



## CITY COUNCIL STAFF REPORT

DATE: July 15, 2009

LEGISLATIVE

SUBJECT: AN AMENDMENT TO CHAPTER 6.12 OF THE PALM SPRINGS MUNICIPAL CODE TO ALLOW THE CITY MANAGER TO SUSPEND CERTAIN REGULATORY ORDINANCES FOR SPECIAL EVENTS OF BENEFIT TO THE COMMUNITY AND ITS VISITOR ORIENTED ECONOMY.

FROM: David H. Ready, City Manager

BY: Director of Planning Services

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### SUMMARY

Recently, City Council member Weigel requested staff to prepare a Code amendment which would grant staff the authority to suspend certain regulatory ordinances to accommodate special events. The attached draft ordinance would authorize the City Manager (or designee) to grant such waivers for qualifying events.

### RECOMMENDATION:

1. Waive the reading of the ordinance text in its entirety and read by title only.
2. Introduce on first reading Ordinance No. \_\_\_\_\_, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS AMENDING SECTIONS 6.12.030 AND 6.12.040 OF THE PALM SPRINGS MUNICIPAL CODE PERTAINING TO SUSPENSION OF REGULATORY ORDINANCES."

### BACKGROUND:

Recently, the City Council has acted on a number of requests for suspension of the noise ordinance for special events. In consideration of these applications, City Councilmember Weigel requested staff to prepare an amendment to Chapter 6.12 ("Temporary Suspension of Regulatory Ordinances") so that City staff might process such requests.

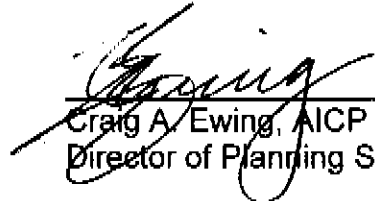
ITEM NO. 3A

The City Attorney has prepared the attached amendment so that the City Manager (or designee) may grant such suspensions. No other changes are proposed, and the opportunity to seek a suspension of the regulations remains available only to "...designated special events conducted, sponsored, co-sponsored or sanctioned by the city" (Section 6.12.030).


Should the City Council approve the amendment, any decision by the City Manager (or designee) may be appealed to the City Council as allowed by Chapter 2.05 ("Appeal to City Council").

FISCAL IMPACT:

No fiscal impact.

  
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Craig A. Ewing, AICP  
Director of Planning Services

  
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Thomas J. Wilson  
Assistant City Manager, Dev't Services

  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

1. Proposed Ordinance
2. PSMC Chapter 6.12
3. PSMC Chapter 2.05

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS AMENDING SECTIONS 6.12.030 AND 6.12.040 OF THE PALM SPRINGS MUNICIPAL CODE PERTAINING TO SUSPENSION OF REGULATORY ORDINANCES.**

***City Attorney's Summary***

*This Ordinance amends provisions of the Palm Springs Municipal Code to allow the City Manager to conditionally suspend the enforcement of regulatory ordinances to accommodate special events of benefit to the community and its visitor oriented economy. The City Manager's determinations would be subject to appeal to the City Council.*

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. Section 6.12.030 of the Palm Springs Municipal Code is amended to read:

**6.12.030 Authority to suspend regulatory ordinances.**

The City Manager, may suspend the operation of any one or more regulatory ordinances to the extent that such ordinances would otherwise apply to one or more specifically designated special events conducted, sponsored, co-sponsored or sanctioned by the City Council. The ordinances which may be suspended include, without thereby limiting, the Noise Ordinance, the Sign Ordinance, and any other regulatory ordinances which in the judgment of the City Manager would interfere with or impede the conduct of such designated special events. Any decision of the City Manager may be appealed to the City Council pursuant to the provisions of Chapter 2.05 of this Code.

SECTION 2 Section 6.12.040 of the Palm Springs Municipal Code is amended to read:

**6.12.040 Procedure.**

In suspending the operation of any regulatory ordinance, the City Manager shall:

- (a) Identify the event;
- (b) Specify, in as detailed manner as feasible, the exact date or dates and starting and ending times of such suspension;
- (c) Identify the person or persons or organizations to which such suspension shall apply;

(d) Designate the ordinance, code section or portion thereof which is to be suspended and, if any portion thereof is to remain in effect as to such persons or event, designate such portions;

(e) Impose such conditions, restrictions or limitations upon the conduct of such event, or upon the suspension of such ordinance as are deemed necessary to protect the public health, safety and welfare;

(f) Specifically state that, except as to the event, the time, and the persons or organizations so designated, such ordinances shall remain in full force and effect.

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 and ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
STEVE POGNET, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2008 and was finally adopted at a regular meeting held thereof on the \_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK

APPROVED AS TO FORM

\_\_\_\_\_  
DOUGLAS HOLLAND, CITY ATTORNEY

**Palm Springs Municipal Code**

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Title 6 HEALTH AND SANITATION

**Chapter 6.12 TEMPORARY SUSPENSION OF REGULATORY ORDINANCES**

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**6.12.010 Findings.**

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(a) The city council finds that certain special events may be useful and beneficial to the visitor-oriented economy of the city by attracting large numbers of visitors, by generating favorable publicity, and by enhancing a marketable image for the city. As examples, and not as limitation, such events may include auto races, balloon races, bicycle races, marathon or other foot races, film festivals, golf tournaments and other events of broad public interest.

(b) The city council finds that certain regulatory ordinances which are deemed generally desirable and necessary may, nonetheless, impede the conduct of such special events; and that the operation of such regulatory ordinances should be suspended during limited periods of time, in designated locations, to facilitate certain special events.

(c) The city council finds that the public interest in the holding of such special events and the benefits to be derived therefrom outweigh the temporary public inconvenience entailed in the suspension of such regulatory ordinances, and that the public welfare and interest will be served by such suspensions. (Ord. 1310 § 1, 1988)

**6.12.020 Purpose.**

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The ordinance codified in this chapter is adopted for the purpose of encouraging and promoting special events of benefit to the community and its visitor-oriented economy. (Ord. 1310 § 2, 1988)

**6.12.030 Authority to suspend regulatory ordinances.**

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The city council, by ordinance or resolution, may suspend the operation of any one or more regulatory ordinances to the extent that such ordinances would otherwise apply to one or more specifically designated special events conducted, sponsored, co-sponsored or sanctioned by the city. The ordinances which may be suspended include, without thereby limiting, the Noise Ordinance, the Sign Ordinance, and any other regulatory ordinances which in the judgment of the city council would interfere with or impede the conduct of such designated special events. (Ord. 1310 § 3, 1988)

**6.12.040 Procedure.**

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In suspending the operation of any regulatory ordinance, the city council shall:

- (a) Identify the event;
- (b) Specify, in as detailed manner as feasible, the exact date or dates and starting and ending times of such suspension;
- (c) Identify the person or persons or organizations to which such suspension shall apply;
- (d) Designate the ordinance, code section or portion thereof which is to be suspended and, if any portion thereof is to remain in effect as to such persons or event, designate such portions;
- (e) Impose such conditions, restrictions or limitations upon the conduct of such event, or upon the suspension of such ordinance as are deemed necessary to protect the public health, safety and welfare;
- (f) Specifically state that, except as to the event, the time, and the persons or organizations so designated, such ordinances shall remain in full force and effect. (Ord. 1310 § 4, 1988)

**Palm Springs Municipal Code**

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Title 2 ADMINISTRATION AND PERSONNEL

**Chapter 2.05 APPEAL TO CITY COUNCIL****2.05.010 Exclusive procedure.**

Except in cases involving the administrative appeals board pursuant to Chapter 2.50 or as otherwise specifically provided by this code or other ordinances, all appeals to the city council otherwise allowed by the code or other ordinances shall be prosecuted in accordance with this chapter. (Ord. 1537 § 1, 1996; Ord. 1226 § 1 (part), 1984)

**2.05.020 Definitions.**

For purposes of this chapter:

(1) "Aggrieved person" means:

(A) Any applicant who has been denied a permit or license or who has been granted a permit or license subject to conditions by any administrative officer or agency of the city, where such denial or grant is otherwise appealable; or

(B) Any person who was entitled to notice of the application by another for a permit or license, whether or not such notice was actually given, and who is dissatisfied that the permit or license was granted with or without conditions, where such grant is otherwise appealable; or

(C) Any person whose personal, pecuniary or property right or interest is directly and adversely affected, or upon whom a substantial burden or obligation is imposed by the action or decision appealed from.

(2) "Administrative agency" means an organ of the city government other than the city council which affects the rights of private parties through adjudication or rulemaking.

(3) "Administrative officer" means an officer of the city who is not a member of the legislative body or appointed boards or commissions. Such officers include but are not limited to the city manager, chief of police, director of transportation and director of community development.

(4) "Appellant" means an aggrieved person directly affected by an action, who files an appeal.

(5) "Intervenor" means a person aggrieved by the grant of a permit or license to another, or who was entitled by law to notice of the action taken, who seeks to be heard concerning such person's interest in an appeal.

(6) "Respondent" means the administrative officer or agency which took the action appealed from, and any other administrative officer or agency named as respondent in an appeal.

(Ord. 1226 § 1 (part), 1984)

**2.05.030 Filing of appeal.**

A person aggrieved by an action taken by an administrative officer or administrative agency of the city may appeal the action to the city council, if the action is made appealable by applicable provision of the Palm Springs Municipal Code or other city ordinance, by filing with the city clerk a written notice of appeal which sets forth the appellant's full name and mailing address, the specific action appealed from, the grounds for the appeal and the relief sought; and paying to the city clerk such fee as the city council may establish by resolution. (Ord. 1226 § 1 (part), 1984)

**2.05.040 Time of filing.**

The notice required by Section 2.05.030 shall be filed no later than ten days following the date of mailing to appellant of notice of the action from which the appeal is taken or, if there is no such mailing and/or none is required, no later than fifteen days following the date of the action which is the subject of the appeal. The city clerk shall furnish a copy of the appeal to the respondent within five days after filing. (Ord. 1226 § 1 (part), 1984)

**2.05.050 Time of hearing—Notice.**

(a) The city clerk, upon receipt of the notice of appeal, shall set a time and place for the hearing of such appeal by the

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council. The appeal shall be heard no more than forty-five days following the filing of the notice of appeal unless the parties waive such time limits.

(b) Notice of the time and place of the hearing shall be mailed or otherwise delivered by the city clerk to the appellant, respondent and all other persons, if any, to whom notice of the initial application or action was required, not less than ten days prior to hearing. If publication of the initial application or action being appealed was required, the notice of appeal shall be published in like manner. (Ord. 1233 § 1, 1985; Ord. 1226 § 1 (part), 1984)

#### **2.05.060 Answer and cross-appeal.**

Respondent is not required to file an answer to the appeal. If no answer is filed, every material allegation of the appeal is in issue.

After an appeal has been initiated, a cross-appeal may be brought by any person who would otherwise have had standing to appeal the subject action or decision. The cross-appellant shall file a written notice of cross-appeal with the city clerk stating cross-appellant's full name and mailing address, the specific action appealed from, the grounds for the cross-appeal and the relief sought. Such notice shall be filed no less than five days prior to hearing except for good cause shown to the satisfaction of the city council. (Ord. 1226 § 1 (part), 1984)

#### **2.05.070 Designation of parties.**

(a) A person who is aggrieved by the denial to him of a permit or license or the grant to him of such permit or license with conditions, or whose personal or property right was the subject of the action appealed from, shall be designated "appellant."

(b) A person who is aggrieved by the grant with or without conditions of a permit or license to another, or who was entitled by law to receive notice of the application for permit or license whether or not such notice was actually given, shall be designated "intervenor."

(c) Unless the appeal names some other respondent, the administrative officer or administrative agency which took the action or made the decision appealed from shall be designated "respondent." (Ord. 1226 § 1 (part), 1984)

#### **2.05.080 Hearing by council.**

At the time of hearing of the appeal by the city council, the appellant shall be limited in his presentation to the specific grounds for appeal set forth in his notice of appeal and shall have the burden of establishing cause why the action appealed from should be altered, reversed or modified. All parties shall have the right to be heard by the council either in person or by counsel. Technical rules of evidence shall not apply in proceedings under this chapter. No party shall have the right to cross-examine any other party or witness except for good cause shown to the satisfaction of the council. (Ord. 1226 § 1 (part), 1984)

#### **2.05.090 Dismissal for nonprosecution.**

If appellant fails to appear, either in person or by counsel, at the appointed time and place for hearing, such failure to appear shall constitute sufficient grounds for denial of the appeal. Such denial for nonprosecution shall not affect the right of a cross-appellant, if any, to proceed with a cross-appeal. (Ord. 1226 § 1 (part), 1984)

#### **2.05.100 Time for decision—Effective when.**

(a) The city council shall render its decision within fifteen days following the conclusion of the hearing of the appeal. Upon finding good cause to do so, the city council may extend the time for rendering its decision up to ninety days. The council by its decision may reverse, modify or affirm the administrative action taken.

(b) No later than five days following the rendering of the council's decision the city clerk shall mail or otherwise deliver a copy of said decision to each party who appeared during the proceedings, or who requested to be furnished a copy of the decision. Failure of the city clerk to mail or deliver a copy of the decision to each party or to any party shall not affect the finality or effectiveness of the decision. The council's decision shall be final and effective at the final adjournment of the meeting at which the decision is rendered, except in those cases where the council is authorized to grant a rehearing, in which case the council's decision shall be final and effective:

- (1) When the time to petition for rehearing has expired without the filing of a petition for rehearing; or
- (2) Upon the denial of a petition for rehearing.

(Ord. 1226 § 1 (part), 1984)

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**2.05.110 Reconsideration.**

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Without granting a rehearing, the city council may reopen and reconsider a decision at any time before the decision becomes final. A motion to reconsider may be made only by a member of the city council who voted in favor of the decision. (Ord. 1226 § 1 (part), 1984)

**2.05.120 Rehearing.**

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In those cases where the effect of a decision on appeal is to deny a permit or entitlement, an appellant may apply for a rehearing by filing with the city clerk and serving upon the other parties, within fifteen days of the date when the decision was rendered, a petition therefor. Within thirty days after the filing of such petition, the council shall grant or deny the petition, in whole or in part. Failure to act within the thirty day limit shall constitute denial of the petition. (Ord. 1226 § 1 (part), 1984)