



CITY COUNCIL STAFF REPORT

DATE: JANUARY 26, 2023 BUSINESS & LEGISLATIVE

SUBJECT: INTRODUCTION OF ORDINANCE NO. _____, ENTITLED "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING CHAPTER 16.04 OF THE PALM SPRINGS MUNICIPAL CODE ENTITLED "GENERAL RULES AND REGULATIONS" AND SECTION 11.08.080, RELATING TO TRESPASS ON RESIDENTIAL AND PUBLIC PROPERTY"

FROM: Teresa Gallavan, Interim City Manager

BY: Harry Barrett Jr., A.A.E., Executive Director of Aviation
Andrew Mills, Police Chief
Jeffrey S. Ballinger, City Attorney

SUMMARY:

Palm Springs International Airport (Airport) is located in the City, covers an area of 940 acres, operates year-round, and now serves more than two million passengers per year. The Airport has also experienced an unexpected and unprecedented level of growth in the past year.

Meanwhile, the Airport has experienced an increase in persons occupying Airport property without any legitimate purpose or business related to airport services or facilities. At the same time, the Airport is a high security risk location and has limited space and physical limitations such that it cannot accommodate those without legitimate airport business.

To address these facts, the Airport staff and Palm Springs Police Department requested the City Attorney's Office to draft the proposed ordinance. The proposed ordinance would set forth guidelines on the lawful use and occupancy of Airport property with the goal of enhancing Airport operations to make them more safe, secure, and efficient.

In addition, the proposed ordinance would also clarify the authority with regard to trespassing on public property in other parts of the City.

RECOMMENDATION:

1. Waive the reading of the ordinance text in its entirety and read by title only; and

2. Introduce on first reading Ordinance No. _____, ENTITLED "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING CHAPTER 16.04 OF THE PALM SPRINGS MUNICIPAL CODE ENTITLED "GENERAL RULES AND REGULATIONS" AND SECTION 11.08.080, RELATING TO TRESPASS ON RESIDENTIAL AND PUBLIC PROPERTY."

BACKGROUND:

The City of Palm Springs owns, operates, regulates the Palm Springs International Airport (PSP). The City's airport regulations are primarily found in Title 16 of the Palm Springs Municipal Code (PSMC), also known as the "Airport Ordinance."

Over the past year, the Airport has experienced an increase in the number of homeless individuals who utilize the Airport buildings as shelter. For instance, this past Fall, the Airport encountered an individual who had been staying at the Airport for six weeks. Around that time, the Airport had up to fourteen unhoused individuals on-site/in the terminal area during one week.

While the City is committed to assisting homeless individuals with finding resources, including housing, the Airport is intended for the very specific purpose of transportation, and must remain securely available for that purpose. As such, the Airport staff and Police Department requested the City Attorney's Office assistance in drafting the proposed update to the Airport Ordinance. The proposed ordinance would limit the use of Airport property to those individuals who are there for specific traveling or travel-related purposes.

STAFF ANALYSIS:

Airport Ordinance

Unlike other municipally owned airports, the City's Airport Ordinance does not contain a specific regulation dealing with the use and occupancy of Airport grounds. For instance, the Los Angeles Municipal Code contains the following language, regarding the use of Los Angeles International Airport (LAX):

Los Angeles Municipal Code § 171.02.

(n) No person shall enter any restricted area posted as being closed to the public except those who may be duly authorized so to do.

(o) In addition to any penalty otherwise provided by law, any person failing to comply with any of these rules or regulations may be promptly removed from the Airport and deprived of its use for such period of time as may be necessary to insure the safety of the Airport and of the public.

As can be seen from the map linked below, virtually all of LAX is designated as "closed to the public", and Los Angeles' website contains the following language:

“LAX Hours of Operation and Access

Entry to LAX is only allowed for airline passengers and persons meeting, accompanying or assisting them, and airport personnel whose employment requires their presence. LAX is closed to the general public 24 hours a day, 7 days a week.

Opening hours for passengers and personnel vary between terminals; persons are advised to check with their airline or employer.

The closure applies to all areas and buildings shown in the map below.

Persons violating the closure are subject to arrest and misdemeanor prosecution (Los Angeles Municipal Code Section 171.02(n)).”
(<https://www.flylax.com/hours-of-operation>)

In response to the Airport Staff and Police Department’s concerns, the City Attorney’s Office has drafted the accompanying ordinance. Unlike the LAX ordinance, which designates virtually the entire LAX property as “closed to the public”, the proposed ordinance specifies that individuals may enter or remain on the Airport property, but only for certain legitimate airport purposes. Specifically, such airport purposes include the following:

- Working at the Airport;
- Engaging in permitted commerce (such as shopping at the Airport restaurants or shops or renting/dropping off a rental car);
- Conducting an activity for which a permit has been issued by the City;
- Departing the Airport as a ticketed airline passenger;
- Arriving at the Airport as a ticketed airline passenger;
- Engaging an airline for customer service purposes, such as purchasing or rescheduling a flight, or filing a claim for lost luggage, among other similar customer service purposes;
- Waiting for or escorting an individual engaged in the activities above.

Enforcement of this provision could include either a misdemeanor citation/arrest or as an infraction, or through removal of the individual(s). Of course, prior to any such enforcement, the Police would offer the subject with available shelter resources.

Airport staff, the Police Department and the City Attorney’s Office believe that this ordinance will be effective in ensuring that the Airport property is used only for Airport-related activities, and not as shelter.

Trespass Ordinance

In addition to the Airport Ordinance, the City's Municipal Code contains a provision addressing trespassing on publicly owned property generally. That code section, 11.08.080, provides, in pertinent part,

"11.08.080 Trespass.

No person shall commit a trespass on ... public property. "Trespass" for the purpose of this section means:

(2) Entering upon, or refusing to leave, any public property in violation of regulations promulgated by the official charged with the security, care or maintenance of the property and approved by the governing body of the public agency owning property, where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care or maintenance of the property, his agent or a police officer."

Under the City's Municipal Code, the voters of the City have adopted an ordinance delegating to the City Manager the authority to "exercise general supervision over all public buildings, public parks and other public property which are under the control and jurisdiction of the City Council...." (PSMC 2.08.010 (adopted by Initiative Ordinance No. 116).)

In order for the City's current trespass ordinance to be effective as it relates to City property generally (i.e., City Hall, the dog park, the Convention Center, a City park), both the City Manager and the City Council must promulgate and approve regulations regarding trespass. A search of City records reveals that the City Council has never approved any such trespass regulations.

In order to conform the City's trespass ordinance, as it pertains to public property generally, the City Attorney's Office has drafted the accompanying ordinance language. Under the proposed ordinance, for City property generally, the City Manager would be authorized to promulgate rules as to when and how City property may be used/occupied. For public property of other public agencies, such as the school district, etc., the governing body of that agency would still need to approve any regulations regarding trespass on that agency's property, in order to be protected by this ordinance.

The proposed ordinance would read,

"11.08.080 Trespass.

No person shall commit a trespass on ... public property. "Trespass" for the purpose of this section means:

(2) Entering upon, or refusing to leave, any public property in violation of regulations promulgated by either: (A) for public agencies other than the City, the official charged with the security, care or maintenance of the property and approved by the governing body of the public agency owning property; or (B) for the City, the City Manager, where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care or maintenance of the property, his agent or a police officer."

Therefore, the City Attorney's Office would recommend adoption of the accompanying language in order to conform the City's trespass ordinance (as it applies to public property) to the City's ordinance, regarding the City Manager's authority.

ENVIRONMENTAL ASSESSMENT:

The requested City Council action is not a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. This proposed ordinance, concerning the lawful use of Palm Springs International Airport and other public property in the City of Palm Springs, is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

ALIGNMENT WITH STRATEGIC PLANNING:

The proposed ordinance aligns with the City's Strategic Plan, namely "Focus on issues that most impact quality of life", and more specifically, "1A - Improve Homelessness - Improve security/ maintenance", in that this ordinance will help ensure that the Airport property is used for its intended purpose, as well as preventing trespass on public property.

FISCAL IMPACT:

This proposed ordinance is not expected to have any significant financial impacts.

REVIEWED BY:

Airport Director:	Harry Barrett, Jr.
Police Chief:	Andrew G. Mills
City Attorney:	Jeffrey S. Ballinger
Interim City Manager:	Teresa Gallavan

ATTACHMENTS:

- A. Proposed Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS CALIFORNIA, AMENDING CHAPTER 16.04 OF THE PALM SPRINGS MUNICIPAL CODE ENTITLED "GENERAL RULES AND REGULATIONS" AND SECTION 11.08.080, RELATING TO TRESPASS ON RESIDENTIAL AND PUBLIC PROPERTY

City Attorney Summary

This Ordinance revises Chapter 16.04 of the Palm Springs Municipal Code entitled "General Rules and Regulations," to prohibit entering and remaining at the Airport with the goal of enhanced safety and efficiency of operations. This Ordinance also amends Section 11.08.080 of the Palm Springs Municipal Code to clarify that the City Manager may designate areas of public property where trespassing is prohibited. This Ordinance also amends Section 11.08.080 of the Palm Springs Municipal Code, regarding trespassing on public property.

WHEREAS, the City of Palm Springs is a charter city organized pursuant to Article XI of the California Constitution and pursuant to the authority so granted, the City has the power to make and enforce within its limits all ordinances and regulations with respect to municipal affairs not in conflict with its own charter; and such police powers include without limitation the ability to adopt regulations pertaining generally to the protection and promotion of the public health, safety, and welfare.

WHEREAS, the airport has limited space and physical limitations that cannot accommodate those without legitimate airport business.

WHEREAS, the airport has high and increasing volumes of passenger traffic.

WHEREAS, the airport is a high risk location where those without airport business pose a general safety and security to the airport, airport staff, and the travelling public.

WHEREAS, the airport has experienced an increase in persons occupying the airport without any legitimate purpose or business related to airport services or facilities.

WHEREAS, this Ordinance amends Title 16 to add a prohibition against entering and remaining at the Airport without a legitimate business purpose.

WHEREAS, the purpose of this Ordinance is to enhance airport operations to make them more safe and efficient.

WHEREAS, this Ordinance sets forth sufficient guidelines for law enforcement, thus eliminating the risk of arbitrary and discriminatory enforcement.

WHEREAS, the City Council finds that the adoption and implementation of the Ordinance set forth below is within the power and authority of the City to protect the public health, safety, and welfare of the City's citizens.

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. New Section 16.04.145. The Palm Springs Municipal Code is hereby amended to add a new Section 16.04.145 to read as follows:

“16.04.145 Entering or Remaining Without Legitimate Airport Business Prohibited

(a) It is unlawful for a person to enter or remain in any area of the Airport unless the person has legitimate airport business.

(b) Legitimate airport business includes:

- (1) Working at the Airport;
- (2) Engaging in permitted commerce;
- (3) Conducting an activity for which a permit has been issued by the City;
- (4) Departing the Airport as a ticketed airline passenger;
- (5) Arriving at the Airport as a ticketed airline passenger;
- (6) Engaging an airline for customer service purposes, such as purchasing or rescheduling a flight, or filing a claim for lost luggage, among other similar customer service purposes;
- (7) Waiting for or escorting an individual engaged in the activities enumerated in this subsection.

(c) Any person who violates any provision of this Chapter is guilty of a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment in the County jail not exceeding six months, or by both such fine and imprisonment, except the City Attorney or the citing officer may charge a violation of this Chapter as an infraction, in his or her discretion, as set forth in Section 1.01.140 of this Code.

(d) In addition to any penalty otherwise provided by law, any person failing to comply with this Section may be promptly removed from the Airport.”

SECTION 3. Amendment to PSMC Section 11.08.080. Section 11.08.080 is hereby amended to read as follows:

“11.08.080 Trespass.

No person shall commit a trespass on residential property or on public property. “Trespass” for the purpose of this section means:

- (1) Entering upon, or refusing to leave, any residential property of another, either where such property has been posted with NO

TRESPASSING signs, or where immediately prior to such entry, or subsequent thereto, notice is given by the owner or occupant, orally or in writing, that such entry, or continued presence, is prohibited;

- (2) Entering upon, or refusing to leave, any public property in violation of regulations promulgated by either: (A) for public agencies other than the City, the official charged with the security, care or maintenance of the property and approved by the governing body of the public agency owning property; or (B) for the City, the City Manager, where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care or maintenance of the property, his agent or a police officer.”

SECTION 4. CEQA. The City Council determines that the adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to the following provisions of the CEQA Guidelines, 14 California Code of Regulations, Chapter 3: the Ordinance is exempt under CEQA Guidelines Section 15378(b)(5) in that it is not a “project” under CEQA, and is an organization or administrative activity of the City that will not result in direct or indirect physical changes in the environment.

SECTION 5. Adoption, Certification, and Publication. The City Clerk of the City of Palm Springs shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law. This Ordinance shall take effect 30 days after its adoption.

SECTION 6. Severability. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity will not affect the remaining provisions of this Ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this Ordinance are declared to be severable.

INTRODUCED at a regular meeting of the City Council of the City of Palm Springs on the ____ of _____, 2023, by the following vote:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Palm Springs on this ____ day of _____, 2023 by the following vote:

GRACE GARNER
MAYOR

ATTEST:

BRENDA PREE
CITY CLERK

CERTIFICATION

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

I, BRENDA PREE, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. ____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on _____ and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Springs, California, this ____ day of _____, 2023.

BRENDA PREE
CITY CLERK