

URGENCY ORDINANCE NO. 688

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 ONE YEAR THROUGH MAY 4, 2016 PENDING FURTHER STUDY AND ADOPTION OF FINAL 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, 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, on June 5, 2014, the City Council adopted Urgency Ordinance No. 678 extending the moratorium by ten months and fifteen days through May 4, 2015 and narrowing the application of Urgency Ordinance No. 677 to apply only to short-term residential rentals of less than seven (7) days; and

WHEREAS, on February 19, 2015, the City Council adopted Ordinance No. 685 amending Chapter 5.20 of the Indian Wells Municipal Code to tighten and clarify provisions concerning short-term residential rentals, promote accurate collection of the City's transient occupancy tax, and enhance and maintain the residential character of the City's residential zones; and

WHEREAS, Ordinance No. 685 expressly left Urgency Ordinance No. 677, as extended by Urgency Ordinance No. 678, in full force and effect except as specifically set forth in Ordinance No. 685. Therefore, the moratorium on short-term residential rentals of less than seven (7) days remains in full force and effect; 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 certain new regulations have been adopted through Ordinance No. 685, the City desires and intends to consider further amendments to the Indian Wells Municipal Code regarding short-term residential rentals within the City; 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 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 further extend the moratorium as it applies to short-term rentals that are shorter than seven (7) days for a period of one (1) year through May 4, 2016 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 Urgency 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 Urgency Ordinance No. 677 and its extension through Urgency Ordinance No. 678; and

WHEREAS, based on the report, the City Council has determined that the circumstances and conditions that led to the adoption of Urgency Ordinance No. 677 and its extension through Urgency Ordinance No. 678, which are set in the recitals of those urgency ordinances, have not been alleviated as of the date of this Urgency Ordinance and continue to create the concerns described in those urgency ordinances; 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 Urgency 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, 2016, 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, 2016. 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 to the contrary, each citation for a violation of this moratorium 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 within one year, and \$5,000 for each violation of the same 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 Urgency Ordinance No. 677 and its extension through Urgency Ordinance No. 678, 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 a further one (1) year 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 final study of the potential impacts of short-term residential rentals, and possible further 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 May 5, 2014, the date the Interim Urgency Ordinance No. 677 was 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. 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 have been met: (1) the operator of the short-term residential rental obtained a City business license and registered with the City for payment of transient occupancy tax by close of business on July 11, 2014; (2) the operator has paid 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 since June 5, 2012. No Exempt Contract may be subleased.

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.

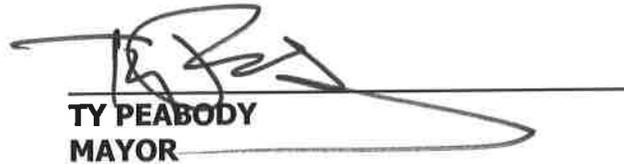
SECTION 3. Severability. If any sentence, clause, or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would 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, 2016 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 16th day of April, 2015.


TY PEABODY
MAYOR

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

CERTIFICATION FOR URGENCY ORDINANCE NO. 688

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Urgency Ordinance No. 688, the reading in full thereof unanimously waived, was duly passed and adopted at a regular meeting of the City Council held on the 16th day of April, 2015, and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES: Balocco, Hanson, Mertens, Peabody, Reed
NOES: None

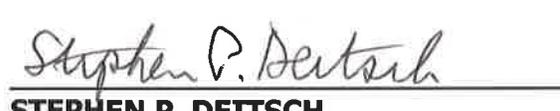
and was thereafter on said day signed by the Mayor of the City of Indian Wells.

ATTEST:

APPROVED AS TO FORM:



WADE G. MCKINNEY
CITY MANAGER/CITY CLERK



STEPHEN P. DEITSCH
CITY ATTORNEY