



CITY COUNCIL STAFF REPORT

DATE: MAY 4, 2011

LEGISLATIVE

SUBJECT: PROPOSED ORDINANCES ESTABLISHING ELECTION REGULATIONS INCREASING THE NUMBER OF SIGNATURES NEEDED TO QUALIFY TO RUN FOR ELECTIVE OFFICE, ESTABLISHING A FILING FEE, REQUIRING PROOF OF RESIDENCY, AND REGULATIONS FOR THE USE OF THE CITY SEAL.

FROM: David H. Ready, City Manager

BY: James Thompson, City Clerk

SUMMARY

The City Council will consider the adoption of an Ordinance establishing municipal election regulations pertaining to the number of qualified signatures required to run for elective office of directly elected Mayor and Member of the City Council, establishes a minimal filing fee, and removes certain sections from the code which are no longer in full force and effect.

Additionally, the City Council will consider the introduction of an Ordinance requiring proof of residency to run for elective office and regulations on the use of the City Seal.

RECOMMENDATION:

1. Waive further reading and adopt Ordinance No. 1790, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 2.02 TO, REPEALING SECTIONS 2.04.080 AND 2.04.100 OF THE PALM SPRINGS MUNICIPAL CODE, AND REPEALING UNCODIFIED ORDINANCE NO. 1562, RELATING TO THE CONDUCT OF MUNICIPAL ELECTIONS."
2. Waive reading of the full text of the Ordinance and introduce for first reading by title only Ordinance No. _____, "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:

At its April 20, 2011 meeting, the City Council unanimously introduced Ordinance No. 1790, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 2.02 TO, REPEALING SECTIONS 2.04.080 AND 2.04.100 OF THE PALM SPRINGS MUNICIPAL CODE, AND REPEALING UNCODIFIED ORDINANCE NO. 1562, RELATING TO THE CONDUCT OF MUNICIPAL ELECTIONS," *amending Section 2.02.020(a) to provide for not less than 150 nor more than 210 voters, amending Section 2.02.030(a) to provide for 6 Sections with each Section of 35 signatures, and amending Section 5 of the Ordinance for an effective date of January 1, 2012;* and 3) Direct staff to bring forth legislation that provides for proof of residency effective the current election cycle.

Staff has revised the Ordinance pursuant to the City Council amendments, and the City Council will consider the adoption Ordinance No. 1790. If adopted the regulations regarding the number of signatures needed to run for elective office will not take effect until January 1, 2012, and will not be in effect for the upcoming November 8, 2011 General Municipal Election.

Additionally, the City Council directed staff to prepare a separate ordinance requiring each candidate submit proof of residency.

Staff has prepared a separate Ordinance for City Council consideration and introduction that requires a candidate at the time of the issuance of a nomination paper to provide documentation as bona fide resident in the City of Palm Springs to the City Elections Official. This will be in addition to the requirements in Cal. Elections Code and City standard practice to verify voter registration at the time of issuing a nomination paper.

If a candidate is unable or unwilling to produce proof of residency at the time of issuance of the nomination paper, the Ordinance requires the Election Official to issue the nomination paper to the candidate, but print on the nomination paper the following notice to voters:

"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."

However, the Ordinance prohibits the City Elections Official from accepting for filing any nomination paper without the required proof of residency in the City of Palm Springs. Staff drafted the Ordinance as to not limit a candidate in the amount of time to circulate a nomination paper, or disenfranchise any qualified voter's nomination of a candidate; but provides notice to the voter on conditions that must be met to further the nomination process of the specific candidate.

The Ordinance containing the provisions for proof of residency would be effective 30-days from adoption of the Ordinance by the City Council, and would be in full force and effect prior to the nomination period for the November 8, 2011 General Municipal Election.

In addition, the Ordinance contains a cleanup administrative amendment to the code regulating the use of the City Seal.


ALTERNATIVES:

The City Council previously discussed six recommendations made by the City Council Ad Hoc Subcommittee. The City Council may direct staff as appropriate with further regulations as necessitated.

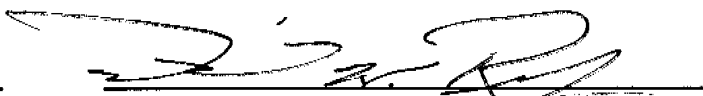
FISCAL IMPACT:

Currently, the City does not charge a filing fee, and the City bears the full cost of processing a candidate nomination paper. The proposed ordinance establishes a filing fee of \$150.00 for a nomination paper and \$75.00 for a supplemental nomination paper if required. This filing fee is proportionate to the costs of processing a candidate's nomination papers.

The City currently is required to pay Riverside County fifty-cents for each signature verified. 210 signatures required on a nomination paper is \$105.00 in County fees and \$45.00 administrative fee that will apply to the cost of City staff time accepting for filing, reviewing and processing a nomination paper.



JAMES THOMPSON, CITY CLERK



DAVID H. READY, CITY MANAGER

ORDINANCE APPROVED TO FORM:



DOUGLAS C. HOLLAND, City Attorney

Attachments:

- Introduced Ordinance No. 1790
- Proposed Ordinance Proof of Residency

ORDINANCE NO. 1790

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 2.02 TO, REPEALING SECTIONS 2.04.080 AND 2.04.100 OF THE PALM SPRINGS MUNICIPAL CODE, AND REPEALING UNCODIFIED ORDINANCE NO. 1562, RELATING TO THE CONDUCT OF MUNICIPAL ELECTIONS.

City Attorney Summary

Currently the City has adopted Cal. Elections Code § 10220 requiring candidates to be nominated to run for the office of Mayor or Member of the City Council by obtaining signatures of not less than 20 nor more than 30 qualified voters in the City. This Ordinance increases the number of qualified voters to not less than 200 nor more than 250 to be nominated for elective office, and includes minor administrative actions.

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 Council desires to increase the number of requisite signatures to be nominated for all city elective offices to further the electoral process from impropriety and/or the appearance of impropriety.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS HEREBY ORDAINS:

SECTION 1. Chapter 2.02 of Title 2 of the Palm Springs Municipal Code is hereby added to read as follows:

Chapter 2.02

MUNICIPAL ELECTIONS

- Section 2.02.010** General Municipal Elections.
- Section 2.02.020** Method of Nomination for Elective Office.
- Section 2.02.030** Signatures, Nomination Papers.
- Section 2.02.031** Affidavit of Circulator.
- Section 2.02.035** Filing Fee.

2.02.010 General Municipal Elections.

The Palm Springs general municipal elections shall be consolidated with established election dates and shall be held on the first Tuesday following the first Monday of November of each odd-numbered year.

2.02.020 Method of Nomination for Elective Office.

The provisions of Cal. Elections Code § 10220 shall apply to candidates for any of the elective offices in the City except as follows:

- (a) Each candidate shall be proposed by not less than 150 nor more than 210 voters in the City, but only one candidate may be named in any one Nomination Paper.
- (b) Only one person may circulate each Section of a Nomination Paper.

2.02.030 Signatures, Nomination Papers.

The provisions of Cal. Elections Code § 10221 shall apply with respect to the signatures on Nomination Papers except as follows:

- (a) The City Elections Official shall provide for six (6) Sections to a Nomination Paper. Each Section of a Nomination Paper shall provide for 35 signatures.
- (b) Except as provided in subdivision (b) of § 10221 of Cal. Elections Code, the signatures to each Section of a Nomination Paper shall be appended on the same sheet of paper.

2.02.031 Affidavit of circulator.

The provisions of Cal. Elections Code § 10222 pertaining to the affidavit of circulator, shall apply to each Section of a Nomination Paper.

2.02.035 Filing Fee.

- (a) A filing fee of \$150.00 is hereby imposed for processing a candidate's Nomination Paper.
- (b) A filing fee of \$75.00 is hereby imposed for processing a candidate's supplemental Nomination Paper filed pursuant to subdivision (b) of § 10221 of the Cal. Elections Code.

SECTION 2. Section 2.04.080 of the Palm Springs Municipal Code is repealed.

SECTION 3. Section 2.04.100 of the Palm Springs Municipal Code, pertaining to voluntary expenditure ceiling, is repealed.

SECTION 4. Ordinance No. 1562, suspending the provisions of Section 2.04.100 of the Palm Springs Municipal Code, is repealed.

SECTION 5. 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 on January 1, 2012.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 4TH DAY OF MAY, 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. 1790 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on the 20th day of April, 2011, and adopted at a regular meeting of the City Council held on 4th day of May, 2011 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

ORDINANCE NO. _____

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