



## CITY COUNCIL STAFF REPORT

DATE: JANUARY 4, 2017 LEGISLATIVE

SUBJECT: EXTENSION OF INTERIM URGENCY ORDINANCE NO. 1893  
IMPOSING INTERIM REGULATIONS FOR THE INSTALLATION AND  
MAINTENANCE OF TEMPORARY SIGNS IN THE CITY OF PALM  
SPRINGS TO MAY 5, 2017. (4/5ths Vote Required)

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney

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### SUMMARY

The City Council adopted an urgency ordinance in May, 2016, that established interim regulations for temporary signs in the City in a manner consistent with a recent Supreme Court decision involving an Arizona municipality. The urgency ordinance will terminate on January 20, 2017. A draft ordinance has been prepared, circulated with stakeholders, and discussed by the Council's subcommittee. A revised ordinance is being prepared and will be circulated to stakeholders before it is presented to the Council for consideration. The subcommittee recommends the Council extend the urgency ordinance an additional 90 days to complete this review and preparation of a revised ordinance.

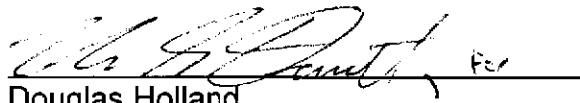
### RECOMMENDATION:

Waive the reading of the text in its entirety, read by title only, and adopt Urgency Ordinance No. \_\_\_\_, "AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NO. 1893 OF THE CITY OF PALM SPRINGS, CALIFORNIA, IMPOSING INTERIM REGULATIONS FOR THE INSTALLATION AND MAINTENANCE OF TEMPORARY SIGNS IN THE CITY OF PALM SPRINGS SUBJECT TO CERTAIN EXCEPTIONS, AMENDING SECTION 93.20.09.B.5 OF, AND SUSPENDING ENFORCEMENT OF SECTIONS 93.20.07, 93.20.08, AND 93.20.10.C.4 OF, THE PALM SPRINGS MUNICIPAL CODE, TO MAY 5, 2017. (4/5THS Vote Required)

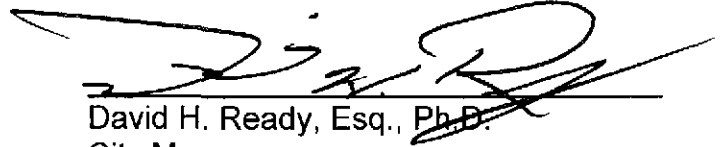
ITEM NO. 3.A.

FISCAL ANALYSIS

No significant change to City revenue or expenditures is expected as a result of adopting the proposed urgency ordinance extension.



Douglas Holland  
City Attorney



David H. Ready, Esq., Ph.D.  
City Manager

Attachment:

Proposed Interim Urgency Ordinance Extension

ORDINANCE NO. \_\_\_\_\_

AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NO. 1893 OF THE CITY OF PALM SPRINGS, CALIFORNIA, IMPOSING INTERIM REGULATIONS FOR THE INSTALLATION AND MAINTENANCE OF TEMPORARY SIGNS IN THE CITY OF PALM SPRINGS SUBJECT TO CERTAIN EXCEPTIONS, AMENDING SECTION 93.20.09.B.5 OF, AND SUSPENDING ENFORCEMENT OF SECTIONS 93.20.07, 93.20.08, AND 93.20.10.C.4 OF, THE PALM SPRINGS MUNICIPAL CODE, TO MAY 5, 2017. (4/5<sup>THS</sup> Vote Required)

**City Attorney Summary**

*The City currently enforces a myriad of regulations relating to the installation and maintenance of various temporary signs both on private property and the public right-of-way. These regulations are based on significant policy concerns and past practices. A recent United States Supreme Court decision may call into question aspects of the City's temporary sign regulatory program. This interim urgency ordinance will provide an interim set of constitutional regulations that will adequately address problems associated with temporary signs during upcoming election cycles while providing the Planning Commission and the City Council adequate time to review, consider, and adopt appropriate and necessary time, place, and manner restrictions for temporary signs in the City.*

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA,  
FINDS:**

- A.** The City is responsible for providing appropriate and necessary time, place, and manner restrictions on temporary signs in the City.
- B.** The United States Supreme Court in the case of *Reed v. Town of Gilbert* (2015) 135 S.Ct. 2218 struck down several provisions of the Town of Gilbert's sign regulations that imposed different time, place, and manner restrictions on temporary signs that depended entirely on the communicative content of each sign. It is apparent amendments to the City of Palm Springs sign ordinance may be desirable to avoid any potential challenge in light of the *Reed* decision.
- C.** Several community interests are invested in significant aspects of the City's sign ordinance, including realtors, downtown merchants, and local businesses. In addition, any amendment to the City's sign ordinance also

requires involvement of the City's Planning Commission. In order to ensure a timely and thorough review of the City's sign ordinance without enduring significant risk of legal challenge to the existing Code, the City Council has determined that the adoption of an interim urgency ordinance that imposes direct, immediate, and short-term temporary sign regulations are necessary and appropriate.

D. This interim urgency ordinance will provide an interim set of constitutional regulations that addresses problems associated with temporary signs during the upcoming election cycles while providing the Planning Commission and the City Council adequate time to review, consider, and adopt appropriate and necessary time, place, and manner restrictions for temporary signs in the City.

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA,  
ORDAINS:**

**Section 1.** The provisions of Palm Springs Sections 93.20.07 (Permitted Signs – Real Estate), 93.20.08 (Permitted Signs – Temporary), and 93.20.10.C.4 (Signs on Vehicles) are hereby suspended during the period of time this Ordinance remains in effect.

**Section 2.** The following definitions shall apply to this Ordinance:

“Special Event” is any single event or series of events that occur on an infrequent basis and take place at a specific location in which the public is encouraged or invited to watch, listen, participate, or purchase goods and/or services, including, but not limited to, the following:

- a. Commercial sales, including pre- and post-holiday sales;
- b. Arts and crafts shows, trade shows, antique shows, and other similar events;
- c. Carnivals, fairs, circuses, and similar activities;
- d. Outdoor shows, concerts, and exhibitions;
- e. Annual events

“Temporary sign” is any sign, handbill, or poster which is placed to advertise or announce a special event, or which pertains to a particular event or occurrence, or which is not permanently anchored or secured to a building and not having supports or braces permanently secured in the ground, including but not limited to “portable open signs”, “political signs,” “election signs,” and “real estate signs.” Banners, pennants, pin wheels, ribbons, streamers, strings of light bulbs, inflatables, or similar devices intended for a limited period of display shall also be considered a portable sign. The term “temporary signs” do not include any sign posted, erected, or installed by the City, the County of Riverside, the State of California, or any other government agency or public utility in the exercise of its responsibilities or in furtherance of governmental speech.

**Section 3. Signs on Vehicles.** No person shall drive, operate, move in or along, or park on any street or on public or private property, any truck, trailer, carriage, wagon, sled, or other vehicle on which is attached or maintained any sign except as otherwise permitted pursuant to California Vehicle Code Section 21100(p)(2), as may be amended from time to time.

**Section 4. Temporary Signs.**

A. Up to two free-standing temporary signs of up to eight (8) square feet or one free-standing temporary sign of up to sixteen (16) square and/or one window sign of no more than four (4) square feet may be maintained on one single family property or on commercial, industrial, or multifamily property. A temporary sign associated with a special event shall not be installed more than thirty-one (31) days before the event and shall be removed no later than five (5) days after the event.

B. Temporary signs in commercial and industrial zones shall be governed by the same rules and regulations set forth in Section 93.20.05 that govern commercial and industrial signs. The total signage at any particular property, including temporary signs and other signs shall not exceed the restrictions set forth in Section 93.20.05.

C. Temporary signs in multi-family residential zones shall be governed by the same rules and regulations set forth in Section 93.20.06 that govern hotel, resort hotel, and apartment signs. The total amount of signage at any particular property, including temporary signs and other signs shall not exceed the restrictions set forth in Section 93.20.06.

D. Temporary signs shall not be installed or maintained on any public right of way or on any public property, including without limitation trees, public utility poles, and street signs. Except as otherwise expressly provided in this Ordinance, temporary signs shall only be placed on private property with the written consent of the property owner.

E. Nothing herein shall be interpreted as prohibiting any person from carrying a temporary sign within a public right-of-way as allowed in Section 11.28.050 of this Code.

**Section 5.** Section 93.20.09.B.5 of the Palm Springs Municipal Code is amended to read:

**5. Portable Open Signs.**

Except where another permitted outdoor display has been authorized (postcard rack, art displays, etc.), one portable open sign is allowed for: (i) each tenant

space in the C-B-D zone and (ii) with frontage on North Palm Canyon Drive between Alejo Road and Racquet Club Road or (iii) with frontage on Indian Canyon Drive between Ramon Road and Alejo Road, subject to the following requirements:

- a. One portable open sign is allowed per tenant space. Multiple businesses within a single tenant space shall be limited to one sign overall.
- b. A portable open sign may only be placed between a public entry into the tenant space and the nearest fronting street or parking drive aisle. The sign may be placed in the sidewalk public right-of-way, no less than 3 feet from any street or parking curb; however, in no case may any sign impede pedestrian traffic. A 48-inch clear paved pathway for ADA access must be maintained at all times.
- c. A portable open sign shall not exceed 42 inches in height and 32 inches in width. The sign may be two-sided.
- d. The sign frame may be a single- or two-pole metal frame, or it may be an A-frame. The sign may be either chrome, black or white.
- e. The sign frame shall include a heavy base to prevent unintended movement caused by wind or other minimal force. Signs which require additional weighting (sandbag, concrete block, etc.) are not allowed.
- f. The sign copy shall be produced professionally – signs created by hand or home computer software are not allowed.
- g. No lighting, balloons, or other attachments are allowed.
- h. The Director of Planning Services shall prepare and implement administrative rules, regulations, and guidelines consistent with, and in furtherance of, the provisions of this Subsection.

**Section 6. Message Substitution.**

A. Subject to the consent of the land owner and the sign owner, a constitutionally protected noncommercial message of any type may be substituted, in whole or in part, in place of any commercial message or any other noncommercial message on a sign if the sign structure or mounting device is legal without consideration of message content. Similarly, an onsite commercial message may be substituted for another commercial message on an on-site sign if the substitution does not also involve a change of the physical structure or mounting device for the sign. Such message substitutions may be made without any additional approval or permitting.

B. The purposes of this section are to prevent any inadvertent favoring of

commercial speech over noncommercial speech or of any particular noncommercial message over any other noncommercial message and to allow a change of commercial messages on an on-site sign without a new permit.

C. This section does not create a right to increase the total amount of signage on a parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted. This section does not allow the substitution of an off-site commercial message in place of an on-site commercial message or the conversion of a sign to general advertising for hire.

D. In addition to message substitution, whenever a parcel has a right to display area that is unused, that area may be used for constitutionally protected non-commercial messages on temporary signs, without permits or approvals; it may also be used for display of noncommercial messages on permanent structures, if the structure is properly permitted.

E. This Section prevails over any more specific provision to the contrary within the City's sign ordinance.

**Section 7. CEQA.** The City Council finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance will have a significant effect on the environment. This Ordinance is therefore exempt from environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

**Section 8. Findings.** The adoption of this extension to Interim Urgency Ordinance No. 1893 is necessary for the immediate protection of the public peace, health, and safety by ensuring the timely and orderly consideration, adoption, and implementation of temporary sign regulations compliant with the constitutional guidelines of the Supreme Court and reasonably preserves an orderly and balanced temporary sign program during the election cycles of 2016 where the proliferation of temporary signs would adversely affect public property and rights of way and endanger the traveling public. In accordance with Section 312 of the Palm Springs City Charter, the City Council of the City of Palm Springs finds and determines that the adoption of this Interim Urgency Ordinance is necessary to ensure the immediate protection of the public peace, health, and safety.

**Section 10. Effective Date.** The City Council hereby declares, on the basis of the findings set forth in the Recitals and in Section 3 above, that an urgency ordinance is warranted and that this Ordinance is necessary to preserve the public peace, health and safety. Accordingly, this Ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon its adoption. This Ordinance shall expire on May 5, 2017 unless otherwise extended

by action of the City Council prior to such date.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY  
COUNCIL THIS 4th DAY OF JANUARY, 2017.

\_\_\_\_\_  
ROBERT MOON, MAYOR

ATTEST:

\_\_\_\_\_  
KATHLEEN D. HART, MMC  
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Urgency Ordinance No. \_\_\_\_ is a full, true and correct copy, and was adopted at a regular meeting of the City Council held on the 4<sup>th</sup> day of January, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
KATHLEEN D. HART, MMC  
Interim City Clerk  
City of Palm Springs, California