



CITY OF INDIO

DIRECTOR OF EMERGENCY SERVICES EMERGENCY ORDER NO. 1

ORDER GOVERNING HOME RENTALS FOR 60 DAYS OR LESS IN THE CITY OF INDIO

EFFECTIVE APRIL 17, 2020

Date of Order: April 17, 2020

Section 1. Findings, Purpose and Authority. This Order is issued because a Local Emergency, as defined in Section 35.02 of the Indio Municipal Code, has been proclaimed by the City Council of the City of Indio to exist due to the existence and spread of novel coronavirus disease 2019 (COVID-19) in and throughout the city. All of the findings set forth in the recitals to Resolution No. 10136 adopted by the City Council are hereby incorporated by reference into this Order.

In the interest of the public health and safety and for the protection of life as affected by the emergency caused by the existence and spread of COVID-19, and pursuant to Chapter 35 of the Indio Municipal Code including Section 35.06(F), under which the City Manager as Director of Emergency Services has authority and power to issue orders for any matter related to the local emergency, and pursuant to City of Indio Resolution No. 10136, the California Emergency Services Act, Chapter 7 (commencing with Section 8550) of Title 2 of the Government Code, and Government Code Section 8634, the City Manager as the Director of Emergency Services, hereby finds that it is necessary to adopt this Order as further described herein. This City Order shall apply to all Home Rentals as that term is defined in Section 2 of this City Order.

Section 2. Definitions.

“Short-Term Home Rental” or “Home Rental” is defined as a dwelling unit that is designed for occupancy for living and sleeping purposes located in a residential zone that is used, rented or hired out to persons other than the owner for temporary overnight lodging for a time period of 60 days or less in exchange for any form of monetary or non-monetary consideration (such as but not limited to trade, fee, swap, labor or any other in lieu of cash payment), whether or not received.



“Owner” is defined as the person or entity that holds legal or equitable title to the subject Home Rental and includes the Owner’s authorized representative or agent such as a property manager, or any other person or entity that has the right to rent the Home Rental on behalf of the Owner.

Section 3. Short-Term Home Rentals. By “Order of the Health Officer for the County of Riverside, Clarification of Governor’s “Stay-at-Home” Order as Related to Short Term Lodging Facilities,” Dated March 27, 2020 and amended and superseded by the “Amended Order of the Health Officer for the County of Riverside, Clarification of Governor’s “Stay-at-Home” Order as Related to Short Term Lodging Facilities” dated April 2, 2020 (“County Order”) all “short-term lodging facilities” as defined in County Order were required to cease operation as of March 27, 2020 except for those short-term lodging facilities rented for specific COVID-10 mitigation and containment measures as described in the County Order. The County Order is applicable in the City of Indio pursuant to Health and Safety Code Section 101375. Accordingly, as of March 27, 2020, all Short Term Home Rentals as defined in this City Order located in the City of Indio should have already ceased operation except for those rentals for COVID-19 mitigation and containment measures as described in the County Order.

THEREFORE, IT IS HEREBY ORDERED that beginning on March 27, 2020, all Short Term Home Rentals as that term is defined in this City Order, shall cease operation and no Home Rentals shall be available or made available for use or occupancy by any person or persons, nor shall such any Home Rentals be used or occupied by any person(s). The short-term vacation rental permit issued to the Home Rental pursuant to Chapter 37 have been and are hereby suspended to the extent that the Home Rental is engaged in rental uses not permitted by this City Order.

This City Order is expressly intended to apply retroactively because as of March 27, 2020, the occupancy of Home Rentals for non-COVID-19 purposes was and still is a direct violation of the Governor’s Stay at Home Order as well as the County Order. The intent of the Governor’s Stay at Home Order and the County Order, was issued for the following purposes: (i) To prevent the spread of COVID-19 by applying the statewide Governor’s Stay at Home order to transitory or temporary rentals and lodging such as Short-Term Home Rentals ordinarily available in the City of Indio (and similar in use as hotels and motels) but for the existence of the COVID-19 pandemic; (ii) To completely suspend, for a temporary period, all Short-Term Home Rentals (including hotels and motels, etc.) in the City of Indio for the duration of the County Order, and (iii) To permit use or occupancy of short-term rentals only in extremely limited situations.



Because of complaints made to the City of Indio regarding Owners noncompliance with the County Order as well as the March 27, 2020 City Letter sent to Home Rental licensees, the Director finds that additional requirements must be imposed on Owners of Home Rentals due to the threat of and spread of COVID-19. **ACCORDINGLY, EFFECTIVE IMMEDIATELY IT IS FURTHER ORDERED**, that Short-Term Home Rentals that are exempt from this City Order as described in Section 4 below, may be authorized for use **ONLY IF THE OWNER RECEIVED PRIOR WRITTEN APPROVAL FROM THE CITY** as set forth in Section 5.

IT IS FURTHER ORDERED, that no Owner or agent of the Owner including but not limited to a property manager, marketing agent, listing agent, real estate agent, managing agent, booking agent, a room seller or room reseller or any other agent or contractee, including but not limited to a "hosting platform" such as Airbnb, VRBO, Home Away, VacayStay, etc., shall engage in efforts to rent or lease any Short-Term Rental Home within the City of Indio for any purpose other than those identified in Section 4 as approved by the City based on the criteria in Section 5. The Owner shall notify its agents regarding the existence and applicability of this City Order to its Home Rental.

IT IS FURTHER ORDERED, that this City Order shall be effective immediately and will remain in effect until June 19, 2020, pending further order by the City or further Order of the County Public Health Officer.

While this City Order applies immediately, there are situations where Home Rentals have guests currently on-site that were physically present on the property as of March 27, 2020, or currently on-site and physically present on the property as of the date of this City Order. **THEREFORE, IT IS FURTHER ORDERED THAT** in such situations, bookings may not be extended beyond the original end date unless the renter qualifies for an exemption as identified in Section 4 and the City Official approves the continued rental as set forth in Section 5. In addition, no guests currently on-site and physically present in the Home Rental can continue their lodging as of Tuesday April 21, 2020, unless the Owner submits the required documentation and evidence to prove the renter qualifies for an exemption to the City Official by Monday, April 20, 2020 at 8:00 a.m. as described in this City Order and the City Official approves the continued rental as qualifying for an exemption. If the rental is not approved, the Owner shall take any and all necessary actions to immediately remove the renters from the Home Rental.



Section 4. Exemptions to Order.

The following home rentals are exempt from this Order if the person seeking the home rental meets the criteria set forth in this Section and the Owner obtains approval of the home rental from the City as described in Section 5.

- A. Home rentals for the following COVID-19 mitigation and containment measures as follows:
 - 1. Temporary lodging to protect homeless persons;
 - 2. Temporary lodging for persons who have been displaced and cannot return to their residence because there exists a person(s) residing at their residence that must isolate or quarantine or is at a higher risk of severe illness
 - 3. Lodging for persons who need to isolate or quarantine themselves.
- B. Short-term rentals to serve as lodging facilities for "Essential Critical Infrastructure Workers" as designated by the California Department of Public Health order dated March 22, 2020. These Essential Critical Infrastructure Workers would include fire, police, and other public safety workers as well as state, county, regional government, and other city workers or their respective contract workers who are necessary to continue the operations of state and local government.
- C. Persons currently using and occupying a home rental that were physically present on the property as of March 27, 2020 and have an existing contract to rent the Home Rental that extends beyond the effective date of this Order No. 1 and has received approval by the City as set forth in Section 5 below; provided, however, that upon the end of the existing contracted-for rental period, the persons vacate the home rental and return to their primary or other usual place of residence.
- D. Persons currently using and occupying a home rental that were physically present on the property as of the date of this City Order and have an existing contract to rent the home rental that extends beyond the effective date of this City Order for a use that was identified in the County Order as a permitted use as of the date of the rental and the owner has received approval by the City as set forth in Section 5 below.



Section 5. Approval of Exempted Uses by the City.

Any and all home rentals purported to be exempt under this Order, must receive prior written approval by the City for any exempt use or occupancy as set forth in this Section 5.

- A. A request for written approval of the Home Rental must be submitted by the Owner to the City no later than two business days before any agreement or contract is entered into by the Owner or if there is no agreement or contract or if there is an existing contract or agreement for a future rental, no later than two business days before use or occupancy. The request must be accompanied by clear and convincing evidence and documentation that the home rental is for a use that is exempt under this Order. In addition, the Owner shall submit the written agreement or contract for the Home Rental. The written request and the related documentation shall be emailed to: code@indiopd.org.

The written request and the documentation and evidence for a Home Rental currently being used or occupied OR for a Home Rental that is to begin occupancy on **April 21, 2020, April 22, 2020, April 23, 2020 or April 24, 2020** where an agreement or contract has been signed and/or monetary or non-monetary consideration has been deposited, shall be submitted to the City no later than Monday, April 20, 2020 **at 8:00 a.m.** The written request and related documentation shall be emailed to code@indiopd.org. The Owner shall also submit a copy of the written agreement or contract.

- B. It is the burden of the Owner to prove, by clear and convincing evidence, that the Home Rental is exempt under this Order. The City's determination shall be made by the City Manager or such other person or persons designated by the City Manager, whom shall be referred to as the "City Official." The City Official's decision shall be based on the Owner's submittal and the City Official's own verification of such submission. The City Official's decision shall be emailed to the Owner in writing at least one day before the rental is to be commence (except if the Home Rental is currently being used or occupied as described in paragraph A above). The City Official's decision is final.



- C. The following lists the documentation that an Owner can submit to the City Official to demonstrate the home rental is exempt from this Order. In addition to what is listed below, the Owner is advised that the City's approval shall be based on clear and convincing evidence that the existing or proposed housing rental use or occupancy qualifies for an exemption. This can include documents from the renter's medical provider or doctor, designation, etc. All evidence and documentation must be verifiable by the City Official.
- For temporary lodging to protect homeless persons, a referral for housing specific to the renter from a non-profit, hospital, clinic, local, state or federal entity or other third party satisfactory to the City Official;
 - For persons who have been displaced, a letter from the renter describing their circumstances signed under penalty of perjury, documentation from their medical provider or doctor or a local, state or federal agency that can attest to the displacement and a copy of the renter's state driver's license or identification.
 - For persons who are residents of the City but need to isolate or quarantine themselves, documentation from their medical provider or doctor or a local, state or federal agency that can attest to the need for the renter to self-isolate or quarantine. In addition, the owner shall provide a copy of the renter's state driver's license or identification that shows the primary residence of the person(s).
 - For Essential Critical Infrastructure Workers, documents that demonstrate the renter meets the criteria of an Essential Critical Infrastructure Worker. This can include a letter from the renter's employer on letterhead. The Owner shall also provide the renter's business card and the name, address and contact number of the employer. Such information can be included in the letter from the employer.



- For persons currently using and occupying a housing rental, documentation and evidence to confirm that the existing short-term housing rental's use or occupancy is exempt. This includes any of the documentation listed above and includes but is not limited to, documentation from a medical provider or doctor, an essential worker designation from a public agency or other similar documentation the City deems necessary. In addition, the Owner shall provide a copy of the rental agreement.

Section 6. Penalties Any violation of this Order shall be a misdemeanor and punishable by a fine or imprisonment, or both, pursuant to Government Code Section 8665, Section 35.10 of the Indio Municipal Code, Section 106.02(A) of the Indio Municipal Code, Health and Safety Code Sections 120275, 120295 or as provided for in any other state or city law as may be applicable. In addition, the City may issue an administrative citation pursuant to Indio Municipal Code Section 106.02(B) and Chapter 11 of the Indio Municipal Code for any violation of this Order. Furthermore, any violation of this Order constitutes a public nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances as further provided by the City's Municipal Code and State Law.

Section 7. This Order shall take effect immediately when executed on April 17, 2020 and shall be subject to confirmation as soon as practicable by the City Council.

Executed on this 17th day of April, 2020, at Indio, California.

A handwritten signature in blue ink that reads "Mark Scott".

Mark Scott, Director of Emergency Services