

# HUMAN RIGHTS COMMISSION CITY OF PALM SPRINGS, CALIFORNIA

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

## AGENDA

Monday  
June 14, 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/89816761367?pwd=Qy84WmRzTHRGZW5aeFJKa1o2R0pVZz09>

or call (669) 900-6833 **Zoom Meeting ID 898 1676 1367, Passcode: 160675**

- 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 and Lilly Hanner

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. GUEST: CITY MANAGER JUSTIN CLIFTON**

**8. RECOGNITION:**

- A. World Refugee Day
- B. United Nations Public Service Day
- C. Human Rights Commission June Pride Month Proclamation

**9. APPROVAL OF MINUTES:** February 8, 2021, March 8, 2021, April 12, 2021 and May 5, 2021

**10. ITEMS FOR DISCUSSION/ACTION:**

A. Committees – Chair deHarte and Vice Chair Chappell

Executive Committee (deHarte, Vice Chair)

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, Hanner)

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. General Plan Vision and Priorities Update

E. 2021-2022 Chair and Vice Chair Selection Update

F. Commissioner, Staff, and Student Comments

G. Topical Newsworthy Items

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

**12. ANNOUNCEMENTS:**

**13. ADJOURNMENT:** The Commission will adjourn to an adjourned regular meeting Monday, July 12, 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., June 10, 2021, and posted on the City's website as required by established policies and procedures.

/S/ Jay Virata \_\_\_\_\_

Jay Virata

Community & Economic Development

# Human Rights Commission CITY OF PALM SPRINGS, CALIFORNIA



FOR APPROVAL

## MINUTES Regular Meeting Monday, February 8, 2021 Virtual Zoom Meeting

FY 2020/2021

COMMISSIONER	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Terri Andrade	X		X	E	X	E	X	X				
Denise Chappell, Vice Chair	X		X	X	X	X	X	X				
Ron deHarte, Chair	X		X	X	X	X	X	X				
Glenn Flood	X		X	X	X	X	X	X				
Edwin Ramoran	X		X	X	X	X	X	X				
Donna Shepherd	X		X	X	X	U	E	X				
Ella Cash, Student Rep.					X	X	X	X				

X = Present  
E = Excused Absence  
U = Unexcused Absence  
R = Resigned

Other Staff Present:  
Mayor Holstege  
Councilmembers Kors, Woods and Garner  
Jay Virata, Community and Economic Development Director

1. **CALL TO ORDER:** Chair deHarte called the meeting to order at 5:31 P.M.
2. **QUORUM:** Present.
3. **PUBLIC COMMENTS:**
  - Captain Scott Grazer, Third Vice President, Palm Springs American Legion - Introduced Lee C. Wilson Jr. a 12-year combat Veteran from the U.S. Marine Corps (1981-1993). He served 2-years in the Peace Corps and currently teaches at Cathedral City High School since 1997 and volunteers his time at the American Legion as historian.
  - Councilmember Kors - Extended his congratulations to all the honorees. It was great to see so many people including past honorees coming out to support the Human Rights Commission's work.
  - David Vignolo - Requested that the Chair report on the Commission's vacant seats update/recruitment process in the next upcoming meeting for the community.
4. **RECOGNITION: Black History Month**
  - Commissioner Andrade in the commemoration of February being Black History Month in the United States, a brief timeline of highlighted achievements and events from all periods of African-American history in local and U.S. history was recognized.
  - Chair deHarte gave special appreciation to Jarvis Crawford and the Board of Directors of the Palm Springs Black History Committee. They organized a Caravan through the local African American history event on February 27, 2021. More information can be found at [www.palmspringsblackhistory.org](http://www.palmspringsblackhistory.org). He further recognized the first Chair and founding members of the Palm Springs Human Rights Commission, Ron Oden and highlighted his achievements.
5. **PROGRAM:**  
**Ron deHarte, Chair**
  - Chair deHarte – Started the virtual program presentation and announced a welcome from Mayor Holstege.

**Welcome – Christy Holstege, Mayor**

- Mayor Holstege – Welcomed everyone to the Palm Springs Human Rights Commission Annual Community Service Awards and noted the 100 people on Zoom showing support to the recipients. She thanked each honoree who she knew personally, for changing the face of the city and doing incredible work for the community. Mayor Holstege urged everyone to continue to support the Human Rights Commission and get involved in Human Rights here in Palm Springs.
- Chair deHarte - special recognition was given to Councilmembers Kors and Garner, as guests in attendance. Also recognized were members of the Commission, Student Representative and Staff members Virata and Rodriguez. Chair deHarte stated the Human Rights Commission would like to acknowledge that the land they live on and work in is original homelands of the Agua Caliente Band of Cahuilla Indians, who have stewarded the land throughout generations and will continue for all future generations. Marking the 28<sup>th</sup> Anniversary of the Commission, a short video presentation followed.

#### **Performance – Miss Claudette Bradley, piano**

- [Music Playing] The program proceeded with a performance on the piano by Miss Claudette Bradley playing from the Palm Springs American Legion Owen Kaufman Post 519. It was noted that the Girl Scouts of America to the American Legion donated the Steinway Piano in 1948.

#### **Presentation of Community Service Awards –**

- Chair deHarte spoke on the role of the Human Rights Commission since it was established 28 years ago, highlighting areas of the Commission's focus over the years. The 2021 Community Service Awards honorees were introduced as extraordinary individuals and organizations who have made outstanding contributions in the community and are the heart of the community.
- Commissioner Ramoran introduced the first Community Service Award by sharing a biography of honoree **FIND Food Bank**. FIND Food Bank is recognized for their extraordinary effort to address food insecurity and provide individuals and families with healthy nutritious food resources, strengthening stability and quality of lives. FIND Food Bank is serving 190,000 individuals monthly since COVID 19 pandemic. FIND Food bank is the only honoree to be recognized twice by the City of Palm Springs Human Rights Commission. Debbie Espinoza, President of Find Food Bank provided an acceptance speech and accepted the award via virtual plaque hand off.
- Chair deHarte announced guest Councilmember Woods joining the program today.
- Student Representative Cash introduced second honoree, **Young Justice Advocates, Arali Galvez, Hina Marie Malik and Jazlina Morgan**. The three young adults organized a peaceful protest in Palm Springs Ruth Hardy Park to speak out against the killings of George Floyd and racial inequality. Their youth-driven movement empowers many as they continue working towards raising awareness of systemic inequality; giving a voice to those who cannot speak for themselves and organizing events including Juneteenth celebration. Arali Galvez, Hina Marie Malik and Jazlina Morgan each provided an acceptance speech and accepted the award via virtual plaque hand off.
- Commissioner Shepherd introduced a biography of third honoree **David Powell**, who is recognized for making a difference in helping others and enhancing the Palm Springs community experience through volunteerism. He serves on numerous committees and volunteers at dozens of events/organizations. He is the first to roll up his sleeves and volunteer while encouraging others to be involved and engaged in community service. David Powell provided an acceptance speech and accepted the award via virtual plaque hand off.
- Vice Chair Chappell introduced award recipient **Jane Garrison**, President and Founder of Save Oswit Canyon, is recognized for her leadership and environmental movement efforts to preserving natural resources. Her ambition inspired hundreds of volunteers and supporters. Her determination forever saved Oswit Canyon for future generations by enhancing the quality of life as a protected open space for wildlife and accessible open space for local residents and visitors. Jane Garrison provided an acceptance speech and accepted the award via virtual plaque hand off.
- Commissioner Flood presented a biography of fifth award recipient **Lee C. Wilson Jr.** and thanked Captain Grazer for introducing an excellent background of Mr. Wilson during public comment. Lee C. Wilson Jr. is recognized for his commitment and efforts in the community, education, military and honoring fallen military service men and service women who fought for the Country's rights and freedom. He created the Fallen Heroes Project banners displayed prominently at the Palm Springs Air Museum, commemorating the sacrifice of 27 local individuals serving in conflicts where the United States has deployed troops. Lee C. Wilson Jr. provided an acceptance speech and accepted the award via virtual plaque hand off.
- Commissioner Andrade introduced a biography of the last Community Service Award recognizing singer and humanitarian **Keisha D. Mimms**. Keisha has been giving back to the communities in the Coachella Valley since 2004. Her passion and commitment to entertain by participating in virtual concerts and fundraising events for others welfare, and willingness to help has inspired many and strengthened the community. When

not on stage she is mentoring students. She created the Kiesha D Scholarship Fund for underserved minority students who are interested in pursuing an education in music and performing arts. Keisha D. Mimms provided an acceptance speech and accepted the award via virtual plaque hand off.

**Performance –** [Music Playing] Miss Claudette Bradley, proceeded performing with the closing song.

- Chair deHarte - Concluded the program with closing remarks on protecting human rights and ensuring fundamental rights are realized for all. On behalf of the Commission, Chair deHarte thanked all of the Honorees and the audience for their support. Special thanks was given to Staff Liaison Virata and assistant Rodriguez for their service to the Commission throughout the year. The awards program concluded and the meeting proceeded with the next agenda item.

6. **ACTION ITEM:** Support of City Council to uphold Universal Human Rights Standards

- Chair deHarte - Presented the following two draft resolutions supporting and implementing international human rights locally: 1) In support of Council Action of January 26, 2021 2) Mandating Public Funds Not Be Used To Support Enterprises Benefitting From a Country that Disregards Human Rights And Violates International Humanitarian Laws. Background information to the proposed resolutions was referenced in their Agenda packet. The floor was opened for discussion. The following comments and motions were made:

**DISCUSSION:**

- Commissioner Flood spoke In support of the resolution.
- **MOTION:** BY COMMISSIONER ANDRADE, SECOND BY COMMISSIONER SHEPHERD IN SUPPORT OF CITY COUNCIL ACTION OF JANUARY 26, 2021. THE HUMAN RIGHTS COMMISSION ENCOURAGES THE INTEGRATION OF HUMAN RIGHTS PRINCIPLES OF THE DIGNITY AND EQUALITY INTO LOCAL POLICY AND SUPPORT THE PALM SPRINGS CITY COUNCIL ACTION ON JANUARY 26, 2021 TO NOT FINANCIALLY SUPPORT AN ENTITY THAT PROFITS FROM A COUNTRY CONDEMNED FOR HUMAN RIGHTS ABUSES AND VIOLATIONS OF INTERNATIONAL HUMAN LAW. MOTION CARRIED UNANIMOUSLY.

**DISCUSSION:**

- Chair deHarte in response to Commissioner Ramoran's inquiry, clarified the action being taken with supporting City Council action of January 26, 2021. In addition, the Human Rights Commission is taking action with endorsing and submitting a specific recommendation to City Council to incorporate the human rights principles and to not use public funds to support enterprises benefiting from a country that disregards human rights and violates international humanitarian laws. Council has not yet discussed recommendation
- Commissioner Ramoran commented being in favor of the draft resolution to uphold universal recognition of human rights. He would like to see the same the urgency be given to uphold local impact of human rights and identified Section 14 and putting that on the forefront when thinking about the urgency of things in Palm Springs.
- Chair deHarte thanked Commissioner Ramoran for his comments. He identified that the City established the Equity and Social Justice Committee that Commissioner Ramoran and another member of the Commission will serve on. The Commission expects that he will be the voice and contribute on that committee to raise the issues with all our neighborhoods and look forward to action coming down the road. He further reaffirmed the purpose of the second resolution and the use of public funds.
- **MOTION:** BY VICE CHAIR CHAPPELL, SECOND BY COMMISSIONER FLOOD TO CALL ON THE CITY OF PALM SPRINGS CITY COUNCIL TO MANDATE PUBLIC FUNDS NOT BE USED TO SUPPORT ENTERPRISES BENEFITING FROM COUNTRIES THE DISREGARD HUMAN RIGHTS AND VIOLATE INTERNATIONAL HUMANITARIAN LAWS. MOTION PASSED UNANIMOUSLY.

7. **ADJOURNMENT:** The Commission adjourned in memory of the 100 Palm Springs City Residents who have lost their lives due to COVID-19. The Commission sends their condolences to all the families and friends who knew them. The Commission adjourned at 7:00 P.M. to a Regular Meeting on Monday, March 8, 2021 at 5:30 P.M. via teleconference.

Respectfully submitted,

Annie Rodriguez  
Housing Program Assistant

# Human Rights Commission CITY OF PALM SPRINGS, CALIFORNIA



FOR APPROVAL

## MINUTES Regular Meeting

Monday, March 8, 2021  
Virtual Zoom Meeting

FY 2020/2021

COMMISSIONER	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Terri Andrade	X		X	E	X	E	X	X	X			
Denise Chappell, Vice Chair	X		X	X	X	X	X	X	E			
Ron deHarte, Chair	X		X	X	X	X	X	X	X			
Glenn Flood	X		X	X	X	X	X	X	X			
Edwin Ramoran	X		X	X	X	X	X	X	X			
Donna Shepherd	X		X	X	X	U	E	X	X			
Ella Cash, Student Rep.					X	X	X	X	X			

X = Present  
E = Excused Absence  
U = Unexcused Absence  
R = Resigned

Other Staff Present:  
Councilmember Geoff Kors  
Jay Virata, Community and Economic Development Director

1. **CALL TO ORDER:**
  - Chair deHarte called the meeting to order at 5:31 P.M.
2. **ROLL CALL:**
  - Director Virata proceeded with roll call. Absent from the meeting was Vice Chair Chappell, and from the roll call was Commissioner Flood.
3. **MISSION STATEMENT & GOALS:** Commissioner Shepherd read the Mission Statement.
4. **QUORUM:** YES
5. **PUBLIC COMMENTS:** None.
6. **APPROVAL OF MINTUES:** December 14, 2020 and January 11, 2021  
**MOTION:** BY COMMISSIONER SHEPHERD, SECOND BY COMMISSIONER RAMORAN TO APPROVE THE MINUTES AS PRESENTED. MOTION CARRIED UNANIMOUSLY.
7. **CHAIR COMMENTS:**
  - Chair deHarte commented on the increase of violent hate crime incidents on the rise towards Asian American Pacific Islander (AAPI) community. He called on the local community to stand in solidarity with the Human Rights Commission and other AAPI advocates in condemning those who commit anti-Asian violence and to be vigilant, and watch out for your neighbors. [Stopaapihate.org](http://Stopaapihate.org) was identified as an aggregator website for the community.
8. **ITEMS FOR DISCUSSION/ACTION:**
  - A. Committees – Chair deHarte and Vice Chair Chappell



**Executive Committee (deHarte, Vice Chair)**

- Chair deHarte - Identified the dates of significance being acknowledged by the Commission for the month of March. Dates observed are referenced below with the Committee's report:
- a. **March 1 – Zero Discrimination Day**
    - A brief background presentation was made. This day aims to promote equality and combat discrimination and inequalities against income, sex, age, health status, occupation, disability, sexual orientation, drug use, gender identity, race, class ethnicity and religion.
  - b. **Section 14 Apology**
    - Guest Councilmember Kors presented and gave a background presentation on the draft apology he had requested last year for the City's actions on Section 14. The draft document titled "City of Palm Springs Apology for its Role in the Destruction of Section 14" was read aloud. Key points were shared. He hopes the apology will be displayed in all City buildings. Commissioner comments and suggestions were encouraged on the draft document presented.
    - Chair deHarte – read a draft resolution to proceed with Commission endorsement on the Section 14 Apology.
    - **MOTION BY:** EXECUTIVE COMMITTEE, SECOND BY COUNCILMEMBER RAMORAN TO SUPPORT THE RECOMMENDED RESOLUTION FORWARD AND ENCOURAGE CITY COUNCIL ADOPTION. THE FLOOR OPENED FOR DISCUSSION
    - **DISCUSSION:** Comments and questions ensued among the Commission and Councilmember Kors that included but were not limited to being in favor of the overdue apology, paying reparations to families who suffered from the incident, Establishment of a Social Equity and Justice Committee, assist in eliminating blight in neighborhoods affected, Conservators, City's annexation history, Mayor Kleindienst letter of acknowledgment regarding Section 14, Uniform Relocation Act, Black History Committee's Caravan, Crawford Family Legacy, City communication with the Agua Caliente Band of Cahuilla Indians, and identifying anecdotes not recorded by the tribe or City to add to the historical society's records.
    - **VOTE:** CHAIR DEHARTE CALLED FOR A VOTE TO ENDORSE THE MOTION AS STATED. MOTION CARRIED UNANIMOUSLY.
    - Chair deHarte thanked the Commission for all their comments and contributions; and Councilmember Kors for taking initiative on the apology.
    - Councilmember Kors requested that the resolutions made by the Commission be scheduled for the City Council's Consent Calendar.
  - c. **International Women's Day Resolution –**
    - Chair deHarte indicated today was International Women's Day. The day represents the contributions that Women have made all around the world. A draft resolution was presented requesting City Council support and declaring International Women's month in the City of Palm Springs.
    - **MOTION:** BY COMMISSIONER ANDRADE, SECOND BY COMMISSIONER FLOOD TO ADOPT THE DRAFT RESOLUTION: INTERNATIONAL WOMEN'S MONTH IN PALM SPRINGS AS PRESENTED AND MOVE FORWARD TO CITY COUNCIL FOR SUPPORT. MOTION PASSED UNANIMOUSLY.
  - d. **Lawrence Crossley Road –**
    - Chair deHarte reported Lawrence Crossley was a respected leader, entrepreneur and first African American resident of Palm Springs who made a significant impact on the City's evolution. The full road name change from Crossley Road to Lawrence Crossley Road has been completed to give deserved recognition, and respect to Mr. Crossley.
  - e. **April 7th - World Health Day –**
    - The Commission will not meet before April 7<sup>th</sup> occurs, therefore background of World Health Day celebration was shared by Chair deHarte. The Commission highlighted the work of those working in the healthcare field in Palm Springs and asks the public to celebrate this workforce.

- a. PSPD LGBT Outreach Committee (deHarte) –
  - Chair deHarte - The Committee has been organizing the town hall scheduled for March 30, 2021 via Zoom with the Palm Spring Police Department. The Annual Report Statistics on hate crime for 2020 to February 2021 was shared.
- b. Master Calendar (Ramoran)
  - Commissioner Ramoran – Reported he would be working on the master calendar to reflect the national and international observances. In addition to the days of awareness already announced he gave acknowledgement to March 21 International Day for the Elimination of Racial Discrimination, March 22 World Water Day, April 7 World Health Day, April 15 National American Sign Language Day. It was noted that he would like the Commission to observe April 15 National ASL Day and the community calendar.
  - Chair deHarte stated the Commission had voted and adopted days of awareness/distinction a couple years ago. They would provide Commissioner Ramoran with these specific dates and any updates made when working on the Master Calendar.
  - Commissioner Andrade – Indicated the dates adopted by the Commission were United Nations Observances. If Commissioner Ramoran has observances he would like recognized by other groups, those may need to be added and might require an action by the Commission.
- c. Main Street (deHarte)
  - Chair deHarte – Reported the meeting was spent discussing ‘hero pay’ that was brought forward by our Mayor. The City Council is continuing to address that topic and is moving forward.
- d. Finance (deHarte, Chappell) No Report.
- e. Organized Neighborhoods of Palm Springs No Report.

#### Cultural Affairs Committee

- a. Community Service Awards (deHarte, Chappell)
  - Chair deHarte – Thanked all the Commissioners for their role in the Community Service Awards. They were able to successfully honor and recognize the individuals with true distinction.
- b. Desert Highland Gateway Estates Community Association (Andrade, Flood, Shepherd) No Report.

#### Seniors/People with Disabilities Veterans Affairs Committee

- a. Veterans issues (Flood)
  - Commissioner Flood – Announced President Biden has reversed the Transgender Military Ban.
  - Chair deHarte – The First Lady Jill Biden will be visiting Twenty-nine Palms.

#### Youth/Education Affairs Committee

- a. Student Representatives (Chappell, Cash)
  - Student Representative Cash – For International Women’s Day, Facebook’s company platform posted a video recognizing woman who were working for women’s rights and had organized online events through their platform. Arali Galez, Young Justice Advocates was recognized in that video.
  - Commissioner Shepherd requested any updates on the incident Student Representative Cash and her family encountered with a Palm Springs police officer. There were no new investigation updates. The police department assured the Commission that they would be informed when findings are determined.

#### Commission Development/Mediation Committee

- a. Mediation (Andrade)
  - Commissioner Andrade – Reported that she, Commissioner Ramoran and Flood began a 24-hour mediation program to become certified mediators. Riverside County Community Action Partnership organizes the free program. A commitment was made to be available to the County for that service in addition to serving as mediators on the Commission.
  - Commissioner Flood – Commented that the training is intense and worthwhile.
  - Commissioner Ramoran – Commented positively on the instructors and program.
  - Chair deHarte - Great news! Thanked Commissioners Andrade, Flood and Ramoran for making a big commitment and thanked Director Virata for keeping an eye out on the topic.

- b. Retreat (Chappell, deHarte)
  - Chair deHarte – Reported the committee discussed doing another zoom onboarding call for anyone who would like to join a 45min to 1hour refresher course, to be presented in the next 6weeks or so.

B. Committee Assignments

- a. Clean Indoor Air and Health Protection Draft Ordinance with Sustainability Commission Update
  - Commissioner Ramoran – Stated the committee is still working on the draft stage level. The draft that went before the Sustainability Commission did not pass the vote for approval. They will be looking at preparing another draft for review. It was noted that it was a very tight vote.
- b. Street naming update
  - Commissioner Ramoran –Requested help from fellow commissioners who may be interested in joining him on this committee. Commissioner Shepherd who also serves on the Equity and Social Justice Committee with Commissioner Ramoran volunteered to serve.
  - A brief discussion was initiated by Commissioner Andrade regarding expiring Commissioner Terms and council interview process.

C. **COMMISSIONER, STAFF AND STUDENT COMMENTS:**

- A discussion initiated by Commissioner Andrade ensued among the Commission regarding the increase of homelessness being marketed in Palm Springs by the news and social media. The Commission directed Director Virata to determine whom best to invite to present a report to the Commission on the current situation, and the 10-million-dollar funding to help increase transparency. Director Virata stated homelessness is on the City Council Agenda for this Thursday and suggested that they tune-in to hear the report on what happening from all the parties that work with the homeless in Palm Springs.

D. Topical Newsworthy Items

- Commissioner Ramoran – Thanked Commissioner Andrade and Flood for bringing up the subject matter on homelessness; gave appreciation to Chair deHarte for prioritizing and having the Stop AAPI information available; is working with the Filipino community and the Asian Pacific American Labor Alliance on a resolution to bring forward to the city; encouraged everyone to follow #choosetochallenge for international women’s day on social media; and commented on County Board of Supervisors agenda item on a resolution being presented in support of removing involuntary servitude for the incarcerated

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

- Commissioner Shepherd – Volunteered to be the new executive committee representative for the next quarter April, May, June).

10. **ANNOUNCEMENTS: NONE.**

11. **ADJOURNMENT:** The Commission adjourned at 6:46p.m to the next regular meeting regular meeting Monday, April 12, 2021 at 5:30p.m.

Respectfully submitted,

Annie Rodriguez  
Housing Program Assistant

# Human Rights Commission CITY OF PALM SPRINGS, CALIFORNIA



FOR APPROVAL

## MINUTES Regular Meeting

Monday, April 12, 2021  
Virtual Zoom Meeting

FY 2020/2021

COMMISSIONER	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Terri Andrade	X		X	E	X	E	X	X	X	X		
Denise Chappell, Vice Chair	X		X	X	X	X	X	X	E	X		
Ron deHarte, Chair	X		X	X	X	X	X	X	X	X		
Glenn Flood	X		X	X	X	X	X	X	X	X		
Edwin Ramoran	X		X	X	X	X	X	X	X	X		
Donna Shepherd	X		X	X	X	U	E	X	X	X		
Ella Cash, Student Rep.					X	X	X	X	X	X		

X = Present  
E = Excused Absence  
U = Unexcused Absence  
R = Resigned

Other Staff Present:  
Councilmember Geoff Kors  
Jay Virata, Community and Economic Development Director reallocated

1. **CALL TO ORDER:** Chair deHarte called the meeting to order at 5:34P.M.
2. **ROLL CALL:** Director Virata proceeded with roll call; Commissioner Shepherd arrived at 5:35pm.
3. **MISSION STATEMENT & GOALS:** The mission statement was read aloud by Vice Chair Chappell.
4. **QUORUM:** YES.
5. **PUBLIC COMMENTS:** The following public comments were received related to Agenda Item.7A.A Frank Bogert Statue Recommendation. The following individuals spoke **in support** of a recommendation to relocate and/or remove Frank Bogert Statue:
  - Ginny Foat
  - Janel Hunt
  - Jody Diaz
  - Lilly Hanner
  - David Weiner

The following public comments were received related to Agenda Item.7A.A Frank Bogert Statue Recommendation. The following individuals spoke **in opposition** of a recommendation to relocate and/or remove Frank Bogert Statue:

- Susan Smith
- Sue Lefevre
- Tom Kiley
- Doug Evens

There being no one else desiring to speak, Chair deHarte closed Public Comment.

**6. CHAIR COMMENTS:**

- In place of Chair Comments, Chair deHarte asked Commissioner Andrade to share a remembrance of the passing of Former Commissioner Jim Gross. For anyone wishing to donate in his memory, the Well in the Desert and the Dhamma Dena Meditation Center in Joshua Tree was identified as dear to Jim's heart.
- Chair deHarte announced two new Commissioners will be joining the Commission starting July 1, 2021; another member will be discussed during the Youth/Education Affairs Committee

**7. ITEMS FOR DISCUSSION/ACTION:**

**A. Committees – Chair deHarte and Vice Chair Chappell**

**Executive Committee (deHarte, Vice Chair, Shepherd)**

- a. Frank Bogert Statue Recommendation
  - Chair deHarte reported the agenda item is being brought forward by the Executive Committee and is an opportunity to discuss and bring forward the subject that this body first addressed 55 years ago and occurred 8 months after Frank Bogart resigned as Mayor of Palm Springs. He noted the conversation today is going to center on the monument of Frank Bogart. The following recommendation came out of Committee:
  - **MOTION:** By Executive Committee, Second By Commissioner Flood to bringing the proposed Resolution on the Frank Bogert monument to the Commission for discussion. **MOTION CARRIED UNANIMOUSLY.**
  - Guest Councilmember Kors thanked the Commission for the warm remembrance of Jim Gross. He acknowledged former Councilmember Foat, Claire Lucas, Chairman deHarte and himself as authors of the draft resolution. An invitation was extended to the Commission to join a Special Meeting with City Council on May 20, 2021 at 5:30pm. It would be a joint presentation on the history of Section 14, and to make final decisions on the matters related to Section 14. Councilmember Garner and he had requested the Special Meeting, The public will have the opportunity to comment with advance notice as required by law. In response to public comments heard regarding "cancel culture", he stated the proposed resolution would be cancelling celebrating Frank Bogert as the only person acknowledged with a monument in front of their Government building and is taking into account the pain that residents who were negatively impacted, feel every time they come to City Hall to see him celebrated.
  - Chair deHarte commented on the preparation of the draft 309-page Commission Report and noted Section 14 is the first issue that came before the Human Relations Commission 55 years ago and is still being talked about today.
  - The draft Resolution was read aloud and opened for discussion.
  - Commissioner Shepherd stated her support of being in favor of the draft resolution. Feels it's too little too late but a good first step in resolving the pain of the decisions made during that period of time in Section 14.
  - Commissioner Ramoran stated his support of being in favor of the draft resolution. Agrees with pushing the draft resolution forward and applauds the authors for the strong language and context used in the document.
  - Commissioner Andrade stated her opposition of the draft resolution. Would like to see the resolution reworked in a less one-sided judgment, more factual, and less anecdotal. She noted both sides need to be heard before they vote on something as factual.
  - Commissioner Flood stated his support of the draft resolution. In order to live up to their mission statement as the Human Rights Commission, indicated they needed to support the resolution.
  - Vice Chair Chappell stated her support of the draft resolution. Agrees with the relocation of the statue and being educators and sensitive of atrocities that have happened so that they are not repeated to anyone.
  - Student Representative Cash stated her support of the draft resolution. Supports removing the statue to be not celebrating awful actions and noted it is not trying to erase history.
  - Chair deHarte stated his support of the draft resolution. He acknowledged the incredible good that Frank Bogert did for the City, however the discussion is about his leadership and the ability that he had to stop the atrocities and to make a difference in the lives of hundreds of families; he endorses the thought of relocating the monument to another place in the City where he can be honored and tell both sides of the story.

- Commissioner Ramoran further spoke in support of the proposed resolution as presented. He noted a longer conversation needs to be reconciled about structural racism and its role in the building of this city.
- In response to Commissioner Andrade inquiry, Chair deHarte commented on the Section 14 matter that was brought forward to the Human Relations Commission in August of 1966, noting that the clearing had already occurred.
- **MOTION:** BY EXECUTIVE COMMITTEE, SECOND BY COMMISSIONER FLOOD, TO APPROVE THE DRAFT RESOLUTION AS PRESENTED TO THE HUMAN RIGHTS COMMISSION AND FORWARD THE PROPOSED RESOLUTION TO CITY COUNCIL WITH HUMAN RIGHTS COMMISSION ENDORSEMENT. MOTION CARRIED 5 – 1.

**An additional Motion was made towards the end of the meeting before Agenda Item D. Commissioner, Staff and Student Comments. Motion made at 6:43PM | 1:49:42 on video recording timestamp.**

- b. April 7<sup>th</sup> World Health Day
  - Chair deHarte presented a presentation recognizing the celebration of April 7<sup>th</sup> World Health Day around the world.

**Community Relations Committee/Budget/Personnel Committee**

- a. PSPD LGBT Outreach Committee (deHarte) –
  - Chair deHarte presented an update on the hate crimes data reported in the Committee for the month of March.
- b. Master Calendar (Ramoran)
  - Commissioner Ramoran reported on upcoming events, activities being celebrated and observed for the month of April by the United Nations, locally and nationally.
- c. Main Street (deHarte) No report.
- d. Finance (deHarte, Chappell) No report.
- e. Organized Neighborhoods of Palm Springs No report.

**Cultural Affairs Committee**

- a. Community Service Awards (deHarte, Chappell) No report.
- b. Desert Highland Gateway Estates Community Association (Andrade, Flood, Shepherd)
  - No report; Chair deHarte noted Commissioner Shepherd was added to the Committee.

**Seniors/People with Disabilities Veterans Affairs Committee**

- a. Veterans issues (Flood) Commissioner Flood shared that the American Legion remains open.

**Youth/Education Affairs Committee**

- a. Student Representatives (Chappell, Cash)
  - Vice Chair Chappell presented a new Student Representative Application for the Human Rights Commission from Lilly Hanner; On behalf of the Committee requested consideration to have her join the Human Rights Commission.
  - **MOTION:** BY YOUTH/EDUCATION AFFAIRS COMMITTEE, SECOND BY COMMISSIONER SHEPHERD TO ACCEPT LILLY HANNER AS SECOND STUDENT REPRESENTATIVE FOR THE HUMAN RIGHTS COMMISSION. MOTION CARRIED UNANIMOUSLY.
  - New Student Representative Lilly Hanner shared her interest in serving on the Commission.
  - Vice Chair Chappell will organize a virtual meeting to go over rules/procedures with the student representatives. Chair deHarte noted Lilly Hanner's application had come forward from Councilmember Woods and Mayor Pro tem Middleton who had received her application through the City's formal application portal.

**Commission Development/Mediation Committee**

- a. Mediation (Andrade)
  - o Commissioner Andrade indicated that Commissioners Flood, Ramoran and she completed the Mediation Training classroom curriculum. They have the choice to receive a Certificate of Completion or continuing towards the State Mediator Certification. Commissioner Andrade will be pursuing State Mediator Certification.
  - o Commissioner Flood will be pursuing State Mediator Certification.
  - o Commissioner Ramoran will be pursuing State Mediator Certification; is excited to see one of the new Commissioners is also a mediator.
- b. Retreat (Chappell, deHarte) No Report.

**B. Committee Assignments**

- a. Clean Indoor Air and Health Protection Draft Ordinance with Sustainability Commission Update
  - o Commissioner Ramoran welcomed new student representative Lilly Hanner; presented a new red-line draft ordinance. It was requested that the Commission review the draft document and provide comment at their next scheduled Regular meeting. In response to inquiry, Commissioner Ramoran will find out if stakeholders were invited to share their input.

**Chair deHarte introduced guest Palm Springs Police Chief Brian Reyes. The meeting proceeded to Agenda Item 7C. Homelessness Update; followed by Agenda Item 7B.B Street Naming Update and then resumed with the regular order of the Agenda.**

- b. Street Naming Update
  - o Commissioner Ramoran thanked Director Virata for guiding him on how committee updates work; Commissioner Shepherd serves on the Committee; they will be meeting to start discussions around street naming in the City, anyone interested in participating was welcomed to join the committee.

**C. Homelessness Update**

- o Police Chief Reyes thanked the Commission for their continued effort and provided a summary update on the Homelessness efforts that City has been engaged in to assist individuals that are suffering from homelessness. Highlights from Project RoomKey, The Quality Inn, Downtown and Barista Park was shared. It was noted that the communication with the County of Riverside has increased. They had just completed a tour today with County Staff, Councilmembers, Director Virata and City Manager Clifton to see firsthand the areas that are impacted throughout the City. Chief Reyes responded to Commissioner Inquiries.
- o Director Virata, in response to Commissioner Andrade shared that Hot Purple Energy will be hosting a display of Pallet Homes on April 23, 2021 at 4:30PM. It is as a possible option for providing housing to homeless individuals with a low affordable cost.
- o Councilmember Kors – Stated the tour with Supervisor Perez was helpful so he could recount first hand when they have discussions with him; the demonstration on April 23<sup>rd</sup> is from Martha’s Village and Kitchen and Well in the Desert; The City is applying for the new Community Project Funding Grant from the Federal Government to buy the Boxing Club and land next to it for a project; also today they looked at the Gene Autry property for possible affordable housing with wrap-around services and potential navigation center.

**Frank Bogert Statue Recommendation:**

- o Chair deHarte announced that it was brought to his attention that another resolution is needed for Agenda item. 7A.A; Acceptance of the 309-page report with the pending 28 business day review before the Commission and then it will be voted on by the Commission for acceptance.
- o **MOTION:** by Commissioner Andrade, second by Commissioner Shepherd to accept the report as presented with a 28-business day review. **MOTION CARRIED UNANIMOUSLY.**
- o In response to the invitation extended by Councilmember Kors to have a Joint Special

Meeting with the City Council on May 20, 2021 at 5:30PM, there was consensus among the Commission to cancel their originally scheduled May 10, 2021 meeting and in favor of the May 20<sup>th</sup> special meeting.

**D. COMMISSIONER, STAFF AND STUDENT COMMENTS:**

- Commissioner Ramoran – Commented on the meeting having the most participation on a Zoom call; welcomed Lilly Hanner.
- Commissioner Shepherd - Welcomed Lilly Hanner; glad to see Ella Cash continuing to participate; acknowledged Commissioner Ramoran's email; agreed it was a tough subject covered today and glad to see everyone taking a stand.
- Commissioner Flood welcomed Lilly Hanner.
- Student Representative Cash welcomed Lilly Hanner; Excited to have a Co-Student Representative
- Commissioner Andrade welcomed Lilly Hanner; Agreed it was great to see a high public participation and that the Commission is looking deeply on a tough subject.
- Vice Chair Chappell welcomed Lilly Hanner; believes this is one of the toughest conversations they have had and hope they continue to have.
- Director Virata introduced new City Manager Justin Clifton and invited him to say hello if available.
- City Manager Clifton shared a summary of his background and commented on his inspiration to make his move to Palm Springs; is impressed to see the dialog from the Community and Commissioners; encouraged Commissioners to reach out to him if they needed anything.
- Chair deHarte commented on the feedback shared by the Commission to the Resolution today; welcomed Lilly Hanner; new Commissioners will be introduced in the next couple months; congratulated Commissioner Shepherd on her reappointment to the Commission.

**E. Topical Newsworthy Items – None.**

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

1. Clean Indoor Air and Health Protection Draft Ordinance with Sustainability Commission Update (June Meeting)
2. Adoption of Monument Report and Approval to Forward to City Council (May Meeting)

**9. ANNOUNCEMENTS:**

- Commissioner Ramoran commented on inclusionary housing. Commission consensus to inquire with the Affordable Housing & Homelessness Council Subcommittee on how the Commission can provide support with inclusionary housing efforts. Commissioner Ramoran volunteered to be the Liaison.
- Director Virata to inform the Commission of who the Council Liaisons are.

**10. ADJOURNMENT:** The Commission adjourn at 7:36PM to a Special Joint Meeting with City Council on Thursday, May 20, 2021 at 5:30PM.

Respectfully submitted,

Annie Rodriguez  
Housing Program Assistant



**Human Rights Commission  
CITY OF PALM SPRINGS, CALIFORNIA**



FOR APPROVAL

**MINUTES  
Special Meeting**

Wednesday, May 5, 2021  
Virtual Zoom Meeting

FY 2020/2021

COMMISSIONER	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Terri Andrade	X		X	E	X	E	X	X	X	X	X	
Denise Chappell, Vice Chair	X		X	X	X	X	X	X	E	X	X	
Ron deHarte, Chair	X		X	X	X	X	X	X	X	X	X	
Glenn Flood	X		X	X	X	X	X	X	X	X	X	
Edwin Ramoran	X		X	X	X	X	X	X	X	X	X	
Donna Shepherd	X		X	X	X	U	E	X	X	X	X	
Ella Cash, Student Rep.					X	X	X	X	X	X	X	
Lilly Hanner, Student Rep.											X	

X = Present  
E = Excused Absence  
U = Unexcused Absence  
R = Resigned

Other Staff Present:  
Jay Virata, Community and Economic Development Director

1. **CALL TO ORDER:** Chair deHarte called the meeting to order at 5:30p.m.
2. **ROLL CALL:** Director Virata proceeded with roll call. Commissioner Andrade and Student Representative Cash not present during roll call. Andrade arrived at 5:35p.m., and Cash arrived at 5:37p.m.
3. **MISSION STATEMENT & GOALS:**
4. **QUORUM:** Chair deHarte announced a quorum is present.
5. **PUBLIC COMMENTS:**
  - Stacy Johnson voiced disappointment the Human Rights Commission is choosing to spend an immense amount of energy on a statue instead of addressing the City's current homeless crisis.
  - Dottie Wilder voiced opposition to the proposed resolution recommending the removal of the Frank Bogert Monument from the front of Palm Springs City Hall.
  - Steve Braff read a statement prepared by the Friends of Frank Bogert that voiced opposition to the Bogert Monument Report and proposed resolution.
  - Donna Higueras identified herself as the youngest daughter of late Frank Bogert, voiced opposition to the proposed resolution and inaccurate statements, specifically about the circumstances under which he left office in 1966. It is offensive to her entire family.
  - Amado Salinas voiced opposition to the proposed resolution indicating the monument is a freedom of speech that states this was a western town and the heritage of pioneers should be preserved.
  - Oran Jackson spoke in support of the resolution for removal of the Frank Bogert Statue Monument from the front of Palm Springs City Hall.
  - Sid Hubbard spoke on how the Human Rights Commission is not addressing the full story of Palm Springs history and giving blame for Section 14 on one man, Frank Bogert.

- Renee Brown voiced opposition to the proclamation; calls on the City Council to establish a fund that would allow families affected to borrow money to start businesses within the community.
  - Doug Evans spoke in opposition of the Bogert Monument Report; commented on having the report rewritten and including the names of all the authors.
  - Susan Smith voiced full opposition to the proposed resolution recommending the removal of the Frank Bogert Monument from the front of Palm Springs City Hall; has sent a follow-up letter voicing her opposition.
  - Jarvis Crawford spoke in support of the removal of the Frank Bogert Monument from the front of Palm Springs City Hall; he emphasized that removing that statue will show they are helping heal a community.
  - Sidrano Valdez spoke on the healing of the residents that lived on Section 14, and stated the Commission/City should be committed to heal their pain by putting City dollars in the redevelopment of the north end, that they destroyed, before they hold this topic.
  - Tristan Milanovich representing the Milanovich family, spoke on the disapproval of the relocation/removal of Mayor Frank Bogert statue by reading a letter out loud that she submitted to the Palm Springs City Council.
  - Janel Hunt spoke in support of removing the Frank Bogert Monument. Stressed that people are having to relive the anguish all over again because there are residents in the City of Palm Springs that do not understand that the statue represents painful hurt.
  - Shawnda Faveau spoke in support of the relocating/removing the Frank Bogert Monument; emphasized that it is time to listen to the group of people that are hurt and for the City to set an example and be a catalyst for change.
  - Jose Agueros spoke on the contributions of late Frank Bogert and challenged anyone on the call to prove to him that Frank Bogert, his father-in-law was a racist.
  - Diana Russell wife to Frank Bogert's late grandson, commented in opposition to the proposed resolution.
  - Chuck voiced opposition to Agenda Item 7A and 7B by reading a letter outloud that he sent to the City Clerk voicing his opposition.
- There being no one else desiring to speak, Chair deHarte acknowledged all public comments that were received and emailed to City Clerk and City Council. He noted all public comment correspondence sent will be reviewed and entered into record. He further emphasized that there is a misunderstanding that Frank Bogert's personality and contributions to the City are being attacked and stated they are not; they are recognizing his efforts.

**6. CHAIR COMMENTS:**

- Chair deHarte thanked everyone who has submitted emails, comments, letters and has taken the time to reach out to the Human Rights Commission and voice being in favor of leaving the monument where it is and those that are sharing their experiences as to why they feel it should not be on public property; additional gratitude was given to the fellow Commissioners who have offered constructive criticism and feedback in the process. Chair deHarte commented on the background in preparing the Bogert Monument Report that resulted in gathering 127 separate primary and secondary resources and 214 cited footnotes. An overview of the report was presented. It was stated the report is intended to provide an opportunity to bridge differences and help raise awareness about the unresolved trauma and the Frank Bogert Monument, which stands in front of City Hall is a hurtful symbol of systemic racism.

**7. ITEMS FOR DISCUSSION/ACTION:**

- A. Close the Bogert Monument Report review period for Commissioners, accept Commissioner's edits, receive the final Bogert Monument Report dated April 28, 2021, and forward to the Palm Springs City Council.
- Chair deHarte reported that at their April 12, 2021 meeting they originally stated a 28-day review period of the document would follow for commissioners however, to ensure adequate time was given for public review, Commissioners were asked to pass their comments to the Commission's Staff Liaison by 8am on April 28, 2021; an updated report was posted with the Meeting Notice; Chair deHarte invited a motion to close the Bogert Monument Report review period for Commissioners and accept the Commissioners edits and receive the Final Bogert Monument Report dated April 28, 2021.
  - **MOTION** BY COMMISSIONER FLOOD, SECOND BY COMMISSIONER SHEPHERD TO CLOSE THE BOGERT MONUMENT REVIEW PERIOD AND ACCEPT THE BOGERT MONUMENT REPORT TO FORWARD ONTO CITY COUNCIL. MOTION CARRIED. 5 – 0; 1 ABSTAINED.

B. Ratify "Resolution Entitled "RESOLUTION OF THE CITY OF PALM SPRINGS HUMAN RIGHTS COMMISSION RECOMMENDING THE REMOVAL OF THE FRANK BOGERT MONUMENT FROM THE FRONT OF PALM SPRINGS CITY HALL."

- Chair deHarte provided an updated background on the resolution since last presented on April 12, 2021. The document's modifications were identified to be additional comments from Commissioners, citing additional primary sources and a change in the name of the resolution to recommend removal of the monument; Chair deHarte opened to floor to entertain a motion to ratify the Resolution as stated in the Agenda.
- **MOTION BY VICE CHAIR CHAPPELL, SECOND BY COMMISSIONER FLOOD TO RATIFY THE RESOLUTION AS STATED IN THE AGENDA.**
- **DISCUSSION:**
- Commissioner Andrade voiced her opposition in joining her fellow Commissioners in support of the issue before them. It was stated that the court of public opinion for her does not grant to right to sacrifice the dignity of one human being for the actions of many; believes the Commission has overlooked a valuable opportunity to fulfill the purpose and model the ideals that they claim to uphold; suggested they rethink the recommended action in favor of a plan for outreach and interactive community involvement to demonstrate the sincerity of the City's apologetic offering with actions to secure their future instead of tearing down their past.
- Chair deHarte spoke about it being important to him to realize and have an understanding that if they had not even half a page of written text of the role of human rights violations, all he needed is to hear is from the residents who lived through the atrocity themselves and the generations of hurt that continue to exist in their community. The community has told them for 32 years and they have not listened, that the statue really is a symbol of the racism they have experienced in their family for three generations; he further stated it's important to him that they hear from the residents and the residents have spoken.
- Vice Chair Chappell commented on believing there are two sides, two opinions; she has read good things but has also read sad things that have happened to people and has to think that when something from the past is hurtful to the people in the present; it is the representation that his statue brings to a group of people in the City as they drive past the statute and remember what happened to them or to the people that they loved, in these times, it is a human rights concern.
- **MOTION ON THE FLOOR TO RATIFY THE RESOLUTION ENTITLED RESOLUTION OF THE CITY OF PALM SPRINGS HUMAN RIGHTS COMMISSION RECOMMENDING THE REMOVAL OF THE FRANK BOGERT MONUMENT FROM THE FRONT OF PALM SPRIGNS CITY HALL.**

VOTE BY A SHOW OF HANDS; DUE TO TECHNICAL DIFFICULTIES, THE MOTION WAS REPEATED WITH A ROLL CALL VOTE. MOTION CARRIED 5 – 1. THE COMMISSION WILL FORWARD THEIR RECOMMENDATION TO CITY COUNCIL FOR THE MAY 20, 2021 MEETING.

8. **ADJOURNMENT:** The Commission adjourn at 6:25PM to a Special Joint Meeting with City Council on Thursday, May 20, 2021 at 5:30PM.

Respectfully submitted,

Annie Rodriguez  
Housing Program Assistant

**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.

(~~xf~~) “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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