

REPORT TO THE CITY COUNCIL



DATE: December 6, 2016

TITLE: Loitering Ordinance

Prepared by: Charles L. Maynard, City Manager

Reviewed by: Jennifer A. Mizrahi, City Attorney
James F. Hodgkins, Deputy City Attorney

RECOMMENDATION

Introduce for First Reading, an Ordinance of the City Council of the City of Desert Hot Springs amending the Desert Hot Springs Municipal Code by: 1) Adding Article VI "Obstruction of Pedestrian Traffic Prohibited," 2) Adding Article VII "Carl May Center Parking Lot and Driveways Use Restrictions," and 3) Repealing Section 10.36.050 "Unreasonable Interference with Free Passage of Pedestrians" of Title 10 "Vehicles and Traffic;" waive the reading of the Ordinance in its entirety and City Clerk read by title only.

BACKGROUND

The free flow of pedestrian traffic in public areas of the City, such as public highways, alleys, sidewalks and crosswalks is critical to the health and safety of citizens and visitors to the City. Persons sitting, lying, sleeping or obstructing public areas of the City, such as public highways, alleys, sidewalks, walkways and crosswalks are subject to injury by pedestrians or vehicular traffic. Moreover, the use of the parking lot and driveways of the Carl May Center, library and appurtenant structures (collectively the Carl May Center) by persons who gather for purposes other than the lawful use of the Carl May Center or to exercise their free speech rights under the First Amendment risks injury to members of the public from vehicular traffic in a confined and congested parking lot area and exposes the City to liability exposure.

Adding Sections 9.08.410-9.08.420, Obstruction of Pedestrian Traffic Prohibited

Pedestrian safety is an ongoing concern in Desert Hot Springs. Persons sitting, lying or sleeping such that they obstruct the flow of pedestrian traffic on highways, alleys, sidewalks and crosswalks, may be injured by pedestrians or vehicular traffic. These sections restate section 10.36.050 with updated language consistent with the current state of the law regarding loitering and obstruction of pedestrian traffic in public areas of the City.

Adding Sections 9.08.510-9.08.550, Carl May Center Parking Lot and Driveways Use Restrictions

Pedestrian traffic in the parking lot and driveway of the Carl May Center, library and appurtenant structures (collectively, the Carl May Center) has increased over the years. The safety of those in and around the parking lot and driveways of the Carl May Center is an ongoing concern in that persons could be easily injured by vehicular traffic in the confined and congested parking lot and driveways areas. Injury to persons using these areas exposes the City to liability. Restricting the use of the parking lot and driveways of the Carl May Center to persons engaged in the lawful use of the Carl May Center or who are lawfully exercising their rights of free speech under the First Amendment will reduce the City's potential liability exposure, improve security and reduce the cost of maintenance and repair of City property.

Repealing Section 10.36.050, Unreasonable Interference with Free Passage of Pedestrians

This section will be repealed because it is superfluous after sections 9.08.410 and 9.08.420 are adopted. Additionally, this section contains arcane language that no longer comports with California law and leaves the City open to Constitutional challenge. The sections addressing pedestrian behavior are being moved out of the title which addresses Vehicles and Traffic and into the title which addresses Public Peace and Welfare.

The proposed ordinance would add DHSMC Sections 9.08.410 to 9.08.420 and 9.08.510 to 9.08.550 and repeal section 10.36.050 based on the foregoing.

EXHIBIT:

- 1) Ordinance Adding Sections 9.08.410 to 9.08.420 and 9.08.510 to 9.08.550 and Repealing Section 10.36.050 of the Desert Hot Springs Municipal Code.