



CITY COUNCIL STAFF REPORT

DATE: OCTOBER 7, 2009 CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF PROPOSED ORDINANCE NO. 1763, RELATING TO THE ESTABLISHMENT OF A STOREFRONT IMPROVEMENT PROGRAM FOR VACANT BUILDINGS

FROM: David H. Ready, City Manager

BY: James Thompson, City Clerk

SUMMARY

The City Council will consider the adoption of Ordinance No. 1763.

RECOMMENDATION:

Waive further reading and adopt Ordinance No. 1763, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 8.80.020 AND 8.80.040 OF, AND AMENDING SUBSECTION (a) OF SECTION 8.80.030 AND SUBSECTION (b) OF SECTION 8.80.070 OF, THE PALM SPRINGS MUNICIPAL CODE RELATING TO THE ESTABLISHMENT OF A STOREFRONT IMPROVEMENT PROGRAM FOR VACANT BUILDINGS."

STAFF ANALYSIS:

At its September 16, 2009, meeting proposed Ordinance No. 1763 was introduced as follows by the following vote:


ACTION: 1) Waive the reading of the full text of the Ordinance, and introduce by title only; and 2) Introduce for first reading Ordinance No. 1763, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 8.80.020 AND 8.80.040 OF, AND AMENDING SUBSECTION (a) OF SECTION 8.80.030 AND SUBSECTION (b) OF SECTION 8.80.070 OF, THE PALM SPRINGS MUNICIPAL CODE RELATING TO THE ESTABLISHMENT OF A STOREFRONT IMPROVEMENT PROGRAM FOR VACANT BUILDINGS," *amending Section 1 by appending "vacated commercial buildings or portions thereof," amending Section 4 Subsection (b)(5) to read "To establish and enforce rules and regulations for the implementation and compliance with the Store Front Improvement Program as described in Section 8.80.020," and the*

addition of a provision for the removal of establishment signs when the property or a portion thereof is vacated. Motion Councilmember Hutcheson, seconded by Councilmember Weigel and unanimously carried on a roll call vote.

This report provides for the City Council to waive further reading and adopt the Ordinance. The Ordinance shall be effective 30-days from adoption.



JAMES THOMPSON, CITY CLERK



for DAVID H. READY, CITY MANAGER

Attachments:
Ordinance No. 1763

ORDINANCE NO. 1763

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 8.80.020 AND 8.80.040 OF, AND AMENDING SUBSECTION (a) OF SECTION 8.80.030 AND SUBSECTION (b) OF SECTION 8.80.070 OF, THE PALM SPRINGS MUNICIPAL CODE RELATING TO THE ESTABLISHMENT OF A STOREFRONT IMPROVEMENT PROGRAM FOR VACANT BUILDINGS.

City Attorney Summary

This Ordinance establishes the Storefront Improvement Program and design guidelines for window coverings for vacant commercial buildings in an effort to enhance the streetscape of business areas of the City for the enhancement and benefit of the community.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS FINDS:

- A. The City of Palm Springs has recognized and determined that vacant buildings are a major cause and source of blight in both residential and nonresidential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood or surrounding businesses.
- B. It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare.
- C. The City Council desires to establish a policy whereby storefront windows of vacated commercial buildings visible from the public right-of-way may be improved consistent with established design guidelines for window coverings in the City's commercial areas to make businesses and surrounding communities more attractive.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. Section 8.80.020 of the Palm Springs Municipal Code is amended by adding the definition of "Storefront Improvement Program" or "SIP" to read:

"Storefront Improvement Program" or "SIP" means a program that allows artwork or other approved displays to be installed by the City within specific geographic areas of the City, chosen as an alternative pursuant to Section 8.80.030(a)(3)(F) to provide window coverings for the storefronts of vacated commercial buildings or portions

thereof. Each SIP will be approved by the City Manager and administered by the Community and Economic Development Department. Owners of vacated commercial buildings which have windows visible from the public right-of-way within the area of the SIP or can be seen by the public are eligible to participate in the SIP upon registration of the vacated building as prescribed in Section 8.80.040. A copy of each SIP shall be made available in the Office of the City Clerk.

SECTION 2. Subsection (a) of Section 8.80.030 of the Palm Springs Municipal Code is amended to read:

(a) No person, corporation, or other entity shall allow a building designed for human use or occupancy to stand vacant for more than ninety days, unless the owner establishes by substantial evidence to the reasonable satisfaction of the Building Official that one of the following applies:

- (1) The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation;
- (2) The building meets all applicable codes, is actively maintained, and is ready for occupancy, and is actively being offered for sale, lease or rent;
- (3) The building does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building so that it does not contribute to blight. Active maintenance and monitoring shall include:
 - (A) Maintenance of landscaping and plant materials in good condition;
 - (B) Maintenance of the exterior of the building including, but not limited to, paint, finishes, windows, doors, and signage in good condition and in compliance with this Code;
 - (C) Any sign which advertises a use or business not being made on the premises, the name of the owner or user, or which identifies a product, an interest, service, or entertainment not available on the premises is prohibited;
 - (D) Regular removal of all exterior trash, debris and graffiti;
 - (E) Maintenance of the building in continuing compliance with all applicable codes and regulations;
 - (F) Prevention of criminal activity on the premises including, but not limited to, use and sale of controlled substances, prostitution and criminal street gang activity;
 - (G) Windows screened (i) in a manner approved under Zoning Code Section 94.04.00 (Architectural Approval), including review by the Architectural Advisory Committee; or (ii) election upon registration of a vacant building to participate in the Storefront Improvement Program;

(H) Securing the property in a manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, closing and locking of windows, doors (walk-through, sliding and garage) gates and any other opening that may allow access to the interior of the property and or structure(s). In the case of broken windows, securing includes the replacement of the broken window.

SECTION 3. Section 8.80.040 of the Palm Springs Municipal Code is amended to read:

8.80.040 Registration requirement for vacant properties.

(a) Each beneficiary and trustee, who holds a deed of trust on a property located within the city of Palms Springs, shall perform an inspection of the property in question prior to recording a notice of default or similar instrument with the Riverside County recorders office. If the property is found to be vacant or shows evidence of vacancy, as defined by the chapter, it is hereby deemed to be vacant.

(b) Within ten (10) business days of identification of any vacant property, or owner's actual knowledge of any vacant property, owner, owner of record, the beneficiary, and trustee must register the property with the Building Director.

(c) If the property is occupied but distressed, the trustee and beneficiary or a designee shall inspect the property on a monthly basis until:

- (1) The trustor or another party remedies the default; or
- (2) The property is found to be vacant, or shows evidence of vacancy, and is registered subject to subsection (b).

(d) The registration pursuant to subsection (b) shall contain the identity of the owner, owner of record, the beneficiary, and trustee and, in the case of a corporate or out of area owner, owner of record, beneficiary, or trustee, the local property management company, if any, responsible for the security, maintenance, and marketing of the property in question.

(e) The registration pursuant to subsection (b) shall be renewed annually.

(f) An annual registration fee, adopted in conformance with Section 8.80.050, shall accompany the submission of each registration form. The fee and registration shall be valid for one year from the date of registration. Registration fees will not be prorated.

(g) This section shall also apply to properties that have been the subject of a foreclosure sale wherein title has been transferred to the beneficiary of a deed of trust involved in the foreclosure, and to any properties transferred under a deed in lieu of foreclosure or sale.

(h) Properties subject to this chapter shall remain subject to the annual registration requirement, security and maintenance standards of this chapter as long as they remain vacant.

(i) Any person, partnership, association, corporation, fiduciary or other legal entity that has registered a property under this chapter must make a written report to the Palms Springs police department of any change of information contained in the registration within ten days of the change.

(j) The duties/obligations specified in this section shall be joint and several among and between all owners, owners of record, beneficiaries, and trustees, and their respective agents, successors, and assigns.

SECTION 4. Subsection (b) of Section 8.80.070 of the Palm Springs Municipal Code is amended to read:

(b) Purposes. The purposes of the monitoring program shall be:

- (1) To identify buildings which become vacant;
- (2) To order vacant buildings which are open and accessible to be secured against unlawful entry pursuant to Title 8 of this Code, including the Building Code;
- (3) To initiate proceedings against the owner and/or the owner of record of any vacant building found to be substandard as defined in this title or a nuisance under Title 11 of this Code; for purposes of this Chapter, failure to comply with Section 8.80.030(a)(3)(F) related to storefront window coverings is hereby declared a public nuisance and is thereby subject to all available legal remedies to cure said nuisance;
- (4) To maintain surveillance over vacant buildings so that timely code enforcement proceedings are commenced in the event a building becomes substandard or a nuisance; and
- (5) To establish and enforce rules and regulations for the implementation and compliance with the Storefront Improvement Program as described in Section 8.80.020.

SECTION 5. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be

published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

ADOPTED THIS 7TH DAY OF OCTOBER, 2009.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. 1763 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on September 16, 2009, and adopted at a regular meeting of the City Council held on October 7, 2009, 2009 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California