

ORDINANCE NO. 689

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, it is the intent of the City Council that the moratorium set forth in Urgency Ordinance No. 688 be terminated by amendments to Chapter 5.20 of the Indian Wells Municipal Code specifically set forth in Ordinance No. 685 and this Ordinance; 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. The table of contents of Chapter 5.20 of Title 5 of the Indian Wells Municipal Code is amended to read 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.
5.20.180	Limited Registration Period.
5.20.190	Tennis Tournament Exception.
5.20.200	Ordinance Sunset"

SECTION 2. Section 5.20.010 of the Indian Wells Municipal Code is amended to read as follows:

"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.

Notwithstanding any provision in this Chapter to the contrary, Section 5.20.140 shall not be applicable to any common interest development unless the board of the common interest development takes formal action to request that the City apply and enforce Section 5.20.140 with respect to the common interest development and submits to the City written notice of the foregoing action of the board. Upon receipt of such written notice by the City, Section 5.20.140 shall be applicable to such common interest development.

Notwithstanding any provision of this Chapter to the contrary, this Chapter shall not be applicable to any timeshare, as defined in Section 21.08.462 of this Code, that exists as of July 4, 2015."

SECTION 3. Section 5.20.020 of the Indian Wells Municipal Code is amended to read as follows:

"5.20.020 Short-term residential rental, definitions.

"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 one (1) hour 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."

SECTION 4. Section 5.20.050 of the Indian Wells Municipal Code is amended to read as follows:

"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."

SECTION 5. Section 5.20.060 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"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 one (1) hour 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 one (1) hour 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 one (1) hour of contact concerning any alleged nuisance or violation of this Chapter."

SECTION 6. Section 5.20.080 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"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. Any Owner(s), or Managing Agency or Agent on behalf of Owner(s), who fail to remit TOT, concerning a Premises with a registered operating permit, subject to Section 5.20.040 of this Code, within three (3) days of written notification of delinquency from the City, will have their operating permit for the subject Premises revoked. Such written notification will be mailed by Certified U.S. Mail to the address(es) provided to the City pursuant to Section 5.20.050 of this Code.

SECTION 7. Section 5.20.120 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"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 shall be permitted on the Premises during such hours. In any advertising concerning the premises for Short-term Residential Rental, the Owner or Managing Agency or Agent shall advertise the maximum number of overnight occupants allowed as set forth above.

SECTION 8. Section 5.20.140 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"5.20.140 Minimum duration of rental.

(a) The duration of any lease or rental of Premises as a Short-term Residential Rental registered pursuant to Section 5.20.180(a) of this Code shall be for a minimum of seven consecutive (7) nights and seven (7) consecutive days during which time there shall be no overlapping leases or rental of the Premises. In any advertising concerning the availability of the Premises for Short-term Residential Rental, the Owner or Managing Agency or Agent shall advertise the minimum number of rental nights and days set forth in this Section 5.20.140(a).

(b) The duration of any lease or rental of Premises as a Short-term Residential Rental registered pursuant to Section 5.20.180(b) of this Code shall be for a minimum of twenty-nine (29) consecutive nights (28 consecutive nights if the rental covers the month of February during a non-leap year) during which time there shall be no overlapping leases or rental of the Premises. In any advertising concerning the availability of the Premises for Short-term Residential Rental, the Owner or Managing Agency or Agent shall advertise the minimum number of rental nights and days set forth in this Section 5.20.140(b)."

SECTION 9. Section 5.20.170 of the Indian Wells Municipal Code is amended to read in its entirety as follows:

"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 may constitute a misdemeanor which may be subject to the maximum punishment therefor as allowed by law.

Responsible Person (Renter):

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.

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 - \$1,000 fine;
6. Third and subsequent offences within any twelve (12) month period - \$1,500 fine and revocation of their license to operate pursuant to Chapter 5.20.160 of this Code;
7. Any offense occurring during any permit revocation period - \$2,500 fine."

SECTION 10. Chapter 5.20 of the Indian Wells Municipal Code is amended by adding Section 5.20.180 to read as follows:

"5.20.180 Limited Registration Period.

(a) Owner(s), or Managing Agency or Agent on behalf of Owner(s), may register their Premises for operation as a Short-term Residential Rental, pursuant to requirements of Section 5.20.050, between the dates of July 6, 2015 and August 3, 2015 (the "Limited Registration Period"). The Owner of a particular Premises, or the Managing Agency or Agent of that Owner for that Premises, who registers the Premises as described above during the Limited Registration Period, may rent the Premises for the minimum stay duration set forth in Section 5.20.140(a), and the same Owner of such Premises (or such Owner's Managing Agency or Agent thereof) shall be grandfathered into future renewals for registration of such Premises annually.

(b) Owner(s), or Managing Agency or Agent on behalf of Owner(s), may register their Premises for operation as a Short-term Residential Rental, pursuant to requirements of Section 5.20.050 after August 3, 2015, and shall then be subject to the minimum stay duration set forth in Section 5.20.140(b)."

SECTION 11. Chapter 5.20 of the Indian Wells Municipal Code is amended by adding Section 5.20.190 to read as follows:

"5.20.190 Tennis Tournament Exception.

Owner(s), or Managing Agency or Agent on behalf of Owner(s), who register their Premises for operation as a Short-term Residential Rental pursuant to Chapter 5.20.180(b) may rent their property for a period of no less than seven (7) consecutive nights and seven (7) days in accordance with Section 5.20.140(a), during the period commencing one week preceding and ending three (3) days after conclusion of the annual professional tennis tournament held each March at the Indian Wells Tennis Garden ."

SECTION 12. Chapter 5.20 of the Indian Wells Municipal Code is amended by adding Section 5.20.200 to read as follows:

"5.20.200 Ordinance Sunset.

Notwithstanding any provisions in this Code to the contrary, beginning July 5, 2018, all Short-term Residential Rentals subject to this Chapter 5.20 shall no longer be permitted for less than twenty-nine (29) consecutive nights (28 consecutive nights if the rental covers the month of February during a non-leap year).

SECTION 13. Urgency Ordinance No. 688. Ordinance No. 688, and any ordinance extending all or part of the moratorium set forth therein, is hereby terminated in its entirety and superseded by amendments to Chapter 5.20 of the Code specifically set forth in Ordinance No. 685 and this Ordinance.

SECTION 14. 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 15. 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 16. EFFECTIVE DATE. This Ordinance shall take effect and be in force 30 days after passage.

SECTION 17. 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 special meeting held on the 3rd day of June, 2015.



**TY PEABODY
MAYOR**

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

CERTIFICATION FOR ORDINANCE NO. 689

I, Wade G. McKinney, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No. 689, having been regularly introduced at the meeting of May 21, 2015 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a special meeting of the City Council held on this 3rd day of June, 2015 and said Ordinance was passed and adopted by the following stated vote, to wit:

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

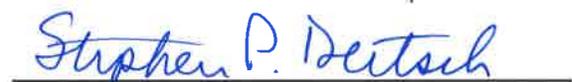
and was thereafter on said day signed by the Mayor of said City of Indian Wells.

ATTEST:

APPROVED AS TO FORM:



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



**STEPHEN P. DEITSCH
CITY ATTORNEY**