



CITY COUNCIL STAFF REPORT

DATE: September 2, 2009

Legislative Item

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTION 6.10.083 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO PROHIBITION OF SMOKING IN CITY PARKS AND OUTDOOR PUBLIC PLACES.

FROM: David H. Ready, City Manager

BY: Department of Parks and Recreation

SUMMARY

The City recognizes the dangers of secondhand smoke in and around areas frequented by children. Currently, State law prohibits smoking within twenty-five feet of "tot lots" and "playgrounds" and provides authority for cities to enhance those restrictions in the interest of the public's health, safety, and welfare. As such, an amendment to the smoking prohibition ordinance is proposed to address this concern.

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 6.10.083 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO PROHIBITION OF SMOKING IN CITY PARKS AND OUTDOOR PUBLIC PLACES."

STAFF ANALYSIS:

According to the National Cancer Institute, the United States Department of Health and Human Services, and the California Air Resources Board, secondhand smoke (also called environmental tobacco smoke) contains more than 4,000 chemicals, at least 250 of which are known to be harmful to human health, and 50 of these are known to cause cancer. Smoking is responsible for the premature deaths of over 430,000 Americans each year from lung cancer, heart disease, respiratory illness and other diseases, and secondhand smoke is responsible for over 50,000 deaths among nonsmokers each year such that tobacco use kills more Americans each year than alcohol, cocaine, crack, heroin, homicide, suicide, car accidents, fires, and AIDS combined. Almost 90% of smokers started smoking before the age of 20, and the average initiation age is 14½

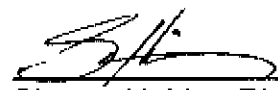
ITEM NO. 3.B.

years old. 3,000 youths become regular smokers each day and one-third of these children will die prematurely from tobacco-related illnesses.

In recognition of the foregoing, the State of California codified Health & Safety Code § 104495 making it illegal to smoke within 25 feet of any playground or tot lot sandbox area, and specifically authorized cities to adopt and enforce regulations that are more restrictive than state law. It is in the community's best interest to help role model non-smoking behavior to children and youth and provide children, youth and their families with a safe, smoke-free environment.

FISCAL IMPACT:

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



Sharon Heider, Director
Department of Parks and Recreation



Thomas Wilson, Assistant City Manager



David H. Ready, City Manager

Attachments:

1. Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PALM SPRINGS,
CALIFORNIA, ADDING SECTION 6.10.083 TO THE
PALM SPRINGS MUNICIPAL CODE, RELATING TO
PROHIBITION OF SMOKING IN CITY PARKS AND
OUTDOOR PUBLIC PLACES.**

City Attorney Summary

This Ordinance prohibits smoking in City parks and outdoor public places within twenty five feet of those areas typically frequented by children.

The City Council of the City of Palm Springs finds:

A. According to the National Cancer Institute, the United States Department of Health and Human Services, and the California Air Resources Board, secondhand smoke (also called environmental tobacco smoke) contains more than 4,000 chemicals, at least 250 of which are known to be harmful to human health, and 50 of these are known to cause cancer.

B. Smoking is responsible for the premature deaths of over 430,000 Americans each year from lung cancer, heart disease, respiratory illness and other diseases, and secondhand smoke is responsible for over 50,000 deaths among nonsmokers each year such that tobacco use kills more Americans each year than alcohol, cocaine, crack, heroin, homicide, suicide, car accidents, fires, and AIDS combined.

C. Almost 90% of smokers started smoking before the age of 20, and the average initiation age is 14½ years old. 3,000 youths become regular smokers each day and one-third of these children will die prematurely from tobacco-related illnesses.

D. California Health & Safety Code § 104495 prohibits smoking within 25 feet of any playground or tot lot sandbox area and specifically authorized cities to adopt and enforce regulations that are more restrictive than state law.

E. The City Council determines that it is in the community's best interest to help role model non-smoking behavior to children and youth and provide children, youth, and their families with a safe, smoke-free environment.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. Section 6.10.083 is added to Chapter 6.10 of the Palm Springs Municipal Code as follows:

6.10.083 Smoking Prohibited-Parks and Outdoor Public Places

Smoking is prohibited and is unlawful within 25 feet of areas where playground equipment has been installed for public use by children, play pits, play structures, bleachers, backstops, sports fields, ball diamonds, basketball, handball, tennis, and paddle tennis courts, skate parks, and areas used for picnics.

SECTION 2. The City Council establishes the following bail amounts for violations of Section 6.10.083: \$50.00 for Infraction, \$65.00 for Misdemeanor, and \$85.00 for Third Offense. The City Clerk is authorized to make such changes to the City's adopted bail schedule as the City Clerk deems appropriate to implement this ordinance. The bail amounts provided in this Section shall remain in effect until such time as the City Council amends or otherwise revises the City's bail schedule.

SECTION 3. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

SECTION 3. 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.

ADOPTED THIS _____ DAY OF _____, 2009.

STEPHEN P. POUINET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

APPROVED AS TO FORM:



DOUGLAS C. HOLLAND, CITY ATTORNEY

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 _____, 2009, and adopted at a regular meeting of the City Council held on _____, 2009 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California