
Special Council Meeting Agenda

Thursday, August 11, 2016

1:30 PM

City Hall Council Chamber



The Indian Wells City Council welcomes and encourages participation at City Council meetings. The Council requests speakers present their remarks in a respectful manner, within the 3 minute time limit, and focus on issues which directly affect the City or which are within the subject jurisdiction of the City. Please fill out a blue Speaker Request form and give it to the City Clerk, preferably before the start of the meeting.

Any public records, relating to an open session agenda item, that is distributed within 72 hours of the meeting is available for public inspection at City Hall reception, 44-950 Eldorado Drive, Indian Wells during normal business hours.

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

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

2. APPROVAL OF THE FINAL AGENDA

3. PUBLIC COMMENTS

The Council requests speakers present their remarks in a respectful manner, within the 3 minutes time limit, and focus on issues which directly affect the City or which are within the subject jurisdiction of the City. The Mayor will call upon the members of the public to address the Council. When you're called please come forward to the podium, and state your name for the record.

The Brown Act, with certain exceptions, does not permit the Council to discuss or take action on issues not listed on the agenda. The Council may respond briefly to statements made or questions posed, request clarification, or refer the item to Staff.

A. PUBLIC COMMENTS

B. RESPONSE TO PRIOR PUBLIC COMMENTS

4. GENERAL BUSINESS

The Mayor will call upon the members of the public to address the Council regarding the agenda item being considered. After the public has provided comment, the item is closed to further comment and brought to the Council for discussion and action. Public comments are limited to 3 minutes per speaker, please state your name for the record.

A. [RES-175-16](#) **Transient Occupancy Tax Measure**

RECOMMENDED ACTIONS:

Council waives further reading and **ADOPTS** Resolution submitting to the voters an ordinance increasing the Transient Occupancy (hotel) Tax rate from 11.25% to 12.25% at the Statewide General Election held November 8, 2016; and

DESIGNATES and **AUTHORIZES** one or more council members to write and file the argument in favor or against the TOT measure on the November 8, 2016 ballot.

Attachments: [Resolution](#)
 [FAQ](#)

5. ADJOURNMENT

To a regularly scheduled meeting of the City Council to be held at 1:30 p.m. on September 15, 2016 in the City Hall Council Chambers.

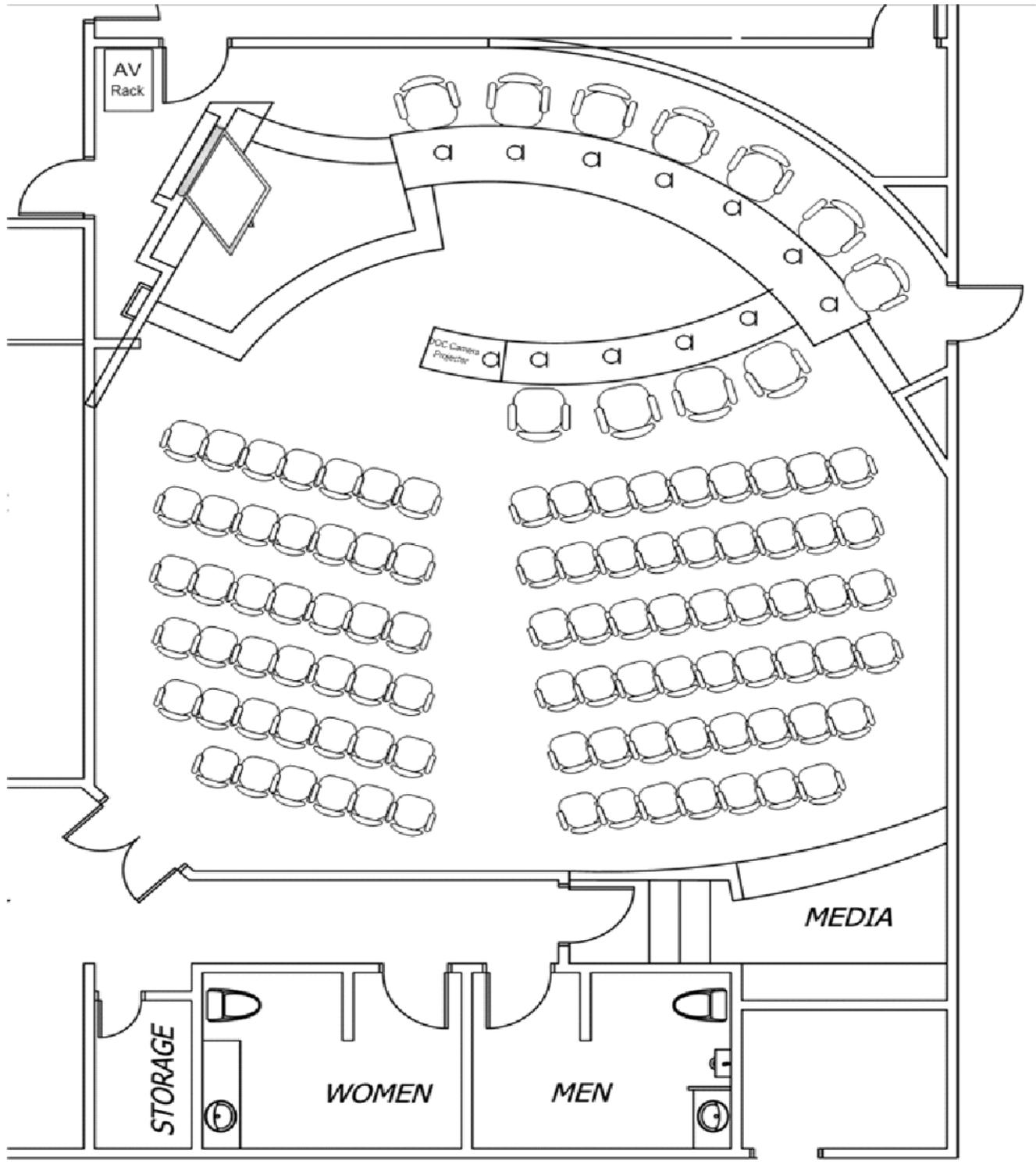
In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Chief Deputy City Clerk at (760) 346-2489. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility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

Affidavit of Posting and Notice

I, Anna Grandys, certify that on August 9, 2016, 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 August 11, 2016 at 1:30 p.m. in the City Hall Council Chambers.

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


Anna Grandys
City Clerk





8/11/2016

File #: RES-175-16 Item #: A.

Indian Wells City Council ***Staff Report - City Clerk***

Transient Occupancy Tax Measure

RECOMMENDED ACTIONS:

Council waives further reading and **ADOPTS** Resolution submitting to the voters an ordinance increasing the Transient Occupancy (hotel) Tax rate from 11.25% to 12.25% at the Statewide General Election held November 8, 2016; and

DESIGNATES and **AUTHORIZES** one or more council members to write and file the argument in favor or against the TOT measure on the November 8, 2016 ballot.

STRATEGIC PLAN OBJECTIVE:

Adoption of the Resolution to submit to the voters the Indian Wells Hotel Tax Rate Measure could potentially support multiple objectives in the Council's fiscal year 2015-17 goals. The primary focus is Goal 1, implementing strategies to improve the City's long term fiscal position.

DISCUSSION:

Council Members Hanson and Peabody requested the Council discuss placing on the November 8, 2016 ballot the question of raising the Transient Occupancy Tax (TOT) by 1% to 12.25%.

The TOT is paid by guests visiting Indian Wells and is not a tax on local residents or property owners. Transient Occupancy Tax is considered a general-purpose tax collected in the City's General Fund. The additional TOT revenues will be used for general government services such as public safety, public works, planning and building, water conservation, community activities including socials and the Indian Wells Golf Resort, and other vital City services.

Current Transient Occupancy Tax Rates:

Cathedral City	12%
Coachella	9%
Desert Hot Springs	12%

Indian Wells	11.25%	
Indio	10% (>50 rooms)	13% (<50 rooms)
La Quinta	11% (convention)	10% (non-convention)
Palm Desert	9%	
Palm Springs	13.5% (convention)	11.5% (non-convention)
Rancho Mirage	10%	

A July 27, 2016 Desert Sun article reported the City of Palm Desert is requesting voter approval to raise their TOT from 9% to 11%. The article also quoted the following TOT rates from large destinations in the Southwest region:

Los Angeles	15.5%
Phoenix	13.27%
San Diego	14.5%
Scottsdale	14.92%

FISCAL IMPACT:

Implementation of the new TOT rate is estimated to begin on January 1, 2017. Based on existing TOT projections, the new rate is estimated to generate \$630,000 in new revenues for fiscal year 2017-18.

ATTACHMENTS:

1. Resolution
2. FAQ

RESOLUTION NO. 2016-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF INDIAN WELLS AN ORDINANCE INCREASING THE RATE OF THE CITY'S TRANSIENT OCCUPANCY (HOTEL) TAX FROM 11.25% TO 12.25%, AT THE REGULAR MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD NOVEMBER 8, 2016

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has authority to place propositions on the ballot to be considered at a Municipal Election; and

WHEREAS, pursuant to Chapter 3.12 of Title 3 of the Indian Wells Municipal Code (I.W.M.C. §§3.12.010 through 3.12.190), the City currently imposes a Transient Occupancy Tax (Hotel) Tax ("TOT") at the rate of eleven and one-quarter percent (11.25%) upon guests of hotels and other transient accommodations within the City; and

WHEREAS, the City Council desires to amend the Indian Wells Municipal Code to increase the rate of the TOT from eleven and one-quarter percent (11.25%) to twelve and one-quarter percent (12.25%); and

WHEREAS, the TOT is a general tax the proceeds of which are deposited into the City's general fund. The general fund pays for important City services such as police protection, street operations and maintenance, planning and building services, water conservation, community activities including socials and the Indian Wells Golf Resort, and general municipal services to the public; and

WHEREAS, on November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIIC), an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election; and

WHEREAS, the amendments proposed in the attached ordinance which increase the rate of the TOT constitute a tax "increase" subject to Proposition 218; and

WHEREAS, pursuant to Proposition 218 (California Constitution Article XIIC, §2(b)), any election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, the City Council has passed Resolution No. 2016-15, calling a Regular Municipal Election for the purpose of electing three members of the City Council, requesting that the Regular Municipal Election be consolidated with the Statewide General Election to be held on Tuesday, November 8, 2016, and requesting that the Board of Supervisors of Riverside County direct the Registrar of Voters thereof to take any and all necessary steps to conduct the consolidated election; and under the provisions of City Municipal Code section 2.80.040 and the laws in the State of California, the City's Regular Municipal Election shall be held on November 8, 2016, for the election of Municipal Officers; and

WHEREAS, the City Council also desires to consolidate the election for the Ordinance/ballot measure described herein with the Regular Municipal Election/Statewide General Election to be held on November 8, 2016; and

WHEREAS, the specific terms relating to the TOT amendment are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit "A" (the "Ordinance") and by this reference made an operative part hereof, and in accordance with all applicable laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City hereby finds and determines that the foregoing recitals are true and correct, are incorporated herein and by this reference made an operative part hereof.

SECTION 2. Submission of Ballot Measure. The City Council of the City, pursuant to its right and authority as contained in California Proposition 218 and Elections Code section 9222, by majority vote, hereby **ORDERS** the Ordinance attached hereto as Exhibit "A" to be submitted to the qualified voters of the City at the Regular Municipal Election to be held and consolidated with the Statewide General Election on Tuesday, November 8, 2016. The proposed Ordinance shall be in the form attached hereto as Exhibit "A" to this Resolution and is incorporated by this reference as if fully set forth herein.

SECTION 3. Ballot Measure. The City Council, pursuant to its right and authority, does hereby **ORDER** that the ballot measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the election to be held at the Regular Municipal Election to be consolidated with the Statewide General Election on Tuesday, November 8, 2016, in addition to any other matters required by law, there shall be printed substantially the following:

Indian Wells Hotel Tax Rate Measure. "To maintain City's long-term financial stability, general City services such as police protection, street operations and maintenance, and community activities including Indian Wells Golf Resort, shall the Indian Wells Municipal Code be amended to increase the Transient Occupancy (Hotel) Tax rate from 11.25% to 12.25% of rent charged for transient occupancy of any hotel room or similar lodging, generating approximately \$630,000 annually, until ended by voters?"	YES	
	NO	

SECTION 4. Election Procedures.

- A. The City Council consents to the consolidation of the election on this measure with all other elections being held in the same territory on November 8, 2016, and to hold and conduct the consolidated election in the manner prescribed in Election Code Section

10418.

- B. The ballots to be used at the election shall be in the form and content as required by law.
- C. In accordance with Section 10002, 10403 and 10418 of the Elections Code, the Board of Supervisors of Riverside County is hereby requested to consent to having the Registrar of Voters render such election services to the City of Indian Wells as may be requested by the City Clerk of said City, the County of Riverside to be reimbursed in full for such services as are performed.
- D. The election services which the City of Indian Wells requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards; the establishment or appointment of precincts, polling places, and election officers, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of Indian Wells; and the performance of such other election services as may be requested by the City Clerk.
- E. The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.
- F. The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California.
- G. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.
- H. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.
- I. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.
- J. The Riverside County Registrar of Voters is hereby **AUTHORIZED** to canvass the returns of said election.
- K. The City Clerk of the City of Indian Wells shall receive the canvass as it pertains to the election on the measure, and shall certify the results to the City Council, as required by law.

SECTION 5. Arguments and Impartial Analysis.

- A. The City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the City measure, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and the author(s) may change the argument until and including **August 22, 2016**, after which no arguments for or against the measure may be submitted to the City Clerk. Arguments in favor of or against the measure shall each not exceed 300 words in length. Each argument shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.
- B. The City Clerk shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters, and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.
- C. Pursuant to Section 9280 of the Elections Code, the City Council **DIRECTS** the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure. The City Attorney shall transmit such impartial analysis to the City Clerk, who shall cause the analysis to be published in the ballot pamphlet along with the ballot measure as provided by law. The Impartial Analysis shall be filed by the deadline set for filing of primary arguments as set forth in subsection (A) above. The impartial analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the election official's office at (insert phone number) and a copy will be mailed at no cost to you."**

SECTION 6. Rebuttals.

- A. That pursuant to Section 9285 of the Elections Code of the State of California, when the Clerk has selected the arguments for and against the various City initiated measures which will be printed and distributed to the voters, the Clerk shall send copies of the argument in favor of the measures to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than **September 1, 2016**. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

- B. That all previous resolutions providing for the filing of rebuttal arguments for City measures are repealed.
- C. That the provisions herein shall apply only to the election to be held on November 8, 2016, and shall then be repealed.

SECTION 7. Placement on the Ballot. The full text of the Ballot Ordinance shall be printed in the voter pamphlet, and a statement shall be printed in the ballot pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy of this ordinance, the Ballot Ordinance and/or ballot measure, at no cost, upon request made to the City Clerk.

SECTION 8. Delivery of Resolution to County. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions. The City Council **DIRECTS** the City Clerk to deliver copies of this Resolution, including the Ballot Ordinance attached hereto as Exhibit "A", to the Clerk of the Board of Supervisors of Riverside County and to the Registrar of Voters of Riverside County.

SECTION 9. CEQA. The City Council hereby **FINDS** and **DETERMINES** that the ballot measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

SECTION 10. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 11. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at a special meeting held on this 11th day of August, 2016.

DANA W. REED
MAYOR

CERTIFICATION FOR RESOLUTION NO. 2016-____

I, Anna Grandys, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a special meeting of the City Council of the City of Indian Wells on the 11th day of August 2016, by the following vote:

AYES:
NOES:

ATTEST:

APPROVED AS TO FORM:

**ANNA GRANDYS
CITY CLERK**

**STEPHEN P. DEITSCH
CITY ATTORNEY**

EXHIBIT "A"

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING SECTION 3.12.030 OF CHAPTER 3.12 OF TITLE 3 OF THE INDIAN WELLS MUNICIPAL CODE INCREASING THE RATE OF THE CITY'S TRANSIENT OCCUPANCY (HOTEL) TAX FROM 11.25% TO 12.25%.

(NOTE: Additions are highlighted in *bold italics* and deletions are highlighted in ~~strikeout~~)

NOW THEREFORE, THE PEOPLE OF THE CITY OF INDIAN WELLS DO ORDAIN AS FOLLOWS:

SECTION 1. Subject to the approval of a majority of the voters of the City of Indian Wells at the regularly scheduled election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 3.12.030 of Chapter 3.12 of Title 3 of the Indian Wells Municipal Code is hereby amended to read as follows:

"3.12.030 Imposition.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ~~eleven and one-quarter~~ *twelve and one-quarter* percent (~~11.25~~ *12.25*%) of the rent or other payment made to the operator or otherwise payable by the transient in consideration of his or her occupancy. This tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator at the time the rent or other consideration is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due when the transient ceases to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator. Tax on occupancies furnished transients which is chargeable but not charged, in exchange for services of any kind, is due and payable to the City by the operator, the amount of tax being determined on the basis of ~~eleven and one-quarter~~ *twelve and one-quarter* percent (~~11.25~~ *12.25*%) of the current rental values of the accommodations furnished. The tax payable upon the sale or transfer of interest in a time-share program shall be payable to the Tax Administrator. The operator shall notify the Tax Administrator of the name and address of all participants in any time-share program and shall, within thirty (30) days of any change in the participants of any time-share program, notify the Tax Administrator of the name and address of any new participant."

SECTION 2. Pursuant to Article XIII B of the California Constitution, the appropriation limit for the City of Indian Wells will be increased by the maximum projected aggregate collection authorized by the levy of this general tax, as indicated in Section 1, in each of the years covered by this Ordinance plus the amount, if any, by which the appropriation limit is decreased by law as a result of the levy of the general tax set forth in this Ordinance.

SECTION 3. Proceeds of the tax imposed by this Ordinance shall be deposited into the general fund of the City and shall be available for all legal purposes.

SECTION 4. If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this Section, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

SECTION 5. This Section shall not be repealed or amended, except by a measure approved by a majority of the electors voting on the issue at a Regular Municipal Election, or at a special election called for that purpose.

SECTION 6. Pursuant to California Constitution Article XIIC §(2)(b) and California Elections Code §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Indian Wells voting at a Regular Municipal Election to be held on November 8, 2016, and shall take effect ten (10) days after the City Council has certified the results of the Regular Municipal Election by resolution.

SECTION 7. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 8, 2016, by signing where indicated below.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED AND ADOPTED** by the people of the City of Indian Wells on the 8th day of November, 2016.

Dated: _____

DANA W. REED
MAYOR

ATTEST:

APPROVED AS TO FORM:

ANNA GRANDYS
CITY CLERK

STEPHEN P. DEITSCH
CITY ATTORNEY

Frequently Asked Questions

1. Where do Transient Occupancy Tax revenues come from?

- a. Visitors staying in Indian Wells. Transient Occupancy Tax is assessed as a percentage of the rental price for transient lodging charged when the period of occupancy is 30 days or less. Transient Occupancy Tax is not a tax on local residents.

2. Is Transient Occupancy Tax a tax on residents living in Indian Wells?

- a. No, Transient Occupancy Tax is paid by guests visiting the Indian Wells hotels and is not a tax on local residents.

3. Why is the proposal to increase Transient Occupancy Tax necessary?

- Indian Wells has consistently sought its own financial independence;
- Generating new revenues is now essential to the long term fiscal health of the City;
- Further commercial development in Indian Wells is uncertain;
- Increasing Public Safety costs; and
- Elimination of Redevelopment.

4. How much revenue would the proposed new tax generate?

- a. The proposed increase would generate \$630,000 in new revenues during its first full year of implementation.

5. Who benefits from the new revenues generated by the proposed Transient Occupancy Tax increase?

- a. The residents of Indian Wells. The additional collection of Transient Occupancy Tax revenues will be used for general government services such as police protection, public works, planning and building, community activities including socials and the Indian Wells Golf Resort, and other vital City services.

- 6. What is the process to increase the Transient Occupancy Tax rate?**
 - a. A vote of the people. Pursuant to the requirements of the laws of the State of California, the City submitted the question to raise the TOT rate to 12.25% to the Indian Wells voters at the Tuesday, November 8, 2016 Statewide General Election.

- 7. When was the Transient Occupancy Tax rate last modified?**
 - a. The City's Transient Occupancy Tax rate has not been revised since 2011.

- 8. What is the current Transient Occupancy Tax rate and what is the new tax rate being proposed?**
 - a. The tax rate is currently 11.25%. The new proposed rate is 12.25%.

- 9. What is the average Transient Occupancy Tax rate amongst the nine Coachella Valley cities?**
 - a. The valley wide average Transient Occupancy Tax rate is about 11%.