

URGENCY ORDINANCE NO. 692

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING INDIAN WELLS MUNICIPAL CODE SECTION 21.20.180 CONCERNING RAIN GUTTERS ON RESIDENTIAL BUILDINGS AND STRUCTURES

WHEREAS, the City of Indian Wells ("City") has experienced significant and concentrated rainfall in the years 2013 and 2014, and in particular significant flooding occurred within residential areas of the City in September 2014 as a result thereof; and

WHEREAS, the City faces the commencement of its typical late summer/autumn/winter rainy season and anticipates, based on meteorological reports and predictions, that there might well be severe rain events in the City in the near future; and

WHEREAS, in light of the foregoing, time is of the essence for the City to address the development standards set forth in this Urgency Ordinance, and to protect the public safety, health and welfare, it is not feasible to await the effective date of adoption of a regular ordinance; and

WHEREAS, the City Council of the City desires and intends to mitigate the deleterious effects of significant and concentrated rainfall upon residential buildings and accessory structures, which include possible damage to structures and the possible attendant risks and losses to inhabitants associated therewith; and

WHEREAS, the City's Zoning Code presently prohibits the placement of visible rain gutters, scuppers and down spouts on exterior walls of residential buildings and accessory structures; and

WHEREAS, in order to address the need to mitigate the deleterious effects of significant and concentrated rainfall upon residential buildings and accessory structures, it is reasonable and appropriate for the City Council to adopt residential development standards which permit installation of rain gutters, scuppers and down spouts on residential buildings and accessory structures by use of the City's police powers; and

WHEREAS, California Government Code Section 36937(b) provides for the adoption of an urgency ordinance for the immediate preservation of the public safety, health and welfare without following the procedures otherwise required for the adoption of an ordinance amending Section 21.20.180, which is a development standard for residential development in the City; and

WHEREAS, in accordance with Government Code Section 36937, an urgency ordinance requires approval by at least four-fifths of the City Council; and

WHEREAS, the City Council has determined that the adoption of this Urgency Ordinance is in the best interests of the City.

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

SECTION 1. URGENCY FINDINGS. The City Council of the City of Indian Wells hereby **FINDS** that:

A. California Government Code, Section 36937(b) provides that an urgency measure for the immediate preservation of the public peace, health or safety shall take effect immediately upon adoption. The City Council **FINDS** that this Urgency Ordinance, and the regulations set forth herein, are necessary for the immediate preservation of public peace, health and safety in order to protect residents and their homes from the adverse effects of heavy and concentrated rainfall.

B. The City Council hereby **ADOPTS** the foregoing recitals as its findings that the adoption of this Urgency Ordinance is necessary.

SECTION 2. AMENDMENT OF INDIAN WELLS MUNICIPAL CODE SECTION 21.20.180. Section 21.20.180 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"21.20.180 Rain Gutters.

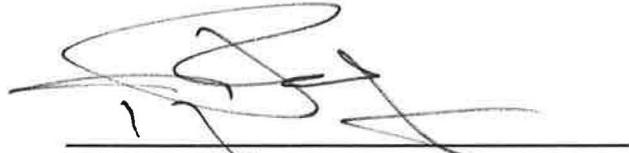
Rain gutters, scuppers, and down spouts are permitted on the exterior wall of residential buildings and accessory structures, subject to approval by the homeowner's association in which the building or structure is located, or if none, approval of the Community Development Department. All rain gutters, scuppers, and down spouts shall be architecturally compatible with the building or structure design."

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 4. EFFECTIVE DATE. This Ordinance is adopted as an urgency ordinance pursuant to the provisions of Government code Sections 36934 and 36937 to protect the public peace, health and safety, and shall take effect immediately upon its adoption in accordance with California Government Code Section 36937(b). The facts which support this finding or urgency are set forth in Section 1 herein above.

SECTION 5. CERTIFICATION AND PUBLICATION. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the passage and adoption of it by at least four-fifths vote of the City Council, where upon this Ordinance shall take effect and be enforced. Within fifteen days after passage of this Ordinance, a summary of the Ordinance shall be published, in accordance with Government Code Section 36933, in a newspaper of general circulation, printed, published, and circulated in the City of Indian Wells.

PASSED, APPROVED and ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on this 17th day of September, 2015.



**TY PEABODY
MAYOR**

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

CERTIFICATION FOR URGENCY ORDINANCE NO. 692

I, Anna Grandys, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Urgency Ordinance No. 692, the reading in full thereof unanimously waived, was duly passed and adopted at a regular meeting of the City Council held on the 17th day of September, 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:



**ANNA GRANDYS
CITY CLERK**

**STEPHEN P. DEITSCH
CITY ATTORNEY**