

# HUMAN RIGHTS COMMISSION CITY OF PALM SPRINGS, CALIFORNIA

[www.palmspringsca.gov](http://www.palmspringsca.gov)

## AGENDA

Monday  
April 12, 2021



5:30 p.m.  
Regular Meeting

### Mission Statement

*Palm Springs is an inclusive world-class city dedicated to providing excellent and responsive public services to enhance the quality of life for current and future generations.*

Pursuant to Executive Order N-29-20, this meeting will be conducted by teleconference and there will be no in-person public access to the meeting location.

- To view/listen/participate in the meeting live, please use the following link:  
<https://us02web.zoom.us/j/86081815166?pwd=V1BCZ3NzUH05ZERWNzZQVFJLTTC3dz09>  
or call (669) 900-6833 **Zoom Meeting ID** 860 8181 5166, **Passcode:** 887736
- Written public comment may also be submitted to [cityclerk@palmspringsca.gov](mailto:cityclerk@palmspringsca.gov). Transmittal prior to the meeting is required. Any correspondence received during or after the meeting will be distributed to the Board/Commission as soon as practicable and retained for the official record.
- The meeting will be recorded and the audio file will be available from the Office of the City Clerk and will be posted on the City's YouTube channel, as soon as practicable.

1. **CALL TO ORDER:** Chair Ron deHarte
2. **ROLL CALL:** Board Members Terrie Andrade, Glenn Flood, Edwin Ramoran, Donna Shepherd, Vice Chair Denise Chappell, and Chair Ron deHarte  
  
Student Representative Ella Cash
3. **MISSION STATEMENT & GOALS:**

*"The Mission of the Palm Springs Human Rights Commission is to promote and protect the diversity of our community and to improve human relations through education and community awareness."*

**Human Rights Commission Goals:**

- *To develop community education programs;*
- *To investigate and mediate instances of discrimination of groups or individuals;*
- *To bring persons and groups together in common support of human rights issues;*
- *To acquire the fiscal and human resources necessary to support and accomplish the work of the Commission;*
- *To provide management and coordination for the Commission;*
- *To promote diversity through the appointment of candidates to all city boards and commissions to proportionately reflect the diversity of the population of the City of Palm Springs;*
- *The Commission and each Committee shall develop goals and objectives annually, for adoption by the commission;*
- *The Commission shall work closely with the Mayor, City Council, and City Cabinet and with all other City Commissions and Boards in joint endeavors that support the Commission's mission statement and City's goals and objectives.*

**4. QUORUM:**

- 5. PUBLIC COMMENTS:** This time has been set aside for members of the public to address the Human Rights Commission on agenda items; and items of general interest within the subject matter jurisdiction of the Commission. Three (3) minutes is allowed for each speaker. Although the Commission values your comments, pursuant to the Brown Act, it generally cannot take any action on items not listed on the posted agenda. Commissioners will not enter into discussion with speakers, but during Commission Comments, may refer the matter to staff for report and recommendation at a future Commission meeting.

**6. CHAIR COMMENTS:****7. ITEMS FOR DISCUSSION/ACTION:****A. Committees – Chair deHarte and Vice Chair Chappell**

## Executive Committee (deHarte, Vice Chair)

- a. Frank Bogert Statue Recommendation
- b. April 7th - World Health Day

## Community Relations Committee/Budget/Personnel Committee

- a. PSPD LGBT Outreach Committee (deHarte)
- b. Master Calendar (Ramoran)
- c. Main Street (deHarte)
- d. Finance (deHarte, Chappell)
- e. Organized Neighborhoods of Palm Springs

## Cultural Affairs Committee

- a. Desert Highland Gateway Estates Community Association (Andrade, Flood, Shepherd)

Seniors/People with Disabilities Veterans Affairs Committee

- a. Veterans issues (Flood)

Youth/Education Affairs Committee

- a. Student Representatives (Chappell, Cash)

Commission Development/Mediation Committee

- a. Mediation (Andrade)
- b. Retreat (Chappell, deHarte)

B. Committee Assignments

- a. Clean Indoor Air and Health Protection Draft Ordinance with Sustainability Commission Update
- b. Street naming update

C. Homelessness Update

D. Commissioner, Staff, and Student Comments

E. Topical Newsworthy Items

**8. AGENDA ITEMS FOR THE NEXT HRC MEETING:**

**9. ANNOUNCEMENTS:**

**10. ADJOURNMENT:** The Commission will adjourn to an adjourned regular meeting Monday, May 10, 2021

**PUBLIC NOTICES**

Pursuant to G.C. Section 54957.5(b)(2) the designated office for inspection of records in connection with the meeting is the Office of the City Clerk, City Hall, 3200 E. Tahquitz Canyon Way.

It is the intention of the City of Palm Springs to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, or in meetings on a regular basis, you will need special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the Office of the City Clerk, (760) 323-8204, at least 48 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible.

**AFFIDAVIT OF POSTING**

I, Jay Virata, Director of Community & Economic Development, of the City of Palm Springs, California, hereby certify this Agenda was posted at City Hall before 6:00 p.m., April 8, 2021, and posted on the City’s website as required by established policies and procedures.

/S/ Jay Virata  
Jay Virata  
Community & Economic Development

TODAY'S  
CLOSING  
STOCKS  
504 Leading N.Y.  
Exchange Stocks  
Page 2 Today

# The Desert Sun

WEATHER  
Mostly sunny with variable  
high clouds through Wednesday.  
High to 110, low to 68. PALM  
SPRINGS Monday: High 110,  
low 69, humidity 12 per cent.  
PALM DESERT: 102-70, DES-  
ERT HOT SPRINGS: 105-70.  
TRAM TOP: 74-41.

VOL. 41, NO. 260

16 PAGES 2 SECTIONS

Palm Springs, California, Tuesday, June 4, 1968

Phone 325-5005

Price 10c

# 'Classic' Minority Disregard Charged in Sec. 14 Clearance

## SURVIVAL DAY

### Early Voting Said Moderate

LOS ANGELES (UPI)—Sens. Robert F. Kennedy and Eugene J. McCarthy collided today in the California primary, a fight for survival as a candidate for the Democratic Presidential nomination.

The early vote turnout appeared moderate in populous Los Angeles County, the home of nearly 40 per cent of the most populous state's voters. Election officials said the vote was running slightly behind two years ago.

Other major population centers reported an average turnout under skies ranging from hot and dry in the agricultural central valley to cloudy along the Pacific coast.

Both candidates took the day off from active campaigning. Kennedy went swimming at a private beach house—and his staff wouldn't tell newsmen the location.

McCarthy prepared to fly to Phoenix, Ariz., at midday for a meeting with Arizona Democrats and then fly back to California to await the primary results.

(See EARLY, Page 2)



**I HAVE VOTED**—Have you? That's the message being flashed today by conscientious citizens throughout the desert area, as symbolized above by the card being pinned on Lillian A. Friedrich, a voting inspector who just cast her own ballot, by voting clerk Elissa Cevola at the city hall precinct. The polls will remain open today until 8 p.m., so there's still time to go out—if you haven't already done so—and earn your "I Have Voted—Have You?" badge of honor.

### \$5.3 Million Budget Goes To D.S. Board

By JOHN BEATH

INDIO—A study budget totaling \$5,348,317, from which the preliminary budget for the 1968-69 fiscal year will be hammered out, was presented to the Desert Sands Unified School District Board Monday night.

The new budget figure is \$414,586, or 8.3 per cent, higher than the budget of \$4,969,731 for the 1967-68 fiscal year. Both totals include all reserves.

Dr. Lester Hiebert, district superintendent, noted that the present budget represents cuts of over \$710,000 from the study budget presented to the board in April.

Wishing time to study the new budget proposals, board members agreed to schedule a special meeting at 7:30 p.m. June 17, for a page-by-page analysis.

The 1967-68 year-end balance of about \$214,000 in the newest proposed budget is higher than the \$200,000 figure anticipated in April, Dr. Hiebert said.

He added that suggested staff cuts in the new budget would be mostly on an attrition basis, i.e., the result of resignations and retirements for which replacements would not be hired.

New override taxes totaling about 53 cents per \$100 of assessed evaluation under the new

budget plan would increase the tax rate for the district from 36.86 cents to about 89 cents per \$100 of assessed evaluation.

The exact, \$5,348,317 matching of anticipated expenditures and income in the new budget plan, said Dr. Hiebert, is based on existing formulas for state school funds, and locally on assessed evaluations from the county assessor's office.

Asked about pupil-teacher ratios for various grade levels under the new budget, Dr. Hiebert revealed:

—Kindergarten classes, on the basis of anticipated increased enrollment, would be increased from an average of 29 pupils to one teacher for this year to 31 pupils per teacher next year.

—In grades one, two and three, the new ratio would be 29½ to one, as compared to 29-to-one this year.

—The ratio in classes for the mentally retarded would be as prescribed by law, 18-to-one.

—In grades four, five and six, the ratio would be increased from 31- or 32- to 33-to-one.

—In high school the ratio would increase from the present 24- to 25½-to-one.

Adoption of a preliminary budget will be considered by the board at its June 24 regular meeting.

### 9 Per Cent Pay Raise Asked by P.S. Teachers

By DICK LOWE

Paul Summers, a teacher, spoke for the Teachers Negotiating Council, attempting to convince the trustees that teacher salaries in the Palm Springs Unified School District are not as good, in comparison to other districts in the state, as they

have been represented to be in past years.

Almost half of California's 200,000 teachers either receive higher pay or come within three per cent of the range current here, he said.

But the main burden of his presentation was concerned with what he termed "the lag" of teacher pay behind that of similarly educated persons in other occupations.

This lag, Summers said, is what concerns the teachers, not their relative standing in regard to others in the education profession.

He pointed out the situation a few months ago when teachers in Washington, D.C., were demanding an increase in starting salary to \$6,600 a year, while simultaneously New York City garbage collectors were refusing \$6,800 as a base pay settlement in their strike.

Working with several charts to illustrate various points in the negotiating council's argument, Summers veered into the field of labor relations as well.

While being questioned by board members following his presentation, Summers at one point said, "Don't misunderstand or misjudge the tidal

(See TEACHERS, Page 2)

### Budget Sessions Begin; Public Works Seen OK

By DOUG BROWN

The city council waded into the first of its annual budget sessions yesterday afternoon with a detailed scrutiny of the proposed \$2,464,752 budget requested by the Public Works Department.

Except for a few changes, the council indicated tentative approval of the budget, a major portion of the overall city budget of \$6,876,360. The total city budget is a seven per cent increase over last year.

Discussion was general throughout yesterday's opening session. There were no controversies, and councilmen dealt with each proposed expenditure in a thorough manner.

Tentative approval was given to major requests for \$63,900 for sewer plant additions, \$23,000 for sewage system additions and \$15,000 for modifications to the lighting system on trees on Palm Canyon Drive.

The council postponed for further study a decision on a proposed safety street lighting expenditure of \$24,000. It was suggested that perhaps approval be given for \$10,000 expenditures on some of the twenty-seven lighting projects in order of priority.

"Any real reason why we are

(See BUDGET, Page 2)

### State Accuses City Of Ignoring 'Humans'

Palm Springs was charged today with being "a classic study in civic disregard for the rights of minority citizens."

The charge was contained in the long-awaited report of the State Attorney General on his investigation of the Section 14 clearance program.

It concluded:

"The City of Palm Springs not only disregarded the residents of Section 14 as property owners, taxpayers and voters. Palm Springs ignored that the residents of Section 14 were human beings."

The report was released today by Chief Deputy Attorney General Charles A. O'Brien in Los Angeles. It was prepared by Deputy Attorney General Loren Miller Jr., chief of the Attorney General's constitutional rights unit.

The report's conclusion began:

"There is no evidence that any crimes were committed in the removal of the residents from Section 14 and the destruction of their homes. Yet the incident displayed a unique insensitivity on the part of the City of Palm Springs to the problem of adequate minority housing, in particular, and to minority community relations, in general."

The report linked the ghetto destruction to federal accusations of misconduct by conservators for the Agua Caliente Indians.

In Palm Springs, most minority citizens lived on reservation land leased from Indians, and constructed homes on the leased land. The area known as Section 14 in the heart of Palm Springs became an area of interest for developers in 1959 when Indian land became available for long-term leases.

According to the Attorney General's report, homeowners who leased lots in Section 14 saw their homes destroyed without notice and their personal property burned. About 1,000 people were involved in the eviction and destruction.

The report recommended "that the City of Palm Springs undertake special efforts to correct the problems of inadequate minority housing and the general low level of relations between

the city government and the minority residents of Palm Springs."

"The hostility created by the hardship forced on the city's Negro population is not the only problem caused by Palm Springs' clearance of Section 14. The Indians who own the land are also disillusioned, since the land which once produced revenue for them now lies vacant," the report stated.

Listed in the report were instances of homes valued from \$3,400 to \$8,000 which were destroyed by the city without notice to the owners of the impending destruction.

(See STATE, Page 2)

### Report Biased, City Heads Say

By JOHN HUNTER

"The Indians wanted help in clearing their expensive land infested with shacks," he said, and the program evolved was for the Indians, through their conservators in some instances, to evict the occupants from the land, and for the city to perform the demolition work.

Councilman Edgar McCoubrey, mayor at the time of the cleanup program, said, "I do not agree with the reasoning of the report or the report itself. I never received a single complaint or phone call in connection with the program, and this all comes as a surprise to me."

He pointed out that the city's Human Relations Commission held hearings following completion of the program and received only general complaints, no specific ones, although it promised to investigate any specific complaints.

George Beebe Jr., a former councilman, said the report "incites me more than anything else. Whoever wrote it doesn't know what he is talking about."

Beebe drew particular attention to the filthy conditions in which many of the Section 14 residents lived—so extreme, he pointed out, that they were the subject of a television expose.

"I resent the Attorney General, or anyone else, trying to tell us that this cleanup was not needed," he said. "It was

(See REPORT, Page 2)

The state Attorney General's report on Palm Springs' cleanup of Section 14, is biased and wantonly ignores the facts, city councilmen who served while the program was being conducted said today.

Those councilmen pointed out that they had never been contacted, either personally or by telephone, by the writer of the report, Loren Miller Jr., deputy Attorney General.

Both current Mayor Howard Wiefels and City Manager Frank Aleshire characterized the report as "biased and without knowledge of the facts."

Aleshire was particularly critical of the report's repeated indications that housing was demolished on Section 14 without occupants receiving adequate notice.

He declared that tenants in the area were given more than adequate notice and that when they asked for more time to remove their belongings, "without exception, they got more time—from 10 days to 6 months."

Aleshire pointed out that the original program to evict tenants from the Indian-owned land followed a request by the Agua Caliente Tribal Council for help in cleaning up Section 14 in 1962, and that the program was evolved in cooperation with the Tribal Council.

### Trustees Won't Rehire Teacher

Mrs. Jean Butler, a teacher in the educable mentally retarded program of the Palm Springs Unified School District, will not be reemployed for 1968-69.

The district's board of trustees voted three-to-one last night not to give Mrs. Butler a new contract. With Dr. Cecil Jones absent at the time, the trustees voting "aye" on the resolution not to renew her contract were Donald Williams, board president, and members James M. Schecht and Mrs. Susan Marx. Walter Colglazier voted against the resolution (in effect, for re-

employing Mrs. Butler).

Hearings were held last month in the matter, with George K. Bellows, administrative hearing officer for the state, as presiding officer. The school district was represented by W. W. Miller, deputy county counsel for the County Superintendent of Schools. Mrs. Butler was represented by Ronald G. Skipper, San Bernardino attorney.

District Superintendent Austin R. Sellery testified at the hearing that he did not offer Mrs. Butler a contract for next year because of a "lack of rapport" with her colleagues, written statements by two school principals and on the basis of her evaluation. Mrs. Butler was, he admitted, "... a good classroom teacher."

Testifying for the district were three principals, four teachers and three psychologists.

Witnesses appearing to testify for Mrs. Butler included the husband of a teacher's aide, a substitute teacher, a principal, one of Mrs. Butler's team teacher colleagues, two members of the Negro community, a kindergarten teacher and a librarian.

### Bermuda Dunes Man Dies in Auto Wreck

PALM DESERT — Herman Ira (Hi) Winston, 44, former pool service executive who resided at 79-961 Boqueron, Bermuda Dunes, died Monday after the car he was driving crashed into a drainage ditch on Highway 395 in Riverside.

Winston was northbound on Highway 395 near the University of California, Riverside campus at 11:27 a.m. Monday, California Highway Patrol officers said, when ahead of him he saw an accident in which a house-trailer had overturned. He apparently slammed on his brakes, the officers added, and the car went off the right side of the road and end-over-end into a 20-foot-deep drainage ditch.

Winston was not thrown out

of the car, which ended up on its top. Officers said Winston was dead on arrival at Riverside Community Hospital.

Winston recently had been associated with Playmate Pool Service in Rancho Mirage, and prior to that was regional director of the Riverside-San Bernardino area for Sunset Pools, Inc., of Los Angeles.

Surviving are the widow, Suzanne Winston, and children, Deborah, Pamela and Daniel, all at home; his mother, Mrs. Esther Gershenoff of Miami, Fla.; and two sisters, Mrs. Frances Goldstein of North Hollywood (Calif.) and Mrs. Betty Farkas of Miami Beach, Fla.

Funeral arrangements are pending at Wiefels & Sons Funeral Home in Palm Springs.

### Death Row Seen Abolished by High Court Ruling

By RONALD E. COHEN  
United Press International

William Witherspoon listened, "overjoyed," to the news on the prison radio.

Wesley (Sonny) Evans heard the decision and screamed so loudly his joy reverberated not only in his tiny death row cell but to the far reaches of the 11-story prison in Fort Worth, Tex.

But when Dist. Atty. Stanley Kirk of Wichita Falls, Tex., got the word he stormed:

"I'm so mad I'm speechless. We don't know what to do."

And Louisiana's attorney general, Jack Gremlion, harumphed: "Ridiculous!"

The reaction was mixed but there was general agreement that Monday's decision on capital punishment by the U.S. Supreme Court means, in effect, the dismantling of death row, U.S.A.

Witherspoon's appeal brought the ruling that jurors cannot be automatically rejected because they are opposed to capital punishment. The decision meant, for all practical purposes, that most of the 486 prisoners awaiting execution in state prisons will be spared. Nearly all were convicted by juries from which persons expressing scruples about the death penalty were excluded.

One of those 485, Richard Speck, will appeal his sentence for the infamous slaying of eight nurses in Chicago. Speck's

(See DEATH, Page 3)

## Desert Sun, Volume 35, Number 296, 17 July 1962 — Evictions Start On Indian Land [ARTICLE+ILLUSTRATION]

[Back](#)

# Evictions Start On Indian Land

Sheriff's deputies and Palm Springs police today served eviction notices on some "squatter" residents of Section 14, culminating nearly five years of Indian and conservator efforts to clear 5 acres of land for upgraded use.

The eviction orders, reportedly signed by a Riverside Superior Court Judge, affected residents on two parcels of five and 10 acres. The orders were handed to deputy sheriff's for execution after two

prior notices of 90 and 30 days—a four months total — failed to clear the land, a spokesman for the conservators for Agua Caliente Indian owners told The Desert Sun today.

### Leases Expired

"Actually, the leases of the sites of these structures expired a long time ago — in some cases five years ago," a spokesman said.

The problem — possibly made more touchy by 11 recent mysterious fires on Section 14 — has been further complicated by apparent squatters — who pay no land rent — renting structures to other parties.

As the structures were emptied today they were razed and burned

under supervision of the Palm Springs Fire Department. A city spokesman emphasized that the work was done at no cost to the city, since the conservators' agent reimbursed the city for supervision.

#### Major Precaution

A major safety precaution was the installation of a two - inch water line to the controlled burning sites, to prevent possible fire spreading, or heat damage to any adjacent structures.

Deputies, who expressed sympathy with the affected unauthorized tenants, explained that the structures would be demolished for burning as soon as emptied. A time limit for early afternoon today was set for beginning of the move by some occupants.





**DEPUTY SHERIFFS** today served eviction notices on some residents of unauthorized structures on Section 14, ending two years of effort by Agua Caliente Indian owners and conservators to clear the land for new usage. (George Aquino Photo)

This article has been automatically clipped from the Desert Sun 17 July 1962, organised into a single column, then optimised for display on your computer screen. As a result, it may not look exactly as it did on the original page. The article can be seen in its original form in the [page view](#).

# Cleanup's Phase 1 Ends Successfully

By AL TOSTADO  
Managing Editor

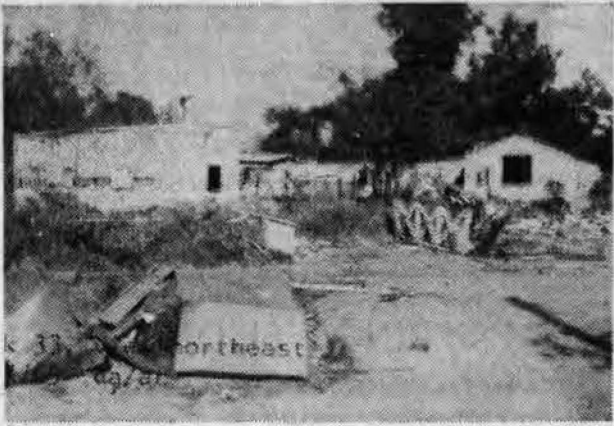
Phase One of the Section 14 clean-up campaign was reported completed on Nov. 17, 1965 and Fire Marshal James E. Harris presented a progress account to the city.

Harris, also chief of the city's Fire Prevention Bureau, said the abatement program on the section had a June, 1966, deadline, and the City Council had voted an additional \$10,000 to the original \$5,000 budgeted for the project.

"We have a peculiar task in regard to nuisance abatement. The appearance of our community is of special importance because of the resort nature of Palm Springs," City Manager Frank Aleshire said.

Although the main functions of the Fire Prevention Bureau are inspections of occupancies and enforcement of fire codes, it undertook abatement as a special project for the city.

Don Abercrombie had recently joined the bureau's staff as



the new clean-up coordinator and was making surveys of the areas being abated and working with the Bureau of Indian Affairs.

Harris pointed out that while abatement was not confined to Section 14, main efforts were being exerted in this area since it was the most adverse condition then existing in the city.

He disclosed his bureau was maintaining a two-man crew, working through the Public Works Department, which was continually canvassing the entire community and cleaning up various areas throughout the city as the need arose.

Preparations for the abatement of Section 14—bordered by Indian Avenue, Ramon Road, Sunrise Way and Alejo Road—had been in progress for the past six months.

Phase One included four blocks near Calle Encilia and Arenas Road and was begun Oct. 18.

Phase Two, a 20-block area, was then under way.

The Fire Prevention Bureau anticipated the overall project would require possibly 10 phases.

Harris reported that before abatement was begun, the department studied and photographed all abandoned structures in the area.

Actual demolition was handled by the Suppression Bureau of the Fire Department, as well as by some independent firms. These firms carried out various stages of the operation which the department was not equipped to handle.

He disclosed only \$616 had been expended up to that point for help from independent firms in abating Phase One. Suppression Bureau man hours had totaled 124, with equipment on standby for 80 hours. The prevention bureau spent 130 man hours on the project.

"Although clean-up activity on Section 14 is not new," Harris declared, "this is the first time a concentrated phase-by-phase effort has been spearheaded by the city."

"The project has met overwhelming acceptance.

"The Bureau of Indian Affairs has recognized the value of the program, and thus, has encouraged the Indians, their conservators and their guardians to cooperate fully."

The Bureau of Fire Prevention for the City of Palm Springs has in its files a letter it received Nov. 18, 1965 from Paul Hand, director of the Bureau of Indian Affairs office here, in which the city was advised of the latter bureau's actions regarding the abatement of Section 14.

Hand's communique to five Indian land owners, through their conservators or guardians, informed them of the city's offer to collect, pile and burn all rubbish, trash, litter and waste in the area and he enclosed maps.

He informed them this program had already been carried out in some blocks south of The Springs Apartments, and was now being organized in the area bounded generally by the Baristo Canal on the south.

Hand noted two of the areas were under lease, and in these instances, suggested the land owner get the consent of the lessee endorsed on the "Permit to Burn Debris."

"The city is most anxious to proceed in this program. Let's show our appreciation of city assistance by moving on this program with all possible speed," Hand concluded.

# Scenic Highway Tag Asked for Mountain Road

The Desert Sun 5  
Wednesday, November 20, 1968  
Palm Springs, California

RIVERSIDE (CNA) — Their county Board of Supervisors has directed the County Counsel to prepare a resolution asking the state to include the Banning-Idyllwild Highway in the state Scenic Highway System.

The action by supervisors followed a request from Ralph W. Roblee of the Idyllwild Property Owners Association.

In his request Roblee asked supervisors to initiate legislation to include a road, from Banning to Idyllwild to Mountain Center in the state system of scenic highways.

Supervisor Norman J. Davis,

asked County Counsel Ray T. Sullivan if he could "drum up" a new resolution supporting the inclusion of the highway in the scenic system. He noted that Sullivan had previously prepared resolutions requesting the state action.

Sullivan responded, "I beat on the drums so many times before that I don't know if there's any new music left."

He did note, however, that he would try a new tune.

Supervisor McCall said he was very optimistic about the road being finally brought into the scenic highway system after the work done by the local people in Idyllwild.

'ACT OF ANGER'

HOLLYWOOD (UPI) — Edward Dmytryk will produce and direct "An Act of Anger" for Warner Bros.

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# Hoop Stars Forego The Buck

ALBUQUERQUE, N.M. (UPI) — Former collegiate basketball star Ben Monroe of Carlsbad, N.M.—drafted by both pro basketball and football clubs—has no regrets for turning his back on the fame and money of sports to work with the underprivileged.

Monroe, a 6-3 forward and one of the stalwarts for the nationally ranked University of New Mexico basketball team from 1964-67, was drafted by the Lakers of the National Basketball Association and the Philadelphia Eagles.

"But that's behind me," Monroe said. "I've decided that athletics, whether it's playing or coaching, become relatively insignificant compared to helping poor people solve their problems."

Today Monroe is a mathematics instructor in Albuquerque's Concentrated Employment Program. Most of the enrollees are poor, unemployed, school dropouts or handicapped.

Still, Monroe remembers the thrill of the game, of hearing the crowd yelling his name, of feeling the heady magic of victory. Monroe score a total of 960 points in three seasons at UNM and set a single game school mark with 19 field goals in 39 attempts. That was in a 1967 game with Brigham Young University.

But Monroe keeps busy. He teaches six math classes a day, five days a week, to more than 60 enrollees.

In addition, Monroe plans to seek a master's degree next semester at UNM. He earned a BA degree in political science with a minor in sociology in 1968.

"There's no doubt in my mind that thousands of unemployed and disadvantaged people need immediate help," Monroe said. "Many feel they've missed the boat."

He said most of the enrollees are in their 40s and are simply discouraged.

"We must help these people. Their problems are serious, grow more dangerous each day, and are ones we must face in our own backyard."

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(To Be Continued)

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A lot of long distance callers would be in seventh heaven if they could put one over on the phone company.

Because they think we're putting one over on them.

Their gripe is that they're paying more for calling long distance during the day than in the evening hours.

But since most people insist on calling dur-

ing the day, our overhead goes up, up, up. So our prices can't go down, down, down. And that's why we charge our regular rates.

But at nighttime, we can practically hear a pin drop. Hardly anybody calls long distance, so hardly any equipment is being used.

And that's when any long distance caller can beat us out of a couple of bucks.

Because if you can wait till after 7 p.m. or any

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So you don't really need a lot of money to call long distance.

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A dollar goes a long way

\*First three minutes, interstate, station to station, continental U.S. except Alaska.

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## Desert Sun, Volume 39, Number 65, 19 October 1965 — Up in Smoke Go More Section 14 Buildings [ARTICLE]

[Back](#)

# Up in Smoke Go More Section 14 Buildings

An informal discussion of a general cleanup for Section 14 concluded last night's Palm Springs City Council meeting — and today there was visible evidence that steps were being taken.

The visible evidence was smoke arising from abandoned structures, rubbish and trash bulldozed into piles and burned under controlled conditions by the fire department. At least 13 old buildings were to go up in smoke during the operation, with the fire department to maintain a night standby.

City Manager Frank Aleshire reported on the controlled burn to city councilmen at a discussion session toward the end of the regular meeting.

Mayor Frank Bogert said he felt that in some instances the

city cleanup operations were lagging. Both Councilmen George Beebe and Edgar McCoubrey concurred, asking for a speedup in cleaning operations. Particularly, they added, in the Indian-owned land of Section 14.

This was no criticism of the

city administration, Beebe told Aleshire. "We're back of you all the way on cleaning operations, but we'd like to see some progress," he said.

Aleshire, in reporting today's burn, said meetings had been held with departments responsible for keeping the city clean, but that "it just takes time to accomplish."

And, he admitted, the charred debris probably would be unsightly, too, but there would be steps taken to eliminate it.

This article has been automatically clipped from the Desert Sun 19 October 1965, organised into a single column, then optimised for display on your computer screen. As a result, it may not look exactly as it did on the original page. The article can be seen in its original form in the [page view](#).



**Hagler just marvelous in parade**

A-3



**Mardi Gras celebration in full swing**

A-6



**Pro surfers make waves in desert**

B-2

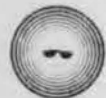
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# The Desert Sun

Palm Springs, California

25 cents

Monday



March 2, 1987

In brief

**New tax withholding form unveiled by IRS**

WASHINGTON (AP) — The Internal Revenue Service, responding to protests from taxpayers and lawmakers, today unveiled a proposed new W-4 form on which workers can determine how much federal income tax should be withheld from their paychecks.

Any wage-earner may choose between the new two-page W-4A form and the three-month-old four-page W-4. The newest version, if approved by the Office of Management and Budget, is expected to be available by mid-April.

**ABC, CBS writers, editors go on strike**

NEW YORK (AP) — The union representing news writers and editors at ABC and CBS and at seven of their radio and TV stations — including KCBS-TV and KNX radio in Los Angeles — went on strike today, forcing managers to handle writing, editing and production chores.

The 525-member union represents writers, editors, production and desk assistants, researchers and graphic artists.

Weather

High cloudiness Tuesday. Highs near 80. Lows will range from 42 to 52/Details on A-4.

Sports



Nancy Ditz is all smiles as she crosses the finish line of the Los Angeles Marathon/Details in Sports, Pages B1-5

Lotto 6/49

Feb. 28, 1987  
The Numbers

6, 20, 37, 40, 46, 49, bonus 33.

The Payoff

- Jackpot, 6 of 6, \$7,739,645, two winners.
- 5 and bonus, \$651,665, two winners.
- 5 of 6, \$3,610, 186 winners.
- 4 of 6, \$67, 9,997 winners.

Index

Bridge	A 11
Business	B 6
Classified	B 7-16
Comics	A 13
Crossword	B 12
Dear Abby	A 15
Desert Living	A 8-9
Dining/Entertainment	A 10
Editorials/Opinions	A 14-15
Movie Guide	A 11
Obituaries	A 4
Sports	B 1-5
Star Tracking	A 13
Sylvia Porter	B 6
TV Listings	A 10
Weather	A 4

A Gannett newspaper

## Baker takes over staff reins

WASHINGTON (AP) — Former Sen. Howard Baker took over today as President Reagan's White House chief of staff, promising "no wholesale firings, no wholesale requests for resignations," a spokesman said.

Marlin Fitzwater told reporters, however, that White House counsel J. Peter Wallison has indicated a desire to leave, and that Wallison will be replaced by A.V. Culvahouse, a partner with Baker in the Washington law firm of Vinson & Elkins.

Wallison had been involved in coordinating Reagan's responses to various investigations into the Iran-Contra affair.

With Reagan preparing to address the nation this week on the Iran-Contra arms affair, Baker conducted his first staff meeting, which Fitzwater described as "humorous, but to the point."

Meanwhile, the presidential spokesman said Reagan stands behind the nomination of Robert M. Gates to be CIA director, although Fitzwater said Gates was scheduled

to meet today with Baker.

"I have no knowledge of his (Gates) position," Fitzwater said. "It's a matter for Mr. Gates to decide."

The Washington Post reported in today's editions that Gates has decided to withdraw his name this week from consideration as CIA director in the wake of congressional unhappiness with the sale of arms to Iran and the purported subsequent diversion of profits to the Contra rebels fighting the leftist Nicaraguan government. It cited

administration and congressional sources.

Earlier, Senate Republican Leader Bob Dole, R-Kan., said Gates' nomination "could be in some difficulty if there was a demand" for a quick Senate vote.

He said he didn't think it would be a good idea for Gates, the acting CIA director, to be "sort of held out there for five or six months" until special congressional committees conclude their investigations into the Iran-Contra affair.

Fitzwater said that while Baker

assured White House staff members there would be no shakeup, Baker "would have private consultations later if there was any need to discuss a job change."

Fitzwater also said that Frank Donatelli would be joining the staff as political director and John Koehler as communications director — as had been planned before Donald T. Regan's resignation as chief of staff and Baker's decision to take the job.

Regan was to discuss the Tower (Please turn to Page A-2)



SIGNS OF DETERIORATION . . . are evident in Palm Springs' predominantly black neighborhoods. A fire-gutted house which now attracts only vandals and graffiti



and a crumbling wall are graphic testimony of the problems which residents say still exist for black people in Palm Springs.

## City's black residents can't forget bitterness

By MICHAEL BUNCH  
Desert Sun Staff Writer

PALM SPRINGS — The culture and achievements of Afro-Americans were observed in Palm Springs this weekend, but the record shows that as far as local black history goes, there isn't much to celebrate.

"There is a history to tell. We've been here so long, a whole lot longer than any other minority," said James Jessie, director of the Desert Highland Unity Center in Desert Highland-Gateway Estates, the city's mostly-black, largely low-income area.

But Jessie conceded that the news is not all that good.

The city and its 1,400 black residents are still trying to mend the wounds of an incident that occurred more than 20 years ago.

In the mid-1960s when downtown redevelopment was a foremost priority to city officials, there was a relocation of the black community from the center of town to its northern boundaries. And many blacks remain bitter about the way it was handled.

Palm Springs was accused by the state Attorney General's Office of being a "classic study in civic disregard for the rights of minority citizens" because of the relocation.

The report concluded that no crimes were committed, but said the incident "displayed a unique insensitivity on the part of the city to the problem of adequate minority housing in particular, and to minority community relations in general."

Blacks had their homes bulldozed and their personal property burned without notice, the

attorney general's report said.

"They just told us to get out; no help with relocation. And in some cases, the city just came in and bulldozed houses while a lot of people were at work," said Jessie, who was forced out with his family when he was in grade school.

The report linked the ghetto destruction to federal accusations of misconduct by conservatives for the Agua Caliente Indians.

The blacks at that time lived in dilapidated dwellings in the heart of town on reservation land leased from the Indians. The area, known as Section 14, became appealing to developers in the 1960s after long-term leases on Indian land were allowed.

Howard Wiefels, then the city's mayor, dis- (Please turn to Page A-3)

## Strong quake jolts New Zealand area

WELLINGTON, New Zealand (AP) — A strong earthquake jolted parts of North Island today, sending hundreds of residents fleeing from their homes, collapsing buildings and bridges and seriously injuring at least five people.

Media reports also said two people were missing after the 1:36 p.m. (5:36 p.m. PST Sunday) quake, which measured 6.4 on the Richter scale. More than 100 aftershocks followed throughout the day, said New Zealand seismologists.

Radio Pacific reported "many people" injured in the quake, centered about nine miles off North Island in the Bay of Plenty. It did not elaborate further on the casualties.

A state of emergency was declared in the quake area, which is mostly rolling farmland and forest. Local authorities commandeered all available helicopters in the region to help assess damage and to ferry supplies needed for repairs.

Hospitals in Tauranga and Rotorua were on standby to accept patients from Whakatane hospital, which was evacuated because of

damage to the top of the building. Radio Pacific said there was damage to road and rail links, bridges and forests, and that power supplies were cut to several rural and forestry towns.

### Desert Sun offers a new look today

If you've noticed something different about today's front page, you're right.

We've streamlined A-1 to give readers a cleaner, more graphically appealing, easier-to-read page.

The most readily noticeable change: A column on the left side of the page containing late-breaking news stories along with capsules of today's inside sports and weather coverage, plus the daily index.

You can look for this new format six days a week in The Desert Sun.



DANCERS . . . from the Sherman Indian School in Riverside perform at the Native American Festival in Palm Springs.

Being black in white Palm Springs

Second of two parts

## 35 tribes gather in Palm Springs for Indian festival

By MICHAEL BUNCH  
Desert Sun Staff Writer

PALM SPRINGS — Sally Ann Thielen had beads on her hat, clothes, shoes and in her ears.

It was obvious that beadwork was one of her specialties.

Mrs. Thielen was one of several arts and crafts exhibitors showing their wares this weekend at the first Palm Springs Native American Festival, held at Angel Stadium on Baristo Road.

About 35 tribes from the United States, Canada and South America were represented at the three-day festival, said coordinator Delaine Spilsbury — also known as Ms. Squaw. In addition to arts and crafts, the event featured native music and dancing and Indian food.

The festival is the brainchild of Ms. Spilsbury, who is a member of the Shoshone tribe from northern Nevada. She founded the Pow Wow of the Four Winds, a non-profit Las Vegas, Nev., group formed to encourage the continuance of Indian heritage.

"We originally started out to perpetuate the culture and the tradition of the Indian people for our (Please turn to Page A-2)

3x King Empire Circus Wed, April 3, 1968 - Part 1 3

# Palm Springs Judges Hit on Indian Affairs

## Charged With Fee Splitting and General Mismanagement of Estates in Udall Report

BY ROBERT L. JACKSON  
*Times Staff Writer*

WASHINGTON—Several Palm Springs area judges and attorneys were accused of conflicts of interest, improper fee-splitting and general mismanagement of Indian estates by Secretary of the Interior Stewart L. Udall Tuesday.

Udall's charges were contained in a final report to Congress on a year-long investigation by the Interior Department into estates of the Agua Caliente band of Mission Indians. A preliminary report was issued last fall.

The Agua Calientes are regarded as perhaps the richest Indian tribe in the nation. Their wealth derives from nearly 27,000 acres of land valued at about \$10 million allotted to them by the federal government in 1929, with each of the 104 members of the band who received allotments given land worth about \$253,000.

This land represents the bulk of undeveloped property in and around the desert resort. Million-dollar leases of Indian land for resort development are not uncommon.

**Blames Own Department**

Udall said part of the responsibility for "the morally shabby state of affairs" rested with his own department.

Court-appointed guardians and conservators, or their attorneys, levied excessive fees against many Indian owners of the 34 estates studied, according to the report.

Two persons, Municipal Judge Eugene E. Theriot and attorney James Hollowell, have collected a total of \$480,000 in fees over a seven-year period, the report said. Other persons were also sharply criticized.

Meanwhile, Rep. John V. Tunney (D-Riverdale), whose district includes Palm Springs, said he expects the charges to be investigated by the House Indian Affairs subcommittee, of which he is a member. Persons named in the report would be invited to testify, he indicated.

Tunney was one of several congressmen who received Udall's report.

"The principal conclusion," Udall said, "is that the present guardianship and conservatorship system has been intolerably costly to the Indians in both human and economic terms and that it must be replaced or radically revised."

**Indian Dissatisfaction Told**

The report said general dissatisfaction with the guardianship program was expressed by many Indians in interviews with an Interior Department investigative team headed by Robert L. Cox. Extensive audits and examination of court and property records were undertaken by the team.

Udall said poor state and federal regulation contributed to "grave injustices" against the Indians.

The Bureau of Indian Affairs, a division of the Interior Department, is charged with looking after the welfare of Indians, but the Palm Springs investigation was carried out under Udall's direct supervision.

Receipts to the 34 estates studied, including ordinary income and proceeds from sale of trust lands, amounted to \$10.8 million from 1959 to 1967, investigators found.

Of this amount, fees averaging from 37 to 44% were paid to guardians, conservators or their attorneys under the supervision of the India branch of the Riverside County Superior Court, the report said.

Udall said he was "appalled" that this situation "has not only existed under ostensible state and federal supervision, it has flourished."

All income from these properties, held in trust for the Indians by the U.S. government, now is being handled by the Bureau of Indian Affairs until a permanent solution can be devised, he said.

The report said Frank Bogart, a former mayor of Palm Springs, was awarded total fees of \$12,500 as conservator for the estate of Edmund Peter Siva, largely for negotiating a lease.

A further fee of \$6,182 went to Paul King, a real estate broker, who Bogart told investigators split the fee with him.

"We are of the opinion that this fee-splitting between a broker and a conservator, as well as other similar instances of fee-splitting by or with fiduciaries, is improper under California law," the report said.

It said Bogart's share of King's fee "rightfully belongs to the Siva estate."

Several attorneys were criticized for allegedly collecting fees from lessees while representing, at the same time, the Indian owners of the land.

Named in connection with this practice were Hollowell, Raymond C. Simpson, John P. Carroll, Saul Ruskin, Thurman Arnold Jr. and the law firm of Gausshier, Schleisinger and Schlecht (now Schleisinger, Schlecht and McCullough).

The report also questioned the conduct of former Superior Judge Hilton H. McCabe, who is now presiding justice of the District Court of Appeal in San Bernardino.

**Charges in Report**

"While serving as Superior Court Judge at Indio and sitting on most guardianship and conservatorship matters involving Indian estates," the report said, "Judge McCabe apparently encouraged the attorneys for the estates to get the wards to make wills, letting it be known that he was available and willing to serve as executor."

"Review of 27 wills of living Palm Springs Indians . . . revealed that Judge McCabe is named as first executor in 10."

The report said several Indians who had made the wills told investigators they were not aware they had the right to name an executor, or that an executor was entitled to fees. Judge McCabe

**STATE LAUNCHES OWN INQUIRY ON JUDGE'S CONDUCT**

BY PHILIP FRADKIN  
*Times Staff Writer*

The State Commission on Judicial Qualifications has launched an inquiry into the handling of Agua Caliente Indian estates at Palm Springs by Judge Hilton H. McCabe, it was learned Tuesday.

However, the commission has not decided yet whether to widen its preliminary inquiry into a full-scale investigation. Now it is probing the activities of Palm Springs Municipal Judge Eugene E. Theriot or Indio Superior Judge Merrill Brown.

The three judges were accused of "questionable conduct" in a preliminary report issued by the U.S. Department of the Interior last September. They were also criticized in the final report issued Tuesday.

Judge McCabe was elevated from the Indio court to presiding justice of the District Court of Appeal in

**Please Turn to Page 25, Col. 1**

**Please Turn to Page 25, Col. 1**

# The Desert Sun

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SUNDAY  
December 9, 2001

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**NO WAITING IN WASHINGTON**  
Tourism is capped down 37 percent from last year.  
Travel PG



**Heisman Winner**  
Nebraska quarterback Eric Crouch wins Heisman Trophy, award in close vote.  
Sports C1

**Midwest trouble**  
Carnage continues in the Midwest as a new wave of violence erupts.  
Holidays on parade  
Holidays in honor of the G.I.s and G.I.s' families.  
Miami's challenger  
City's new state legislature.  
the desert sun.com

**World events cast somber tone over Jewish holiday**

**Nation's wartime recession puts damper on Christmas**

**Wounds inflicted by Section 14 remain**

**More in Sports**

**La Quinta makes it 2 in a row**

**Victarians: Lion Half Hoop Feet Collins as he waves to fans of the La Quinta High School football team.**

## Marines hunt for Taliban leaders

By RAYDI GARDNER  
KARU, Afghanistan — Armed with photographs of wanted terrorists, Marines hunted for leaders of the Taliban who might have slipped out of Kandahar at the former ruling militia's withdrawal last week.

Marines were reported to the town, with the most recent groups that reported the Taliban taking the town and surrounding villages. Taliban reportedly were under way to set up a new government and avoid an implosion of internal fighting.

In the border with Afghanistan, some 100 miles or so from the city, the U.S. Marine Corps was still getting its bearings. It was a tough mission, said the U.S. Marine Corps, and it was not clear if the country for its mission.



War zone patrol. A Marine carrying an M16 rifle walks through a gap in the bullet-riddled wall of Camp Pines in southern Afghanistan just after dawn today. The Marines are hunting for Taliban leaders who might have slipped out of Kandahar at the former ruling militia's withdrawal last week. (AP Photo/Chris Wedel)

## La Quinta makes it 2 in a row

By PAUL MORGAN  
PONTIAC — The team were looking from both sides of the field.

More in Sports  
Basketball and soccer teams. Collins center for 15 points and two rebounds to lead La Quinta.



Victarians: Lion Half Hoop Feet Collins as he waves to fans of the La Quinta High School football team. The team won the team its second CIF championship.

## Wounds inflicted by Section 14 remain

By NANCY SINGER  
PALM SPRINGS — Cliff McPeters and other veterans of the war in Vietnam are still in the area of Palm Springs that was called "The Reservation" back in the 1970s and '80s.

## World events cast somber tone over Jewish holiday

By NANCY SINGER  
As the eight-day celebration of Hanukkah begins tonight, many around the world are mourning the deaths of thousands of Jews and the destruction of their homes.



Hanukkah: Eric Collins (left) and Matt Arledge (right) after a full-length practice. Coach Collins is in the background at the Desert Community Center of the Desert.

## Nation's wartime recession puts damper on Christmas

By DEBBY CAUSE  
The main American, the holiday season is an early start. It is a time of joy and celebration, but it is also a time of economic hardship.

## Special report

up at 10:30 p.m. tonight. The American flag, illuminated a minute in light, then the lights were turned on one by one to reveal a bright, shimmering, colorful display.

Advertisements for Duramax Diesel and Jessup Auto Plaza.

**NEWS**

**1991 YEAR-END**

**Top News Stories**

- 1. The 2001 election
- 2. The 9/11 attacks
- 3. The Iraq invasion
- 4. The SARS outbreak
- 5. The 2001 flu season
- 6. The 2001 winter weather
- 7. The 2001 stock market
- 8. The 2001 sports season
- 9. The 2001 entertainment industry
- 10. The 2001 technology industry

**News from back home/From Page 1**

**WEST**

**Police asked to wrap up investigation on Tyson**

**Missouri police to learn Spanish in two colleges**

**Flood Afghanistan aid workers return to church**

**Newsroom will reopen in new home in 2005**

**Supporters of Abu Jamal mark shooting anniversary**

**NAACP**

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## A4/ACROSS THE VALLEY

### Bogert statue to be unveiled on March 31

PALM SPRINGS — A bronze statue of former Mayor Frank Bogert on a horse will be placed on the City Hall lawn this week and unveiled March 31, members of the 50s Committee for Art in Public Places said.

Committee member Barbara Foster and committee administrator Gerhard Frenzel said Monday the \$30,000 statue was being shipped from Mexico City, where it was sculpted by artist Raymondo Cobo.

It was due to arrive today or Friday, Foster said Wednesday.

In the past few weeks, workers have been preparing a base for the four-ton statue on Tahquitz-McCallum Way, in front of City Hall.

Foster said a public dedication ceremony is scheduled at 11 a.m. March 31.

Bogert, the colorful and energetic "cowboy mayor," was once the publicist at the El Mirador hotel. His friends say he, more than any other single individual, typifies the rustic western spirit



**FRANK BOGERT STATUE**  
Sculpted in Mexico City

of early Palm Springs.

He was appointed mayor from 1958 to 1966, and was the city's first elected mayor, serving from 1982 to 1988.

Frenzel said the statue was commissioned by the six-member committee, which was formed in 1988 on the city's 50th anniversary.

It will be paid for by private donations, Frenzel said, adding that fund-raising is continuing.

Information: 322-1563.

**PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, TO AMEND THE MUNICIPAL CODE BY ESTABLISHING REGULATIONS APPLICABLE TO COMMERCIAL AND RESIDENTIAL CLEAN INDOOR AIR AND HEALTH PROTECTION TO REGULATE TOBACCO AND CANNIBUS PRODUCT USE**

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**~~AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE MUNICIPAL CODE TO REGULATE CLEAN AIR, SMOKING AND TOBACCO PRODUCT USE~~**

The City Council of the City of Palm Springs, California, does ordain as follows:

**SECTION I. FINDINGS.**

The City Council of the City of Palm Springs, California, hereby finds and declares as follows:

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health challenge, as evidenced by the following:

- 480,000 people die prematurely in the United States from smoking-related diseases every year, making tobacco use the nation's leading cause of preventable death;<sup>1</sup> and
- Tobacco use can cause disease in nearly all organ systems and is responsible for 87 percent of lung cancer deaths, 79 percent of all chronic obstructive pulmonary disease deaths, and 32 percent of coronary heart disease deaths;<sup>2</sup> and

WHEREAS, secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

- The U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke;<sup>3</sup> and
- The California Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure;<sup>4,5</sup> and
- The California Environmental Protection Agency (EPA) included secondhand smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm;<sup>6</sup> and

- Secondhand cannabis smoke contains tetrahydrocannabinol (THC), the chemical responsible for most of cannabis's psychological effects, and many of the same toxic

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chemicals in smoked tobacco

WHEREAS, exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke occurs at significant levels outdoors, as evidenced by the following:

- Levels of secondhand smoke exposure outdoors can reach levels attained indoors depending on direction and amount of wind and number and proximity of smokers;<sup>7,8</sup> and
- Smoking cigarettes near building entryways can increase air pollution levels by more than two times background levels, with maximum levels reaching the “hazardous” range on the United States EPA’s Air Quality Index;<sup>8</sup> and
- To be completely free from exposure to secondhand smoke in outdoor places, a person may have to move nearly 23 feet away from the source of the smoke, about the width of a two-lane road;<sup>8,9</sup> and

WHEREAS, exposure to secondhand smoke causes death and disease, as evidenced by the following:

- Since 1964, approximately 2.5 million nonsmokers have died from health problems caused by exposure to secondhand smoke;<sup>2,10</sup> and
- Secondhand smoke is responsible for an estimated 41,300 heart disease-related and lung cancer-related deaths among adult nonsmokers each year in the United States;<sup>10</sup> and
- Exposure to secondhand smoke increases the risk of coronary heart disease by about 25 percent to 30 percent<sup>11</sup> and increases the risk of stroke by 20 percent to 30 percent;<sup>12</sup> and

WHEREAS, tobacco use and exposure to secondhand smoke impose great social and economic costs, as evidenced by the following:

- Between 2009 and 2012, the total annual economic burden of smoking in the United States was between \$289 billion and \$332.5 billion;<sup>1</sup> and
- From 2005 to 2009, the average annual health care expenditures attributable to smoking were approximately \$132.5 billion to \$175.9 billion in direct medical care costs for adults and \$151 billion in lost productivity;<sup>1</sup> and
- The total annual cost of smoking in California was estimated at \$548 per resident or between \$2,262 and \$2,904 per smoker per year;<sup>13</sup> and
- California’s Tobacco Control Program saved the state and its residents \$134 billion in

health care expenditures between the year of its inception, 1989, and 2008, with savings growing yearly;<sup>13</sup> and

WHEREAS, laws restricting the use of tobacco products have recognizable benefits to public health and medical costs with a review of over 80 peer-reviewed research studies showing that smoke-free policies effectively do the following:

- Reduce tobacco use: tobacco use is reduced by median of 2.7 percent;<sup>14</sup> and
- Reduce exposure to secondhand smoke: air pollution is reduced by a median of 88 percent and biomarkers for secondhand smoke are reduced by a median of 50 percent;<sup>14</sup> and
- Increase the number of tobacco users who quit by a median of 3.8 percent;<sup>14</sup> and
- Reduce initiation of tobacco use among young people;<sup>14</sup> and
- Reduce tobacco-related illnesses and death: there is a 5.1 percent median decrease in hospitalizations from heart attacks and a 20.1 percent decrease in hospitalizations from asthma attacks after such laws are passed;<sup>14</sup> and

WHEREAS, laws restricting electronic smoking devices use also have benefits to the public as evidenced by the following:

- Research has found at least ten chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm,<sup>6, 15, 16, 17</sup> such as formaldehyde, acetaldehyde, lead, nickel, and toluene;<sup>18,19, 20</sup> and
- More than one study has concluded that exposure to vapor from electronic smoking devices may cause passive or secondhand vaping;<sup>18,20,21</sup> and
- The use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment;<sup>22</sup> and
- The State of California's Tobacco Education and Research Oversight Committee (TEROC) "opposes the use of e-cigarettes in all areas where other tobacco products are banned;"<sup>23</sup> and

WHEREAS, smokeless tobacco is not a safe alternative to smoking and causes its own share of death and disease, as evidenced by the following:

- Smokeless tobacco use is associated with oral, esophageal, and pancreatic cancers;<sup>24</sup> and
- Smokeless tobacco is associated with increased risk for heart disease and stroke,<sup>25, 26, 27</sup> stillbirth and preterm delivery,<sup>1, 28</sup> and Parkinson's disease;<sup>1</sup> and

WHEREAS, cigarette butts are a major and persistent source of litter, as evidenced by the following:

- In 2007, it was estimated that Americans consume 360 billion cigarettes each year;<sup>29, 30</sup> and
- 55.7 percent of smokers admit to littering cigarettes in the last month;<sup>31</sup> and
- In an observational study of nearly 10,000 individuals, after cigarettes were smoked, 45 percent of cigarettes ended up as litter;<sup>30</sup> and
- In 2011, 22.6 percent of all debris collected from beaches and coastal areas are smoking related products;<sup>32</sup> and
- Cigarette butts are often cast onto sidewalks and streets, and frequently end up in storm drains that flow into streams, rivers, bays, lagoons, and ultimately the ocean;<sup>32, 33</sup> and

WHEREAS, cigarette butts pose a health threat to young children, as evidenced by the following:

- In 2012, American poison control centers received nearly 8,648 reports of poisoning by the ingestion of cigarettes, cigarette butts, and other tobacco products and 84.5 percent of these poisonings were in children ages five and younger;<sup>34</sup> and
- Children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging;<sup>35</sup> and

WHEREAS, though widely perceived as a comprehensive smoke-free air law, exemptions and loopholes in the California Smoke-free Workplace Act<sup>36</sup> mean that one in seven Californians faces secondhand smoke exposure at work;<sup>37</sup> and

WHEREAS, exemptions and loopholes in the California Smoke-free Workplace Act<sup>36</sup> disproportionately impact low-income and communities of color as evidenced by the following:

- California Labor Code does not prohibit smoking in hotels, cabs of trucks, warehouses, long-term care facilities, outdoor places of employment, small businesses, tobacco shops,

and private smokers' lounges, which disproportionately employ individuals of low-income and individuals of color;<sup>38, 39, 40</sup> and

- Male and Hispanic/Latino workers are the most likely to report being exposed to secondhand smoke at work;<sup>41</sup> and

WHEREAS, California cities and counties have the legal authority to adopt local laws that make all indoor places of employment nonsmoking;<sup>42</sup> and

WHEREAS, state law prohibits smoking within 25 feet of playgrounds and tot lots and expressly authorizes local communities to enact additional restrictions;<sup>43</sup> and

WHEREAS, the state smoke-free workplace law does not expressly prohibit the use of electronic smoking devices in enclosed workplaces;<sup>36</sup> and

WHEREAS, there is broad public recognition of the dangers of secondhand smoke and support for smoke-free air laws, as evidenced by the following:

- A 2008 survey of California voters found that 97 percent thought that secondhand smoke is harmful, 88 percent thought secondhand smoke was harmful even outdoors, 65 percent were bothered by secondhand smoke, and 73 percent support laws restricting smoking in outdoor public places;<sup>44</sup> and

WHEREAS, as of April 2015, there are at least 64 California cities and counties with local laws restricting smoking in workplaces not covered by the state smoke-free workplace law;<sup>45</sup> and

WHEREAS, as of April 2014, at least 131 local jurisdictions in California prohibit the use of electronic smoking devices in specific locations;<sup>46</sup> and

WHEREAS, as of January 2015, there are at least 348 California cities and counties with local laws restricting smoking in recreational areas, 129 with local laws restricting smoking in outdoor dining places, and 48 with local laws restricting smoking on sidewalks in commercial areas;<sup>47</sup> and

WHEREAS, there is no Constitutional right to smoke;<sup>48</sup>

NOW THEREFORE, it is the intent of the Palm Springs, California City Council, in enacting this ordinance, to provide for cleaner air for the public health, safety, and welfare by

discouraging the inherently dangerous behavior of smoking and tobacco use around non-tobacco users, especially children; by protecting the public from exposure to secondhand smoke where they live, work, and play; by reducing the potential for children to wrongly associate smoking and tobacco use with a healthy lifestyle; and by affirming and promoting a healthy environment in the City of Palm Springs.

**SECTION II.** Article \_\_ of the Palm Springs Municipal Code is hereby amended to read as follows:

**Sec. \_\_\_\_ (\*1) DEFINITIONS.** The following words and phrases, whenever used in this article shall have the meanings defined in this section unless the context clearly requires otherwise:

~~(a)~~ ~~(a)~~ —“Business” means any sole proprietorship, partnership, joint venture, corporation, association, landlord, or other entity formed for profit-making purposes.

~~(b)~~ “Cannabis” means a dried preparation of the flowing tops or other parts of the cannabis plant, or a resinous extract of it (cannabis resin), typically smoked or “vaped,” transderman administration and/or orally consumed.

~~(c)~~ ~~(b)~~ “Common Area” means every Enclosed Area and Unenclosed Area of a Multi-Unit Residence that residents of more than one Unit of that Multi-Unit Residence are entitled to enter or use, including, for example, halls, paths, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, restrooms, laundry rooms, cooking areas, and eating areas.

~~(d)~~ ~~(e)~~ “Dining Area” means any area, including streets and sidewalks, that is available to or customarily used by the general public or an Employee, and that is designed, established, or regularly used, for consuming food or drink.

~~(e)~~ ~~(d)~~ “Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

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(fe) “Employee” means any Person who is employed or retained as an independent contractor by any Employer in consideration for direct or indirect monetary wages or profit, or any Person who volunteers his or her services for an Employer.

(gf) ——— “Employer” means any Business or Nonprofit Entity that retains the service of one or more Employees.

(hg) “Enclosed Area” means an area in which outside air cannot circulate freely to all parts of the area, and includes an area that has

(1) any type of overhead cover whether or not that cover includes vents or other openings and at least three (3) walls or other vertical constraint to airflow including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or

(2) four (4) walls or other vertical constraints to airflow including, but not limited to, vegetation that exceed six (6) feet in height, whether or not those boundaries include vents or other openings.

(i) “Landlord” means any person who owns property for rent for residential use, any person who rents residential property, and any person who manages such property, except that “landlord” does not include a master tenant who sublets a unit as long as the master tenant sublets only a single unit of a multi-unit residence.

(j) “Minor” shall mean any individual who is less than eighteen (18) years of age.

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(kh) “Multi-Unit Residence” means property containing two (2) or more Units except the following specifically excluded types of housing:

(1) a hotel or motel that meets the requirements of California Civil Code section 1940(b)(2);

(2) a mobile home park;

(3) a campground;

~~(4) a marina or port;~~

~~(45)~~ a single-family home;

(56) a single-family home with a detached or attached in-law or second unit.

(l) “No Smoking Sign” means a sign containing the words “No Smoking” or the international “No Smoking” symbol (a pictorial representation of a burning cigarette in a red circle with a red bar across it.)

(n) “Nonprofit Entity” means any entity that meets the requirements of California Corporations Code section 5003 as well as any corporation, unincorporated association, or other entity created for charitable, religious, philanthropic, educational, political, social, or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A government agency is not a Nonprofit Entity within the meaning of this article.

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(o) “Patron” means a person who buys the goods or uses the services offered by an establishment.

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(p) “Person” means any natural person, cooperative association, Employer, personal representative, receiver, trustee, assignee, or any other legal entity including a government agency.

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(q) “Place of Employment” means any area under the legal or de facto control of an Employer that an Employee or the general public may have cause to enter in the normal course of the operations, regardless of the hours of operation.

(r) “Public Place” means any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirement.

(s) “Reasonable Distance” means a distance of twenty-five (25) feet in any direction from an area in which Smoking is prohibited.

(t) “Recreational Area” means any area, including streets and sidewalks, that is publicly or privately owned and open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller- and ice-skating rinks, skateboard parks, amusement parks, and beaches.

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(u) “Service Area” means any publicly or privately owned area, including streets and sidewalks, that is designed to be used or is regularly used by one or more Persons to

receive a service, wait to receive a service, or to make a transaction, whether or not such service or transaction includes the exchange of money. The term “Service Area” includes but is not limited to areas including or adjacent to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines, or cab stands.

(~~yp~~) “Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition, or vaporization, when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproducts, except when the combusting or vaporizing material contains no tobacco or nicotine *and* the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “Smoke” includes, but is not limited to, tobacco smoke, Electronic Smoking Device vapors, marijuana smoke, and crack cocaine smoke.

(~~wq~~) “Smoking” means inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, Electronic Smoking Device, or any plant product intended for human inhalation.

(~~xr~~) “Tobacco Product” means:

(1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether Smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and

(2) Any Electronic Smoking Device (including, but not limited to Vape pens).

(3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory of a Tobacco Product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(~~ys~~) “Unenclosed Area” means any area that is not an Enclosed Area.

(~~zt~~) ——— “Unit” means a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use Enclosed Area or Unenclosed Area, such as, for example, a private balcony, porch, deck, or patio. “Unit” includes but is not limited to an apartment; a condominium; a townhouse; a room in a long-term health care facility, assisted living facility, or hospital; a hotel or motel room; a room in



a single room occupancy (“SRO”) facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent; a single-family home; and an in-law or second unit.

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(AA) “Vape” means to inhale vapor through the mouth from a usually battery powered-operated electronic device that heats up and vaporizes a liquid or solid.

**Sec. \_\_\_\_ (\*2). PROHIBITION OF SMOKING AND TOBACCO PRODUCT USE IN ENCLOSED PLACES**

- (a) Smoking and the use of Tobacco Products is prohibited in the Enclosed Areas of the following places within the City of Palm Springs:
  - (1) Places of Employment;
  - (2) Other Businesses that have a common or shared air space with an Enclosed Area in which smoking is prohibited by law, such as, without limitation, openings, cracks, air ventilation systems, doorways, hallways, and stairways. Notwithstanding any other provision, the fact that Smoke enters one Enclosed Area from another Enclosed Area is conclusive proof that the areas share a common or shared air space;
  - (3) Public Places; and
  - (4) Common Areas of Multi-Unit Residences.
- (b) Smoking and the use of Tobacco Products is prohibited by this article in all Enclosed Areas exempted by the California smoke-free workplace law (Labor Code section 6404.5(d), as that section may be amended from time to time) except as provided below.
  - (1) Smoking is not restricted by this subsection in up to ten percent (10%) of guestroom accommodations in a hotel, motel, or similar transient lodging establishment that meets the requirements of California Civil Code section 1940(b)(2) if the hotel or motel permanently designates particular guestrooms as nonsmoking rooms such that ninety percent (90%) or more of guestrooms are permanently nonsmoking and ashtrays and matches are permanently removed from such nonsmoking rooms. Permanent “No Smoking” signage shall be placed in nonsmoking guestrooms.
  - (2) Smoking inside a Tobacco Shop is not prohibited by this subsection if: (a) the Tobacco Shop does not sell edible products, including, for example, food, water, or drinks, or allow such products to be consumed on the premises; (b) the Tobacco Shop

prohibits minors from entering the store at all times; and (c) the premises of the Tobacco Shop is an independent freestanding building unattached to any other building, establishment, or use. For the purposes of this exception, "Tobacco Shop" means any tobacco retailer that derives more than seventy-five percent (75%) of gross sales receipts from the sale or exchange of Tobacco Products and tobacco paraphernalia.

- (3) Smoking in a theatrical production by the actors is not prohibited by this subsection if Smoking is an integral part of the story and the use of a fake, prop, or special effect cannot reasonably convey the idea of Smoking in an effective way to a reasonable member of the anticipated audience.

**Sec. \_\_\_\_ (\*3). PROHIBITION OF SMOKING AND TOBACCO PRODUCT USE IN UNENCLOSED AREAS**

- (a) Smoking and the use of Tobacco Products is prohibited in the Unenclosed Areas of the following places within the City of Palm Springs:
  - (1) Recreational Areas;
  - (2) Service Areas;
  - (3) Dining Areas;
  - (4) Places of Employment;
  - (5) Common Areas of Multi-Unit Residences provided, however, that a Person with legal control over a Common Area may designate a portion of the Unenclosed Area of the Common Area as a designated Smoking area if the area meets all of the following criteria:
    - (i) the area must be located a Reasonable Distance from any Unit or Enclosed Area where Smoking is prohibited by this article or other law; by binding agreement relating to the ownership, occupancy, or use of real property; or by designation of a Person with legal control over the property. In the case of a nonsmoking area created by agreement or designation, this provision does not apply unless the Person designating the Smoking area has actual knowledge of, or has been given notice of, the agreement or designation. A Person with legal control over a designated Smoking area may be obliged to modify, relocate, or eliminate that

as laws change, as binding agreements are created, and as nonsmoking areas on neighboring property are established;

- (ii) the area must not include, and must be a Reasonable Distance from, Unenclosed Areas primarily used by children and Unenclosed Areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, swimming pools, school campuses, and sandboxes;
- (iii) the area must be no more than ten percent (10%) of the total Unenclosed Area of the Multi-Unit Residence for which it is designated;
- (iv) the area must have a clearly marked perimeter;
- (v) the area must be identified by conspicuous signs;
- (vi) the area must be completely within an Unenclosed Area; and
- (vii) the area must not overlap with any Enclosed or Unenclosed Area in which Smoking is otherwise prohibited by this article or other provisions of this Code, state law, or federal law; and

(6) Common Areas of Home Owner Associations, Planned Urban Developments, and Common Interest Community Spaces; and

(7) Other Public Places, when being used for a public event, including but not limited to a farmers' market, parade, craft fair, festival, or any other event open to the general public.

- (b) Nothing in this article prohibits any Person, Employer, or Nonprofit Entity with legal control over any property from prohibiting Smoking and Tobacco Product use on any part of such property, even if Smoking or the use of Tobacco Products is not otherwise prohibited in that area.
- (c) The Director of Community and Economic Development or his/her designee shall conduct an ongoing educational program to explain and clarify the purposes and requirements of this article, as well as to provide guidance to Persons, Employers, and Nonprofit Entities about compliance. However, lack of such education shall not be a defense to a violation of this article.

**Sec. \_\_\_\_ (\*4). REASONABLE SMOKING DISTANCE REQUIRED**

- (a) Smoking in all Unenclosed Areas shall be prohibited within a Reasonable Distance from any doorway, window, opening, crack, or vent into an Enclosed Area in which Smoking is prohibited.
- (b) Smoking in Unenclosed Areas shall be prohibited within a Reasonable Distance from any Unenclosed Areas in which Smoking is prohibited under Sec. \_\_\_\_ (\*3) of this article.
- (c) The prohibitions in subdivisions (a) and (b) shall not apply to Unenclosed Areas of private residential properties that are not Multi-Unit Residences.

**Sec. \_\_\_\_ (\*5). OTHER REQUIREMENTS AND PROHIBITIONS**

- (a) No Person, Employer, or Nonprofit Entity shall knowingly permit Smoking or the use of Tobacco Products in an area which is under the legal or de facto control of that Person, Employer, or Nonprofit Entity and in which Smoking or the use of Tobacco Products is prohibited by law.
- (b) No Person, Employer, or Nonprofit Entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as, for example, ash trays or ash cans, within an area under the legal or de facto control of that Person, Employer, or Nonprofit Entity and in which Smoking or the use of Tobacco Products is prohibited by law, including, without limitation, within a Reasonable Distance required by this article from any area in which Smoking or the use of Tobacco Products is prohibited.  
Notwithstanding the foregoing, the presence of ash receptacles in violation of this subsection shall not be a defense to a charge of Smoking or the use of Tobacco Products in violation of any provision of this article.
- (c) No Person shall dispose of used Smoking or Tobacco Product waste within the boundaries of an area in which Smoking or Tobacco Product use is prohibited, including within any Reasonable Distance required by this article.
- (d) A Person, Employer, or Nonprofit Entity that has legal or de facto control of an area in which Smoking and the use of Tobacco Products is prohibited by this article shall post a clear, conspicuous and unambiguous “No Smoking” and “No Use of Tobacco Products” or “Smoke-free” and “Tobacco-Free” sign at each point of ingress to the area, and in at least one other conspicuous point within the area. The signs shall have letters of no less

than one inch in height and shall include the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it). Signs shall also indicate the maximum fines allowable. Signs posted on the exterior of buildings to comply with this section shall include the Reasonable Distance requirement set forth in Sec. \_\_\_\_ (\*4). At least one sign with the City of Palm Springs phone number to which complaints can be directed must be placed conspicuously in each place in which Smoking is prohibited. For purposes of this section, the City Manager or his / her designee shall be responsible for the posting of signs in regulated facilities owned or leased in whole or in part by the City of Palm Springs. Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of Smoking or the use of Tobacco Products in violation of any other provision of this article.

- (e) No Person, Employer, or Nonprofit Entity shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another Person who seeks to attain compliance with this article.
- (f) Each instance of Smoking or Tobacco Product use in violation of this article shall constitute a separate violation. For violations other than for Smoking, each day of a continuing violation of this article shall constitute a separate violation.

**Sec. \_\_\_\_ (\*6). PENALTIES AND ENFORCEMENT.**

- ~~(a)~~ (a) The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.
- (b) It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to refuse to comply with any of its provisions, or to permit any Employee or Patron to violate this chapter.
- (c) It shall be unlawful for any person to Smoke in any area where smoking is prohibited under this chapter.
- (b) Each incident of Smoking or use of Tobacco Products in violation of this article is an infraction subject to a fine of up to five hundred dollars (\$500) and/or up to twenty-five (25) hours of monitored community service work or completion of a smoking cessation program or otherwise punishable pursuant to section \_\_\_\_ of this code. Other violations of this article may, at the discretion of the City Attorney, be prosecuted as infractions or misdemeanors when the interests of justice so require. Enforcement of this chapter shall be the responsibility of the City Attorney. In addition, any peace officer or code enforcement official also may enforce this chapter.

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- (c) Violations of this article are subject to \_\_\_\_\_ ~~a civil action~~ brought by the City of Palm Springs, punishable by a civil fine not exceeding five hundred dollars (\$500) per violation and/or up to twenty-five (25) hours of monitored community service work or completion of a smoking cessation program.
- (d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this article shall also constitute a violation of this article.
- (e) Any violation of this article is hereby declared to be a nuisance.
- (f) In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.
- (g) Any Person acting for the interests of itself, its members, or the general public (hereinafter "Private Enforcer") may bring a civil action in any court of competent jurisdiction, including small claims court, to enforce this article against any Person who has violated this article two or more times. Upon proof of the violations, a court shall grant all appropriate relief, including: (1) awarding damages; and (2) issuing an injunction or a conditional judgment. If there is insufficient or no proof of actual damages for a specific violation, the court shall award one-hundred and fifty dollars (\$150) for each violation as statutory damages.
- (h) Notwithstanding any other provision of this article, a Private Enforcer may bring a civil action to enforce this article only if the following requirements are met:
- (1) The Private Enforcer's civil action is begun more than sixty (60) days after the Private Enforcer has given written notice of the alleged violations of this article to the City Attorney and to the alleged violator; and
  - (2) On the date the Private Enforcer's civil action is filed, no other Person acting on behalf of the City of Palm Springs or the state has commenced or is prosecuting an administrative, civil, or criminal action based upon, in whole or in part, any violation which was the subject of the Private Enforcer's notice; and
  - (3) A Private Enforcer shall provide a copy of his, her, or its action to the City Attorney within seven (7) days of filing it.

(i) Upon a settlement or judgment based upon, in whole or in part, any violation that was the subject of the Private Enforcer’s notice, the Private Enforcer shall give the City Attorney notice of the settlement or judgment and final disposition of the case within thirty (30) days of the date of the settlement or judgment. No settlement by a Private Enforcer of a violation of this article shall be valid or enforceable if, within thirty (30) days of receiving notice of the settlement, the City Attorney determines the settlement to be unreasonable in light of the purposes of this article. Any settlement or judgment that does not meet the requirements of this subsection may be set aside upon motion to a court of competent jurisdiction by the City Attorney.

(j) Except as otherwise provided, enforcement of this article is at the sole discretion of the City. Nothing in this article shall create a right of action in any Person against the City or its agents to compel public enforcement of this article against private parties.

**Sec. \_\_\_\_ (\*7). OTHER LAWS.**

It is not the intention of this article to regulate any conduct where the regulation of such conduct has been preempted by the State of California.

**SECTION III. STATUTORY CONSTRUCTION & SEVERABILITY**

It is the intent of the City Council of the City of Palm Springs, California, to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or its application to any Person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this ordinance, or its application to any other Person or circumstance. The City Council of the City of Palm Springs, California, hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof independently, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

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