

CHAPTER 37: REGULATION OF SHORT-TERM VACATION RENTALS

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§ 37.001 PURPOSE.

(A) The purpose of this chapter is to establish regulations for the use of privately owned residential dwelling units as short-term vacation rentals to minimize secondary impacts of such uses on surrounding residential neighborhoods and to ensure the collection and payment of transient occupancy taxes.

(B) This chapter is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes as defined in this chapter.

(Ord. 1607, passed 2-15-12)

§ 37.002 DEFINITIONS.

The definitions set forth in this section shall govern the meaning and construction of the words and phrases used in this chapter, except where the context of such words and phrases clearly indicates a different meaning or construction.

BEDROOM. A "bedroom" means an area of a short-term vacation rental normally occupied and being heated or cooled by any equipment for human habitation, which consists of four walls to the ceiling, at least one of which is located along an exterior wall with a window, and contains a built-in closet.

SHORT-TERM VACATION RENTAL. A dwelling unit as defined by the city's zoning ordinance that is rented by the owner to another party for a period of not more than 30 consecutive days 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 payments.

OWNER OF A SHORT-TERM VACATION RENTAL. The person(s)/entity(ies) that hold(s) legal and or equitable title to the subject short-term vacation rental. As used in this chapter, the term **OWNER** shall include the owner's authorized representative or agent as set forth in § 37.005.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.003 ADMINISTRATION.

The provisions of this chapter shall be administered by Finance Director or such other city employee as may be designated by the City Manager, hereinafter referred to as the Permit Administrator. In order to facilitate orderly administration of this chapter, the Permit Administrator shall have the authority to make interpretations and to promulgate administrative regulations consistent with the provisions of this chapter for the purpose of interpreting, clarifying, carrying out, furthering and enforcing the requirements and provisions of this chapter. A copy of such administration regulations shall be on file in the Office of the City Clerk.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.004 PERMIT REQUIREMENT.

(A) No owner of a short-term vacation rental shall rent, offer to rent, or advertise for rent the short-term vacation rental to another person without a permit approved and issued in the manner provided for by this chapter. The permit shall be required to be renewed on an annual basis in order to remain valid.

(B) No person shall rent, offer to rent, or advertise for rent a balcony, patio, or other outdoor area of a short-term vacation rental ("outdoor area") if such rental does not occur in connection with the rental of the remaining residence or dwelling unit to which the outdoor area is attached.

(C) No person shall rent, offer to rent, or advertise for rent a dwelling unit, or any portion thereof, as a short-term vacation rental to any partnership, corporation, limited liability company, commercial enterprise, or similar entity.

(D) No person who has rented a short-term vacation rental shall sublease such dwelling unit, or any portion thereof, to any other person or entity.

(E) No person shall charge a fee or request or require a donation for entrance into any short-term vacation rental.

(F) The owner and the owner's authorized agent or representative shall comply with all provisions of §§ 110.01 through 110.53 of the Municipal Code concerning business licenses and associated tax obligations.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14) Penalty, see § 10.99

§ 37.005 AUTHORIZED AGENT OR REPRESENTATIVE.

(A) An owner may authorize an agent or a representative to comply with the requirements of this chapter on behalf of the owner ("agent").

(B) Notwithstanding subdivision (A), the owner of the short-term vacation rental is responsible for compliance with the provisions of this chapter and the owner shall not be relieved from any personal responsibility and/or personal liability for non-compliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental unit, regardless of whether such non-compliance was committed by the owner's authorized agent or representative or the occupants of the owner's vacation rental unit or their guests. Failure of an agent to comply with this chapter shall be deemed non-compliance by the owner.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.006 ADVERTISING SHALL INCLUDE PERMIT NUMBER.

(A) No person shall offer to rent or advertise for rent a short-term vacation rental without including in the offer or advertisement (whether the advertisement is web-based, print media, radio and/or television) the city permit number applicable to the property in the form "Indio Permit No. _____." If the offer to rent or advertisement contains different sizes of type or fonts, the permit number shall be printed in the same size type as the large type used in the main body of the offer or advertisement. In the case of audio-only advertising, the city permit number shall be read as part of the advertising.

(B) Any person advertising or causing the advertisement of a short-term vacation rental that contains information regarding the maximum occupancy of the short-term vacation rental, shall advertise only the overnight maximum occupancy limit as set forth in the permit issued pursuant to this chapter.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.007 SHORT-TERM VACATION RENTAL PERMIT APPLICATIONS.

(A) The owner or the owner's agent shall submit an application for a short-term vacation rental permit required by this chapter in a form required by the city and shall contain the following information and/or documents:

(1) The name, address, and telephone number of the owner of the subject short-term vacation rental unit.

(2) The name, address, and telephone number of the owner's authorized agent or representative, if any.

(3) The name, address, and 24-hour telephone number of the local contact person or agent of the owner who is available 24 hours per day, seven days per week for the purpose of responding in-person within forty-five minutes to complaints regarding the occupancy, condition, operation, conduct or use of the short-term vacation rental as well as undertaking remedial action to resolve any such complaints and/or correct any violations ("local contact person").

(4) Verification that the local contact person can respond in-person to the site of the short-term vacation rental unit within 45 minutes.

(5) The address of the proposed short-term vacation rental unit.

(6) The number of bedrooms in the short-term vacation rental unit.

(7) A nuisance response plan containing the information required by this chapter.

(8) A copy of owner's transient occupancy registration certificate and city business license.

(9) Such other information as the permit administrator deems reasonably necessary to administer this chapter.

(B) The permit application and annual renewal applications shall be accompanied by an application fee in the amount established by resolution of the City Council. Payment of the renewal fee shall be paid before a permit may be approved and before the short-term vacation rental unit may be subsequently rented.

(C) Within 14 days of a change of property ownership, change of owner's agent or representative, or any other change in material facts pertaining to the information contained in the application, the owner or owner's authorized agent or representative shall submit an application for a new permit, which must be obtained prior to continuing to rent the subject unit as a short-term vacation rental.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.008 CONTENT OF NUISANCE RESPONSE PLANS.

(A) Each nuisance response plan accompanying an application for a permit required by this chapter shall contain the following information and otherwise be in a form required by the Permit Administrator.

(1) The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a short-term vacation rental pursuant to the permit;

(2) The name, address and telephone number of the local contact person or persons who is available in person and by telephone, and who will be responsible for responding to or causing a prompt response within 45 minutes to a nuisance or other complaint arising out of the occupancy, condition, operation or use of the short-term rental(s) by tenants, their visitors and/or their guests and/or undertaking remedial action to resolve any such nuisance or other complaint or correct a violation.

(a) No more than a total of three local contact persons shall be designated in the response plan; and

(b) Only one such person shall be designated as the person responsible for responding to a nuisance or other complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.

(B) The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

(C) The manner of assuring timely corrective action to remedy the conditions that caused the nuisance or other complaint. For the purposes of this chapter, "timely corrective action" shall include, at a minimum, a telephone call to the primary occupant of the short-term vacation rental within 15 minutes of being informed of the initial nuisance or other complaint;

(D) The proposed maximum number of overnight occupants, with supporting documentation identifying unusual size, interior layout, parking or other physical characteristics, if any, that support a request for occupancy greater than two persons plus two persons per bedroom.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.009 AMENDMENT OF RESPONSE PLANS.

At any time following the issuance of a permit required by this chapter, the owner of the short-term vacation rental being operated pursuant to such permit may change the content of the nuisance response plan approved incident to the issuance of the permit by filing an amended response plan with the Permit Administrator. Such amended response plan shall contain all of the information and be in the form required by § 37.008 of this chapter, and shall be accompanied by an amended response plan fee, if any, in an amount established by the resolution of the City Council.

(Ord. 1607, passed 2-15-12)

§ 37.010 PERMIT APPROVAL AND ISSUANCE.

(A) Upon receipt of an application for a permit required by this chapter, the Permit Administrator will review the application and supporting documents, and will approve and issue a permit to the owner of the property or properties that are the subject(s) of the application that authorizes the use and occupancy of such property as a short-term vacation rental if the Permit Administrator finds that the required application fee has been paid, the nuisance response plan submitted with the application conforms to the requirements of this chapter and the short-term vacation rental complies with the provisions of § 37.011 of this chapter. Any permit issued shall contain on its face the overnight maximum occupancy limit as determined by § 37.011 of this chapter.

(B) An application may be denied if the applicant has had a prior short-term vacation rental application for the same unit revoked within the past 12 calendar months.

(C) In the event that a request is made by an applicant for increased overnight occupancy greater than the standard of two persons within each short-term vacation rental plus a number that will not exceed two persons per bedroom, as established by § 37.011, the Permit Administrator may request an interior and/or exterior site visit in order to verify the facts stated in the application and/or may request additional written or photographic documentation from the owner. The owner shall be present during any site visit. The Permit Administrator's determination on an application for increased occupancy shall be final. No hearing shall be required or conducted. The Permit Administrator shall be afforded broad discretion with respect to applications for increased occupancy. This chapter shall not be interpreted to create a property interest in potential increased occupancy.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.011 OPERATIONAL REQUIREMENTS AND PERFORMANCE STANDARDS ESTABLISHED.

(A) Each owner, and each tenant or occupant of a short-term vacation rental, shall at all times comply with or cause compliance with the operational and performance standards applicable to short-term vacation rentals they own, lease or occupy, as established by this section.

(B) The owner shall ensure that the short-term vacation rental complies with all applicable codes regarding fire, building and

safety, and all other relevant laws and ordinances.

(C) The owner shall require the primary overnight and daytime occupant of the short-term vacation rental to be an adult 21 years of age or older ("primary occupant"). The primary occupant shall provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.

(D) Prior to occupancy, the owner shall obtain the name, address, and driver's license number or a copy of the passport of the primary occupant of the short-term vacation rental. The primary occupant is legally responsible for compliance of all occupants of the short-term vacation rental or their guests with all provisions of this chapter and/or the Indio Municipal Code. This information shall be readily available upon request of any police officer or employee of the city authorized to enforce this chapter or state law.

(E) The owner shall limit overnight occupancy of the short-term vacation rental to the permitted number of occupants, with the maximum number of overnight occupants being two persons within each short-term vacation rental plus a number that will not exceed two persons per Bedroom within each short-term vacation rental ("overnight maximum occupancy limit"). The number of bedrooms in a short-term vacation rental shall be verified by the Permit Administrator using County Assessor and/or City Building records, prior to the issuance of a permit. The Permit Administrator in his/her discretion may, when unusual size, interior layout, parking or other physical characteristics are shown, approve a greater maximum number of overnight occupants.

(F) During the hours of 10:00 p.m. through 8:00 a.m. of the following day, the short-term vacation rental shall not exceed the overnight maximum occupancy limit.

(G) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the city's authorized waste hauler on scheduled trash collection days. The owner of the short-term vacation rental shall provide sufficient trash collection containers and service to meet the demand of the occupants.

(H) (1) Prior to the occupancy of a short-term vacation rental, the owner shall enter into a written rental agreement with the primary occupant. Each written rental agreement for a short-term vacation rental shall include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the unit:

(a) The name, age, address of the primary occupant along with a copy of the primary occupant's government issued identification;

(b) The maximum number of overnight occupants that are permitted pursuant to the overnight maximum occupancy limit set forth in the permit.

(c) A list containing the names of all guests that will occupy the short-term vacation rental provided to the owner by the primary occupant, including a list of their vehicles by make and model and license plate numbers.

(d) An acknowledgment and agreement of the primary occupant that he or she is legally responsible for compliance of all occupants of the short-term vacation rental and their guests with all provisions of this chapter and/or the Indio Municipal Code.

(e) Notification, acknowledgment and agreement of the primary occupant that failure to comply with the maximum occupancy limit and/or the provisions of § 37.011 and the subsequent refusal to comply with the instructions of the owner and/or local contact person in order to remedy such violations, shall subject the primary occupant and his/her guests and/or other occupants to an immediate order to vacate the short-term vacation rental by the owner or local contact person in accordance with the provisions contained within the rental agreement.

(f) The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property.

(g) Notification that the occupant(s) may be cited or fined by the city and/or immediately evicted by the owner pursuant to state law, in addition to any other remedies available at law, for creating a disturbance or for violating any provisions of this chapter.

(h) Notification that failure to conform to the occupancy requirements of the short-term vacation rental is a violation of this chapter.

(i) Notification that amplified sound, including radios, televisions and other electronic devices are subject to the city's noise ordinance as set forth in Indio Municipal Code Chapter 95C.

(j) A prohibition on illegal loud parties, along with notification of the city's right to recover the costs of special enforcement needed to address certain loud parties under the circumstances described in Indio Municipal Code §§ 130.180 through 130.188.

(k) A requirement that the occupant(s) participate in neighborhood quiet hours by avoiding parties and loud social events

between the hours of 10:00 p.m. and 8:00 a.m.

(l) The name of the managing agency, agent, rental manager, local contact person, or owner of the short-term vacation rental, and a telephone number at which that party may be reached at all times.

(m) A copy of the *Good Neighbor Guidelines* which may from time to time be prepared by the Permit Administrator. These guidelines may include location-specific information, such as local speed limits.

(n) Notification that the property is part of the City of Indio's Short-Term Vacation Rental Program.

(o) A copy of this chapter of the Indio Municipal Code, as it may be amended from time to time.

(2) The rental agreement and documentation of compliance with this subparagraph (H) shall be maintained by the owner and/or agent for a period of three years and be made readily available upon request of the Permit Administrator or any police officer or employee of the city authorized to enforce this chapter or state law.

(I) During the rental term of each short-term vacation rental, the Local Contact Person shall be available by phone and in-person twenty-four hours per day, seven days per week for the purpose of: (i) responding by telephone within 15 minutes of complaints regarding the occupancy, condition, operation or use of the short-term vacation rental; (ii) responding in-person within 45 minutes to any additional or successive complaints regarding the occupancy, condition, operation or use short-term vacation rental; and (iii) taking action to resolve any complaint and/or correct any violation as set forth in subparagraph (J) of this § 37.011.

(J) Upon receipt of a nuisance complaint or such other complaint or upon notification that any occupant and/or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of this chapter, the Indio Municipal Code or any state law, the owner or the local contact person shall promptly respond to such complaint and take corrective action to remedy the complaint and prevent a recurrence of such conduct by those occupants or guests. For purposes of this paragraph, **PROMPTLY RESPOND** shall mean a physical presence at the premises of the short-term vacation rental in which the primary occupant or other occupancy is advised of the nature of the complaint and a correction of any violation is made, or if contact with the primary occupant or other occupancy is not required, the subject of the complaint is resolved, including the correction of any violation. If the nature of the violation involves an action that would take more than an hour, **PROMPTLY RESPOND** shall mean notifying the Permit Administrator of the nature of the complaint and thereafter diligently pursuing to completion the correction of the violation. Failure of the owner or the local contact person to promptly respond and/or to take timely corrective action regarding the occupancy, condition, operation, or use of the short-term vacation rental shall be a violation of this chapter and shall be grounds for the imposition of penalties as set forth in this chapter and/or revocation of the permit. An owner or local contact person is not required or authorized to act as a peace officer or to intervene in situations that pose a risk to personal safety. The owner, agent or the local contact person shall keep and maintain a written log or other record of the nature of the complaint or violation and the date, and time of each complaint, disturbance, response and the corrective action taken. Such written log or record shall be readily available upon request of the city, including the Permit Administrator, and any police officer or employee of the city authorized to enforce this chapter or state law and shall be retained for a minimum of three years.

(K) The owner and/or local contact person shall order the primary occupant and his/her guests and/or other occupants to immediately vacate the short-term vacation rental in accordance with provisions contained within the rental agreement if the primary occupant and/or guests or other occupant fail to comply with the maximum occupancy limit and/or violate the provisions of this § 37.011 and subsequently refuse to comply with the instructions of the owner and/or local contact person in order to remedy or correct the violation.

(L) The owner shall keep written records documenting compliance with all elements of the performance standards and the approved nuisance response plan. Such records shall be retained for a minimum of three years and shall be available during regular business hours upon request of the city, including the Permit Administrator, and any police officer or employee of the city authorized to enforce this chapter or state law.

(M) The short-term vacation rental use shall not involve the use of commercial vehicles for the delivery of materials to and from the premises beyond those commercial vehicles normally associated with residential uses nor storage of delivered materials beyond those items which would normally be associated with a residential use of property.

(N) The operational requirements and performance standards may be modified by the Permit Administrator upon request of the owner based upon site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term vacation rental occupant as may be required by state or federal disability laws. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a short-term vacation rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site and shall not be self-induced or economic. Any modifications of the standard conditions shall not further

exacerbate an already existing problem.

(O) The owner and/or the owner's authorized agent or representative shall comply with all provisions of §§ 34.35 through 34.48 of the Municipal Code concerning transient occupancy taxes, including, but not limited to, submission of a return in accordance with § 34.41 of the Municipal Code, which shall be filed even if the vacation rental unit was not rented during each such reporting period.

(P) The Permit Administrator shall have the authority to impose additional conditions on the use of any given short-term vacation rental unit to ensure that any potential secondary effects unique to the subject vacation rental unit are avoided or adequately mitigated.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.012 TERMINATING THE USE OF A PROPERTY AS SHORT-TERM RENTAL.

Where the owner of property used and occupied as a short-term vacation rental pursuant to a permit approved and issued in the manner provided for by this chapter determines to terminate such use and restore the property either to an owner-occupied residence or a long-term rental, the property owner shall promptly cause a notice of such determination to be filed with the Permit Administrator.

(Ord. 1607, passed 2-15-12)

§ 37.013 VIOLATIONS.

(A) It is unlawful and a violation of this chapter 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 Indio to cause, permit, maintain or allow any violation of this chapter to exist thereon. Any person who violates any provision of this chapter is guilty of a misdemeanor. Such violation is punishable as set forth in § 10.99 of this code. Each and every day, or portion thereof, that a violation of this chapter exists constitutes a separate and distinct violation.

(B) Alternatively, this chapter may be enforced through the issuance of an administrative citation in accordance with chapter 11 of this code, except that the fine for each separate violation shall be as follows: (1) an administrative fine in an amount not to exceed \$500 for the first citation; (2) an administrative fine an amount not to exceed \$750 for a second citation issued for the same offense within a 12-month period of the date of the first offense; and (3) an administrative fine in an amount not to exceed \$1,000 for a third and any subsequent citation issued for the same offense within a 12-month period of the date of the first offense. Each and every day such a violation exists shall constitute a separate and distinct violation of this chapter.

(C) Notwithstanding paragraph (B) of this § 37.013, operating a short-term vacation rental without a valid permit shall be subject to an administrative fine in the amount not to exceed \$1,000 for each citation.

(D) In addition to the foregoing, a violation of any provision of this chapter shall constitute a public nuisance and shall be subject to abatement by the city by means of a civil action or administrative abatement pursuant to chapter 95A of this code, and each day such condition continues it shall be regarded as a new and separate offense.

(E) This remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this chapter.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.014 SPECIFIC VIOLATIONS.

Any of the following acts or omissions arising out of the operation and use of a short-term vacation rental is unlawful and constitutes a misdemeanor punishable as set forth in § 10.99 of this code.

(A) Rental, offering for rental, or advertising for rental of a dwelling unit located on any property within the city by the owner of the property as a short-term vacation rental without a permit authorizing such use that has been approved and issued in the manner required by this chapter.

(B) Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter or the owner's designated agent to respond to a nuisance complaint arising out of the occupancy and use of the short-term rental by a tenant, or the tenant's visitors or guests in the manner and within the time required by a nuisance response plan approved by the Permit

Administrator incident to the issuance of such permit.

(C) Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter to keep a response plan required by the chapter on file with the Permit Administrator containing the name of the current person or persons responsible for responding to a nuisance complaint within the time required by this chapter.

(D) Offering to rent or advertising for rent a short-term vacation rental without including in the offer or advertisement the city permit number applicable to the property in the form "Indio Permit No. _____" with the permit number printed in the same size type as the largest type used in the offer or advertisement.

(E) Failure to comply with or cause compliance with any performance standard listed in § 37.011.

(Ord. 1665, passed 11-19-14)

§ 37.015 PERMIT SUSPENSION, MODIFICATION OR REVOCATION.

(A) In addition to any other remedy provided by this chapter, a permit issued pursuant to this chapter may be suspended, modified or revoked for violations of this chapter, for violation of any other law on the premises of the short-term vacation rental, or for the maintenance of such other conditions as may be shown to be injurious to the public health and safety or if the applicant made any false, misleading or fraudulent statement of a material fact in the application for permit, or any report or record required to be filed pursuant to this chapter.

(B) Prior to suspension, modification or revocation of a permit, a hearing shall be held thereon by the City Manager or a hearing officer designated by the City Manager or his or her designee. The permittee shall be notified in writing of the grounds for suspension, modification or revocation of the permit at least ten days prior to the scheduled hearing. The decision of the hearing officer shall be rendered within five days of the hearing. The decision shall be in writing, and shall set forth the findings and reasons for the decision. The decision of the hearing officer is final.

(Ord. 1607, passed 2-15-12; Am. Ord. 1665, passed 11-19-14)

§ 37.016 RECORDS AND INSPECTION.

Each owner shall provide access to each short-term vacation rental and any records related to the use and occupancy of the short-term vacation rental to the City Manager or his designee at any time during normal business hours, for the purpose of inspection or audit to determine that the objective and conditions of this chapter are being fulfilled.

(Ord. 1665, passed 11-19-14)

§ 37.017 REQUIREMENTS NOT EXCLUSIVE.

The requirements of this Chapter shall be in addition to any license, permit or fee required under any other provision of the Indio Municipal Code. The issuance of any permit pursuant to this Chapter shall not relieve any person of the obligation to comply with all other provisions of the Indio Municipal Code pertaining to the use and occupancy of the short-term vacation rental or the property on which it is located.

(Ord. 1665, passed 11-19-14)