



CITY COUNCIL STAFF REPORT

DATE: March 16, 2011

LEGISLATIVE

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTION 6.08.140 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO PROHIBIT MOBILE VENDING NEAR SCHOOLS.

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney

SUMMARY

The proposed ordinance would prohibit mobile vending within 500 feet of any school that serves persons 18 years of age and younger.

RECOMMENDATION:

1. Waive the reading of text in its entirety and read by title only; and
2. Introduce on first reading, Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTION 6.08.140 TO THE PALM SPRINGS MUNICIPAL CODE, TO PROHIBIT MOBILE VENDING NEAR SCHOOLS."

STAFF ANALYSIS:

Councilmember Hutcheson requested review and consideration of an ordinance that would regulate mobile vending operations in the vicinity of schools. Other cities and communities have identified several problems that can arise when mobile vending is occurring near areas where large numbers of children are arriving or departing from school each day. These concerns include:

- Sale of unhealthy and/or unregulated food products and the attendant health and safety concerns;
- Potential sale of other products that are not legal for sale to minors, including cigarettes, alcohol, and other drugs.
- Unsafe conditions resulting from children darting in and out of cars and crossing streets in an unsafe manner to reach mobile vendors; and
- Conduct of some mobile vendors raising concerns that school children might be subject to inappropriate verbal comments and other forms of harassment.

In response to Councilmember Hutcheson and the concerns discussed above, the City Attorney's Office evaluated several local ordinances and prepared the proposed ordinance. The proposed ordinance contains the following provisions:

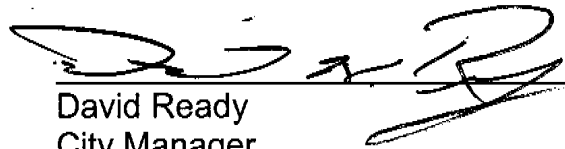
- Provides a broad definition of "mobile vending."
- Makes mobile vending within 500 feet of a property line of any school serving students 18 years of age or younger an enforceable violation.
- Provides limited exceptions such as mobile vending on school property with the consent of school officials and mobile vending on private property with a valid use permit.

FISCAL IMPACT:

Potential cost of enforcement which may be offset by the collection of fines.



Douglas Holland
City Attorney



David Ready
City Manager

Attachment:
Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PALM SPRINGS,
CALIFORNIA, ADDING SECTION 6.08.140 TO THE
PALM SPRINGS MUNICIPAL CODE, TO PROHIBIT
MOBILE VENDING NEAR SCHOOLS.**

City Attorney Summary

This Ordinance prohibits mobile vending within 500 feet of schools.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. Section 6.08.140 is added to the Palm Springs Municipal Code to read:

6.08.140 Mobile Vending Near Schools Prohibited.

(a) For the purposes of this section, the term "mobile vending" means the offering or soliciting for sale, or the attempted or actual sale of, foodstuffs, goods, wares, merchandise, labor, or services, by any person on foot, from a temporary structure such as a stall, tent, or table, or from a vehicle including without limitation a motor vehicle, bicycle, scooter, trailer, cart, wagon, or other form of conveyance.

(b) It shall be unlawful for any person to engage in mobile vending within 500 feet of any property line of any school serving students 18 years of age or younger, except on weekends and legal holidays.

(c) The provisions of this section shall not apply to the following:

(1) The delivery or sale of per-ordered goods or services to a private residence or business with the prior consent of the owner, occupant, lessee, or the designee of such persons, including but not limited to employees;

(2) Mobile vending on school property with the consent of school authorities;

(3) Mobile vending on private property with a valid land use permit; or

(4) Mobile vending for the purpose of fundraising for nonprofit, tax exempt organizations.

SECTION 2. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS _____ DAY OF _____, 2011.

STEPHEN P. POUGET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

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

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on _____, 2011, and adopted at a regular meeting of the City Council held on _____, 2011 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California