015	1,502.71	1,502.71
46975	4/2/2015		DESERT ELECTRIC SUPPLY		
		S2176997.001	THIN BLACK & RED BUILDING WIRE FOR CITY SUPPLY	595.45	
		S2176997.002	THIN WHITE & GREEN BUILDING WIRE FOR CITY SUPPLY	484.85	
		S2176997.003	THIN WHITE BUILDING WIRE FOR CITY SUPPLY	148.87	
		S2174887.001	HARD WIRE DRIVERS, BLANK COVERS, CONFIGURATION HUB & DEVICE MOUNT FOR ZONE A8	121.10	
		S2176992.001	(5) BOLT KITS CITY MAINTENANCE SUPPLIES	41.99	1,392.26
46964	4/2/2015		BURRTEC WASTE & RECYCLING		
		44-WO 494032	(5) LARGE TRASH BINS & TONNAGE CHARGES FOR STORM FLOOD DAMAGE DEBRIS CLEAN UP	1,271.48	
		44-BS 405166	ONSITE STORAGE RENTAL FOR CHRISTMAS TREE DECORATIONS FOR MAR, 2015	80.00	1,351.48
47029	4/2/2015		WEX BANK		
		40009919	PW VEHICLE FLEET FUEL SUPPLY FOR FEB, 2015	1,344.96	1,344.96
47014	4/2/2015		SHARK POOLS, INC.		
		15200305	IW LANE EAST FOUNTAIN MAINTENANCE FOR MAR, 2015	380.00	
		15200304	IW LANE WEST FOUNTAIN MAINTENANCE FOR FEB, 2015	380.00	
		15200303	WALK OF HONOR FOUNTAIN MAINTENANCE FOR MAR, 2015	180.00	
		15200301	CITY HALL ENTRANCE FOUNTAIN MAINTENANCE FOR MAR, 2015	140.00	
		15200302	ARROWHEAD (CITY HALL FLAGPOLE) FOUNTAIN MAINTENANCE FOR MAR, 2015	140.00	1,220.00
46982	4/2/2015		GREAT AMERICA LEASING CORP.		
		16705260	CANON 4045 & 7105 COPIER LEASES FOR APR, 2015	1,214.79	1,214.79
47000	4/2/2015		MARTIN SWEEPING		
		7182	CITYWIDE STORM DRAIN FACILITIES MAINTENANCE FOR FEB, 2015	1,183.75	1,183.75
47007	4/2/2015		PROPER SOLUTIONS		
		2458	COMMUNITY DEVELOPMENT TEMP SVCS FOR FEB 4-FEB 12, 2015	475.20	
		2555	COMMUNITY DEVELOPMENT TEMP SVCS FOR MAR 4-5, 2015	316.80	
		2519	COMMUNITY DEVELOPMENT TEMP SVCS FOR FEB 25-26, 2015	257.40	1,049.40
46984	4/2/2015		HEPTAGON SEVEN CONSULTING, INC.		
		20150305	IW VILLAGE RULE 20B UTILITY UNDERGROUNDING MGMT SVCS FOR FEB 7-FEB 28, 2015	1,012.50	1,012.50

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CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
47025	4/2/2015	2578	TOTALFUNDS BY HASLER CITY HALL POSTAGE METER ADVANCE DEPOSIT FOR MAR, 2015	1,000.00	1,000.00
46989	4/2/2015	70773833	JOHN DEERE LANDSCAPES (1) 60-GALLON TRASH BARRELS FOR LANDSCAPE MAINTENANCE	996.76	996.76
47019	4/2/2015	3257352114 3257352113 3256841345 3256841344	STAPLES DIVIDERS, FOLDERS, ENVELOPES, PENS, COFFEE CREAMER, COPY PAPER & STAPLES (1) RUBBER-TAK BULLETIN BOARD FOR FIRE STATION #55 ENDTAB PRESSBOARD CLASSIFICATION FOLDER SUPPLY 2015 CALENDAR, AAA BATTERIES, CALCULATOR TAPE ROLLS & RASPBERRY SNAPPLE TEA	451.09 280.79 120.07 81.90	933.85
46973	4/2/2015	81425277	CORELOGIC INFORMATION REALQUEST ONLINE REAL ESTATE DATA FOR FEB, 2015	825.00	825.00
46969	4/2/2015	901 902	CITY CLERKS ASSN OF CALIFORNIA 2015 CITY CLERKS ASSOC OF CAL ANNUAL CONFERENCE FOR A.GRANDYS ON APR 22-24, 2015 2015 CITY CLERKS ASSOC OF CAL ANNUAL CONFERENCE FOR S.HAPNER ON APR 22-24, 2015	395.00 395.00	790.00
46990	4/2/2015	98860	JTB SUPPLY COMPANY, INC. (1) ECONOLITE SHELF MOUNT POWER SUPPLY CABINET & (8) 12" GREEN BALL LITES	714.96	714.96
47022	4/2/2015	65159092-0 65177110-0	TELEPACIFIC COMMUNICATIONS CITY HALL PHONE SERVICE FOR MAR 16-APR 15, 2015 EMERGENCY PHONE SERVICES FOR MAR 16-APR 15, 2015	510.84 159.57	670.41
46991	4/2/2015	NEWPORT BEACH	KLEEMAN, STEVE 2015 PLANNING COMMISSIONERS ACADEMY TRAVEL EXPENSE REIMB FOR MAR 4-6, 2015	663.82	663.82
46987	4/2/2015	874968	IBOSS NETWORK SECURITY IBOSS ENTERPRISE INTERNET FILTER SUBSCRIPTION FOR APR 1, 2015-APR 31, 2016	596.25	596.25
47001	4/2/2015	0000036549	MUNISERVICES, LLC 2014 SALES TAX REPORTING SYSTEM SERVICES FOR 3RD QUARTER	500.00	500.00
47009	4/2/2015	16775	PUBLIC RECORD CITY CLERK DEPT LEGAL NOTICES OF PUBLIC HEARING: ORDINANCE NO 686 ON FEB 24,2015	438.00	438.00
47004	4/2/2015	SI43470	OMEGA INDUSTRIAL SUPPLY, INC (1) CASE OF SPF 30 SUNSCREEN SINGLE TOWELETTES FOR PUBLIC WORKS DEPT	410.83	410.83
46970	4/2/2015	917	CITY CLERKS ASSN OF CALIFORNIA 2015 CITY CLERKS ASSOC OF CAL ANNUAL CONFERENCE FOR A.AVILA ON APR 22-24, 2015	395.00	395.00

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04/02/2015 MEETING WARRANT LIST**

CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
46980	4/2/2015	346334	FULTON DISTRIBUTING TISSUE, TOILET TISSUE, 45-GALLON GREEN & CLEAR TRASH LINERS JANITORAL SUPPLES	383.52	383.52
46979	4/2/2015	945947	FIRST CHOICE SERVICES COFFEE SUPPLY FOR MAR 13, 2015	324.44	324.44
47024	4/2/2015	1045521	TOPS N BARRICADES (2) WOOD STAKES & (300) TEMPORARY "NO PARKING" SIGNS	311.04	311.04
46981	4/2/2015	ANAHEIM	GASSAWAY, DAVID LCW ANNUAL CONFERENCE TRAVEL EXPENSE REIMB FOR MAR 5-7, 2015	297.36	297.36
47021	4/2/2015	NEWPORT BEACH	STAPLES, A.J. 2015 PLANNING COMMISSION ACADEMY TRAVEL EXPENSE REIMB FOR MAR 4-6, 2015	269.23	269.23
46995	4/2/2015	2016437	LIGATURE, THE (1,000) ENGRAVED BUSINESS CARDS FOR L.BURR, M.DAN & A.DALLOSTA	263.82	263.82
47008	4/2/2015	22016252 22019847	PRUDENTIAL OVERALL SUPPLY CITY TOWEL, MATS & AIR FRESHENER SUPPLIES FOR MAR 4, 2015 CITY TOWEL, MATS & AIR FRESHENER SUPPLIES FOR MAR 11, 2015	140.72 112.63	253.35
47011	4/2/2015	9990116000-1501	RIVERSIDE COUNTY INFORMATION SHERIFF MOTORCYCLE RADIO OPERATIONAL COSTS FOR JAN, 2015	214.34	214.34
46972	4/2/2015	317055-849582 331197-849962	COACHELLA VALLEY WATER DIST. LLMD A2 RANCHO PALMERAS DR UTILITIES FOR FEB, 2015 LLMD S. HWY 111 @ MANITOU UTILITIES FEB, 2015	153.44 60.40	213.84
47030	4/2/2015	NEWPORT BEACH	WILLIAMS, LORELEE 2015 PLANNING COMMISSION ACADEMY TRAVEL EXPENSE REIMB FOR MAR 4-6, 2015	207.07	207.07
46978	4/2/2015	86440 86441 86439	FERNANDO'S BUST-A-BUG CIVIC CENTER EXTERIOR & INTERIOR PEST CONTROL SERVICE FOR MAR, 2015 FIRE STATION PEST CONTROL SERVICE FOR MAR, 2015 WALK OF HONOR PEST CONTROL SERVICE FOR MAR, 2015	96.00 50.00 20.00	166.00
46992	4/2/2015	11954	LASR-INK (2) LASER PRINTER INK CARTRIDGES FOR CITY HALL	146.54	146.54
46974	4/2/2015	AN0000000445	COUNTY OF RIVERSIDE ANIMAL SHELTER, FIELD SVC, LICENSES, OPERATIONS & MAINT. FOR FEB, 2015	124.77	124.77
46959	4/2/2015	150300106101	AROUND-THE-CLOCK AFTER HOURS PHONE ANSWERING SERVICE & SEMI-ANNUAL D.I.D. CHARGE FOR MAR-SEPT	105.95	105.95

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CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
46983	4/2/2015		HANSON, DOUGLAS		
		CALIMESA	LCC RIVERSIDE COUNTY DIVISION GENERAL MEETING TRAVEL EXP REIMB FON MAR 9, 2015	60.38	
		SACRAMENTO	2015 LCC NEW MAYORS/COUNCIL MEMBERS ACADEMY TRAVEL EXPENSE REIMB FOR JAN 16, 15	36.00	96.38
46963	4/2/2015		BRUCE STOLP CERAMIC TILE		
		1500501-2 0002	2015 CONTRACTOR BUSINESS LICENSE & (1) VEHICLE DECAL REFUND	85.00	85.00
47016	4/2/2015		SIMPLOT PARTNERS		
		208045730	(9) COVERALLS FOR DEMO WORK AT 45300 CLUB DRIVE BUILDING FOR PW DEPT	76.50	76.50
46967	4/2/2015		CANON SOLUTIONS AMERICA, INC.		
		988414663	SCEXPN WIDE FORMAT COPIER/SCANNER MAINTENANCE FOR MAR, 2015	50.12	
		988404975	COLORWAVE 300 COLOR PRINTER USAGE & MAINTENANCE FOR JAN, 2015	18.53	68.65
47020	4/2/2015		STAPLES		
		17528	DRY ERASER BOARD MARKERS & PEN SUPPLY FOR CITY MANAGER'S DEPT	65.88	65.88
47026	4/2/2015		VERIZON CALIFORNIA		
		200-1815	TRAFFIC SIGNAL PHONE LINE FOR MAR 13-APR 12, 2015	54.79	54.79
46965	4/2/2015		CALIFORNIA DEPT OF JUSTICE		
		089141	BLOOD ALCOHOL ANALYSIS SERVICE FOR FEB, 2015	35.00	35.00
46956	3/17/2015		UNITED WAY OF THE DESERT		
		352000006506	PAYROLL EMPLOYEE CONTRIBUTIONS FOR MAR 13, 2015	27.00	27.00
46993	4/2/2015		LEAGUE OF CALIFORNIA CITIES		
		1725	LCC RIVERSIDE DIVISION GENERAL MEMBERSHIP MEETING ON MAR 9, 2015	25.00	25.00
46960	4/2/2015		AT&T MOBILITY		
		287243904839	RAINBIRD LANDSCAPE CONTROLLER SIM CARD DATA SVC FOR FEB 12-MAR 11, 2015	23.17	23.17
47003	4/2/2015		NEXTEL COMMUNICATIONS		
		627757319-160	R.BOWEN LANDSCAPE SPECIALIST PUSH TO TALK CELL SVC FOR FEB 12-MAR 11, 2015	20.25	20.25
46976	4/2/2015		DESERT PIPE & SUPPLY		
		0014743860	CLUB DRIVE MEN'S RESTROOM PLUMBING REPAIR SUPPLIES	13.21	13.21
46996	4/2/2015		LOCK SHOP, INC., THE		
		AA00023179	(2) GOLF COURSE SOUND WALL GATE KEYS	4.75	4.75

74 checks in this report

TOTAL CITY WARRANTS 46956-47030: 460,635.28

**CITY OF INDIAN WELLS
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CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
Wires :					
1537	3/17/2015		INTERNAL REVENUE SERVICE		
		95-2489139	FWT, FICA & MEDICARE FOR MAR 13, 2015	36,357.20	36,357.20
1538	3/18/2015		CALPERS RETIREMENT SYSTEM		
		6392517834	PAYROLL CONTRIBUTIONS FOR MAR 13, 2015	8,909.94	8,909.94
1536	3/17/2015		ICMA		
			CONTRIBUTIONS 401A, 457 & ROTH IRA FOR MAR 13, 2015	7,898.59	7,898.59
1539	3/17/2015		CALIFORNIA, STATE OF		
		925-0060-2	SDI & SWT DEPOSIT FOR MAR 13, 2015	7,151.31	7,151.31
2887	3/13/2015		INDIAN WELLS EMPLOYEE ASSOC.		
		2379795	PAYROLL EE DUES FOR MAR 13, 2015	210.00	210.00
TOTAL PAYROLL WIRE DISBURSEMENTS 1536-1539 & 2887:					60,527.04

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CHECK #	DATE	INVOICE #	VENDOR NAME/DESCRIPTION	INVOICE AMT	CHECK TOTAL
				EFT 13814-13816	76,995.07
				Total Net Payroll 04/02/15	<u>76,995.07</u>
				TOTAL CITY DISBURSEMENTS:	598,157.39

Note: Warrants 46956 & 45958 were issued prior to City Council approval.

CC/HA ACTION _____ MTG. DATE: 4-1-15
 APPROVED DENIED _____ REC/FILE _____ CONT. _____
 OTHER _____
 VOTE: YES 3 NO 1 ABSTAIN _____
Hannan
Reed
Reed