



City Council Staff Report

DATE: July 11, 2012 CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 1810, ADDING A PROVISION TO THE PALM SPRINGS MUNICIPAL CODE REGULATING THE SOLICITATION OF MOTORISTS WITHIN CERTAIN PUBLIC RIGHTS-OF-WAY AND ADJACENT TO DRIVEWAYS IN THE CITY

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY:

The City Council will consider adoption of Ordinance No. 1810 and a companion resolution amending the Master Bail Schedule to add violation of PSMC Section 5.48.065.

RECOMMENDATION:

1. Waive further reading and adopt Ordinance No. 1810, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 5.48.010 AND ADDING SECTION 5.48.065 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO SOLICITATION WITHIN THE PUBLIC RIGHT-OF-WAY."
2. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE MASTER BAIL SCHEDULE TO ADD VIOLATION OF PSMC SECTION 5.48.065."

STAFF ANALYSIS:


On June 20, 2012, Ordinance No. 1810 was introduced for first reading, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 5.48.010 AND ADDING SECTION 5.48.065 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO SOLICITATION WITHIN THE PUBLIC RIGHT-OF-WAY."

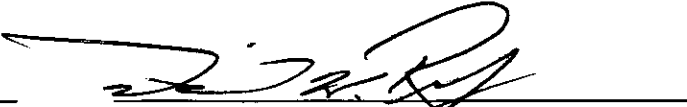
ACTION: Waive the reading of the full text of the Ordinance, and introduce by title Ordinance No. 1810, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 5.48.010 AND

ADDING SECTION 5.48.065 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO SOLICITATION WITHIN THE PUBLIC RIGHT-OF-WAY." Motion Mayor Pro Tem Foat, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.

As well as adopting Ordinance No. 1810, prohibiting solicitation in the public right-of-way, the Master Bail Schedule needs amending to provide for a bail and fine of the added PSMC Code Section 5.48.065. Staff has prepared a resolution to amend the Master Bail Schedule to provide for the first violation as an infraction in the amount of \$100, second violation as an infraction in the amount of \$250, and the third violation as a misdemeanor in the amount of \$500.

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. 1810
Proposed Resolution

ORDINANCE NO. 1810

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA AMENDING SECTION 5.48.010 AND ADDING SECTION 5.48.065 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO SOLICITATION WITHIN THE PUBLIC RIGHT-OF-WAY

City Attorney Summary

This Ordinance adds a provision to the Palm Springs Municipal Code regulating the solicitation of motorists within certain public rights-of-way and adjacent to driveways in the City.

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

SECTION 1. Section 5.48.010 of the Palm Springs Municipal Code is amended to include the following definition:

"Public right-of-way" means land, which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for and dedicated to the use of the general public for street or highway purposes, including but not limited to any street, highway, driveway, parkway or sidewalk within the City limits.

SECTION 2. Section 5.48.065 is added to the Palm Springs Municipal Code to read:

Section 5.48.065 Solicitation Within The Public Right-of-Way

A. The purpose of this section is to promote public traffic safety by regulating the solicitation of and by occupants of motor vehicles in the public right-of-way. The City finds and determines as follows:

1. The activity of soliciting employment, business, or contributions by or from occupants of motor vehicles along roadways where there is no on-street parking and/or near shopping center driveways distracts motorists and creates significant traffic hazards, including but not limited to vehicles unnecessarily stopping in traffic lanes, vehicles forced to make sudden stops, congestion in and around driveway aprons, and the obstruction of drivers'line of sight, views of traffic signs, street-crossing pedestrians, and other vehicles;
2. Distracted drivers are more prone to have automobile accidents. Such accidents further impede the orderly flow of traffic and pose risks to persons engaged in solicitation as well; and
3. The content-neutral time, place and manner restrictions on solicitation within the public right-of-way in this section are narrowly tailored to serve these

significant government interests, leave open ample alternative avenues of communication, and are not intended to diminish the freedom or liberty of speech guaranteed under the United States and California Constitutions.

B. It is unlawful for any person, while standing on any portion of a public sidewalk or driveway, to solicit any motorist traveling along any public roadway that is designated as a no parking zone.

C. It is unlawful for any person to solicit while standing in any travel lane of a public roadway or on a public median.

D. It is unlawful for any person to solicit within twenty-five (25) feet of any shopping center driveway.

E. It is unlawful for any occupant of a motor vehicle to engage in solicitation activity with any person in violation of paragraphs B, C, and D of this section.

F. The City shall post signs in the public right-of-way to notify the public of the prohibitions contained in paragraphs B, C, D, and E this section.

G. This section shall not apply to solicitations from private property or any portion of public sidewalk adjoining the private property communicating the products or services made available on the premises.

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.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS ___ DAY OF _____, 2012.

STEPHEN P. POUINET, 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 _____, 2012, and adopted at a regular meeting of the City Council held on _____, 2012 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE MASTER BAIL SCHEDULE TO ADD VIOLATION OF PSMC SECTION 5.48.065.

WHEREAS, on July 11, 2012, the City Council adopted Ordinance No. 1808 adding Section 5.48.065 to the Palm Springs Municipal Code relating to solicitation within the Public Right-of-Way.

WHEREAS, the City of Palm Springs Master Bail Schedule needs to be amended to include a penalty for violation of PSMC Section 5.48.065.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City of Palm Springs Master Bail Schedule is hereby amended to add violation of Palm Springs Municipal Code Section 5.48.065 as follows:

PSMC 5.48.065	Solicitation within the Public Right-of-Way	First Violation Second Violation Third Violation	\$100.00 Infraction \$250.00 Infraction \$500.00 Misdemeanor
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SECTION 2. The City Clerk is hereby directed to amend the City of Palm Springs Master Bail Schedule and submit such amendment to the Riverside County Superior Court, Indio Division, Administration, Clerk of the Court.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 11TH DAY OF JULY, 2012.

DAVID H. READY, CITY MANAGER

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, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on July 11, 2012, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California