



City Council Staff Report

DATE: May 18, 2011

CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF PROPOSED ORDINANCE NO. 1792, ESTABLISHING ELECTION REGULATIONS REQUIRING PROOF OF RESIDENCY AND REGULATIONS FOR THE USE OF THE CITY SEAL

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY:

The City Council will consider adoption of Ordinance No. 1792.

RECOMMENDATION:

Waive further reading and adopt Ordinance No. 1792, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTIONS 2.02.025, 2.02.050, AND 1.04.030 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE CONDUCT OF MUNICIPAL ELECTIONS PROOF OF RESIDENCY REQUIREMENTS AND THE USE OF THE CITY SEAL."

STAFF ANALYSIS:

The City Council, at its meeting on April 20, 2011, directed staff to bring forth legislation that provides for proof of residency effective the current election cycle.

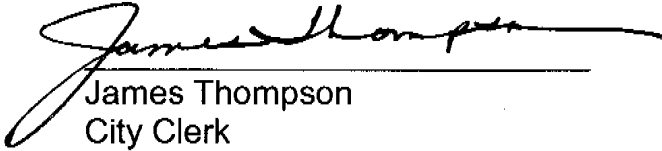
At its May 4, 2011, the City Council introduced for first reading Proposed Ordinance No. 1792, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTIONS 2.02.025, 2.02.050, AND 1.04.030 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE CONDUCT OF MUNICIPAL ELECTIONS PROOF OF RESIDENCY REQUIREMENTS AND THE USE OF THE CITY SEAL." **Motion Councilmember Foat, seconded by Councilmember Hutcheson and carried 3-2 on a roll call vote.**

AYES: Councilmember Foat, Councilmember Hutcheson, and Councilmember Mills.

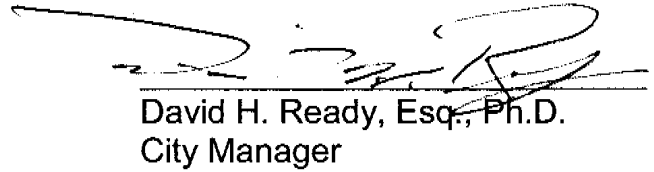
NOES: Mayor Pro Tem Weigel and Mayor Pougnet.

ITEM NO. 2.1.

This report provides for the City Council to waive further reading and adopt the ordinance. The ordinance shall be effective 30-days from adoption.



James Thompson
City Clerk



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

/kdh

Attachment: Ordinance No. 1792

PROPOSED ORDINANCE NO. 1792

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTIONS 2.02.025, 2.02.050, AND 1.04.030 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE CONDUCT OF MUNICIPAL ELECTIONS PROOF OF RESIDENCY REQUIREMENTS AND THE USE OF THE CITY SEAL.

City Attorney Summary

This Ordinance enacts local regulations concerning the conduct of municipal elections, requiring candidates for elective office to submit proof of residency at the time of issuing a nomination paper for elective office, and restricts the use of the City Seal to official business of the City.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS FINDS:

- A. Section 802 of Article VIII of the City of Palm Springs Charter provides the City Council may by ordinance enact procedures for the conduct of municipal elections.
- B. Section 5(b) of Article XI of the California Constitution allows Charter Cities to provide for the conduct of city elections and recognizes that regulations for the conduct of local elections is a matter of local concern.
- C. The City of Palm Springs is in-part a seasonal community and voter registration may not accurately depict one's residency, as evidenced by a recent criminal case filed against a Palm Springs candidate for voter fraud and perjury.
- D. The City Council desires to require proof of residency requirements to run for elective office, to further the electoral process from impropriety and/or the appearance of impropriety.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. Section 2.02.025 is added to the Palm Springs Municipal Code to read:

2.02.025 Proof of Residency Requirements.

- (a) At the time of the issuance of a candidate nomination paper pursuant to applicable laws, each candidate for elective office shall submit to the City Elections Official proof of residency sufficient for the City Elections Official to determine the candidate's residency in the City of Palm Springs.
- (b) Proof of residency shall be sufficient to demonstrate the candidate is a bona fide resident of the City as reasonably determined by the City Elections Official, and may consist of a California issued driver license, California issued Identification Card, a utility bill at least 30 days old, mortgage documents, property tax statement, lease agreement, or any combination of such documents.

(c) If proof of residency is not submitted by a candidate, pursuant to this Section, at the time of the issuance of a nomination paper; or should the City Elections Official not be able to make a clear and final determination of the candidate's residency, the City Elections Official shall issue the candidate a nomination paper and shall imprint in bold the following statement:

“NOTICE TO VOTER. THIS CANDIDATE HAS NOT DEMONSTRATED PROOF OF RESIDENCY IN THE CITY OF PALM SPRINGS PURSUANT TO LOCAL LAW. NOMINATION OF THIS CANDIDATE AND ACCEPTANCE AND FILING OF THIS NOMINATION PAPER IS CONDITIONED UPON THE CANDIDATE SUBMITTING PROOF OF BONA FIDE RESIDENCY IN THE CITY OF PALM SPRINGS.”

(d) The City Elections Official shall not accept for filing any candidate nomination paper without proof of residency pursuant to this Section.

(e) The decisions of the City Elections Official under this Section are final.

SECTION 2. Section 2.02.050 is added to the Palm Springs Municipal Code to read:

2.02.050 Rules and Regulations.

The City Elections Official may issue rules, regulations, notices, memoranda, or conditions from time to time as the City Elections Official deems appropriate or necessary, consistent with the provisions of this Chapter and the Palm Springs Municipal Code.

SECTION 3. Section 1.04.030 is added to the Palm Springs Municipal Code to read:

1.04.030 Use of City Seal.

(a) The City Seal, or any facsimile thereof, shall not be affixed to any document or writing, except by the City Clerk or such assistants to the City Clerk as may be authorized by the City Clerk, and except for the purpose of attesting the document to be an act of the City Council.

(b) No person shall use the City Seal, or any facsimile thereof, for purposes of supporting or opposing the nomination or election to any city or other public office of himself or herself or any other person, or for purposes of supporting or opposing any ballot measure, nor include such City Seal on any writing distributed for purposes of influencing the action of the electorate, or any part thereof, in any election. This section shall not be applicable to writings issued by the City of Palm Springs or the City Council as a whole pursuant to law.

(c) No person, other than an officer or employee of the City of Palm Springs, shall use the City Seal or any facsimile thereof for any purpose except to the extent such officer or employee may be authorized to do so by resolution of the City Council.

(d) No person shall use the City Seal, or any facsimile thereof, for any malicious purpose or for the purpose of personal financial gain.

(e) Nothing in this Section shall prevent a person from manufacturing or selling non-documentary objects, such as souvenirs or decorative items, bearing the City Seal as part of the design, provided that such person undertakes such activity pursuant to agreement with the City, approved by the City Council or by such officer as the City Council may designate, containing such requirements and limitations as the City Council or such officer shall deem appropriate to assure that such use of the City Seal is in good taste and in the best interests of the City of Palm Springs.

(f) The City Clerk or the City Clerk's representative shall be the custodian of the City Seal of the City of Palm Springs.

SECTION 4. 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. POUQUET, 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 _____, and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California