

- 20) **Add Chapter 9.56 (trespass on Designated Conservation Areas) and Chapter 9.58 (trespass on City Property) to Title 9 (public Peace, Morals and Welfare) of the Lake Elsinore Municipal Code Relating to Trespassing on Designated Conservation Areas and City Property**

Introduce by title only and waive further reading of AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADDING CHAPTER 9.56 (TRESPASS ON DESIGNATED CONSERVATION AREAS) AND CHAPTER 9.58 (TRESPASS ON CITY PROPERTY) TO TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE LAKE ELSINORE MUNICIPAL CODE RELATING TO TRESPASS ON DESIGNATED CONSERVATION AREAS AND TRESPASS ON CITY PROPERTY.



## REPORT TO CITY COUNCIL

**To:** Honorable Mayor and Members of the City Council

**From:** Jason Simpson, City Manager

**Prepared by:** Barbara Leibold, City Attorney

**Date:** March 28, 2023

**Subject:** **Add Chapter 9.56 (trespass on Designated Conservation Areas) and Chapter 9.58 (trespass on City Property) to Title 9 (public Peace, Morals and Welfare) of the Lake Elsinore Municipal Code Relating to Trespassing on Designated Conservation Areas and City Property**

### **Recommendation**

Introduce by title only and waive further reading of AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADDING CHAPTER 9.56 (TRESPASS ON DESIGNATED CONSERVATION AREAS) AND CHAPTER 9.58 (TRESPASS ON CITY PROPERTY) TO TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE LAKE ELSINORE MUNICIPAL CODE RELATING TO TRESPASS ON DESIGNATED CONSERVATION AREAS AND TRESPASS ON CITY PROPERTY.

### **Background**

The City is the steward of environmentally sensitive lands throughout the City with the most notable areas being near the San Jacinto River, the outlet channel and the Back Basin area of the Lake. In some cases, the City has entered into conservation easements with resource agencies in which the City's responsibilities include managing the public's access to such lands and posting signage to prevent trespass.

In some instances, the City is charged with ensuring that lands are specifically set aside solely for habitat and must use its police powers to enforce such restrictions. While State law provides for criminal trespass code provisions, having specific municipal code provisions gives the City greater flexibility in enforcing a posted "no trespassing" area (e.g., by way of code enforcement staff that generally cannot enforce State laws) and provides for both civil and criminal enforcement options.

Additionally, other City facilities are also at risk of unlawful use and repeated offenses. Addressing such unlawful use within the City's municipal code will allow for similar greater flexibility in terms of personnel that may enforce the City's municipal code along with providing for civil and criminal enforcement options.

**Discussion**

The proposed ordinance would: (1) prohibit unauthorized access to certain designated (and properly posted) conservation areas to the extent that resource agencies have imposed access restrictions, and; (2) prohibit unlawful conduct on City facilities and authorize that such persons are subject to removal (after failing to heed a warning) and issuance of a trespass notice restricting future use of the facility for a period up to one-year.

A key component of this City ordinance will allow for enforcement by City personnel (in addition to law enforcement) of persons in violation of conservation area access restrictions or otherwise failing to comply with laws and rules governing City facilities.

**Fiscal Impact**

None.

**Attachments**

Attachment 1- Ordinance

**ORDINANCE NO. 2023 – \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADDING CHAPTER 9.56 (TRESPASS ON DESIGNATED CONSERVATION AREAS) AND CHAPTER 9.58 (TRESPASS ON CITY PROPERTY) TO TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE LAKE ELSINORE MUNICIPAL CODE RELATING TO TRESPASS ON DESIGNATED CONSERVATION AREAS AND TRESPASS ON CITY PROPERTY**

**Whereas**, the City strives to protect, preserve, and promote the public health, safety, and welfare of city of Lake Elsinore residents, businesses, and visitors and to protect city property consistent with its intended and beneficial use; and

**Whereas**, the City is the steward of environmentally sensitive lands throughout the City and in some cases, has entered into conservation easements in which the City's responsibilities include protecting the conservation values of the property, managing public access to such lands, and posting signage to prevent trespass; and

**Whereas**, other city property, including buildings and other facilities, public parks, playgrounds, recreation facilities, trails and open space not designated for conservation are also at risk of unlawful use and repeated offenses by individuals who have been found to violate state or federal laws or any city ordinance, resolution, policy, rule, or regulation on such city property and, in order to protect the city property and the use and enjoyment thereof by city residents and visitors, the City desires to adopt a process to exclude those individuals from such city property.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES ORDAIN AS FOLLOWS:**

**Section 1. Chapter 9.56 and Chapter 9.58, Trespass.** Chapter 9.56 and Chapter 9.58 are hereby added to Title 9 (Public, Peace, Morals and Welfare) of the Lake Elsinore Municipal Code, as follows:

**Chapter 9.56  
TRESPASS ON DESIGNATED CONSERVATION AREAS**

**Sections:**

- |                 |                                      |
|-----------------|--------------------------------------|
| <b>9.56.010</b> | <b>Purpose.</b>                      |
| <b>9.56.020</b> | <b>Designated Conservation Area.</b> |
| <b>9.56.030</b> | <b>Violation - Trespass.</b>         |
| <b>9.56.040</b> | <b>Exceptions.</b>                   |

**9.56.010 Purpose.** The purpose of this Chapter is to protect designated conservation areas by prohibiting unlawful entry and activities that will impair or interfere with the conservation values of the property.

**9.56.020 Designated Conservation Area.** For purposes of this Chapter, a "designated conservation area" is any property owned or managed by the City or other public agency that are subject to a recorded conservation easement or restrictive covenant involving the preservation, restoration, and enhancement of native species and

their habitats and posted with signage identifying the area as a habitat, conservation, or preservation area.

**9.56.030 Violation - Trespass.**

A. It is unlawful for any person to enter into or remain upon any designated conservation area. Violation of this section shall constitute a trespass on designated conservation areas.

B. Any violation of this Chapter shall be subject to the penalties under Chapter 1.16, which are intended to be cumulative and may be enforced by the City in addition to, or in lieu of, each other.

C. Any violation of this Chapter shall constitute a public nuisance, subject to abatement by any means authorized by law, including but not limited to, injunctive relief.

**9.56.040 Exceptions.** This Chapter shall not apply to:

A. Any authorized employee or agent of the City of Lake Elsinore, including persons engaged for long-term management or maintenance of the designated conservation area.

B. Any person holding a permit to enter the designated conservation area issued by the Director of Community Services Department or his or her designee, which permits shall be issued solely for educational or research purposes.

C. An employee or agent of the California Department of Fish and Wildlife, the United States Fish and Wildlife Service or the Army Corps of Engineers entering a designated conservation area for inspection or other purpose in accordance with a recorded conservation easement.

D. Any person who enters a designated conservation area upon, and remains upon, a designated public trail within a conservation area when using the public trail for its intended purpose.

**Chapter 9.58  
TRESPASS ON CITY PROPERTY**

**Sections:**

**9.58.010 Purpose.**

**9.58.020 City Property.**

**9.58.030 Unlawful Conduct on City Property.**

**9.58.040 Authority to Issue Trespass Notice – Service and Content.**

**9.58.050 Violation - Trespass.**

**9.58.060 Exceptions.**

## **9.58.070 Rules and Procedures.**

**9.58.010 Purpose.** The purpose of this Chapter is to protect, preserve and promote the public health, safety, and welfare of city of Lake Elsinore residents and visitors and to protect city property and the use and enjoyment thereof by adopting a process to exclude from city property individuals who have been found to violate laws of the United States, the State of California, or any city ordinance, resolution, policy, rule, or regulation on such city property.

**9.58.020 City Property.** For purposes of this Chapter, “city property” means all or any part of a building, public park, playground, recreation facility, open space, trail, or any other property owned, operated, or maintained by the city or any other public agency formed by the City.

## **9.58.030 Unlawful Conduct on City Property.**

A. No person shall remain upon any city property after having been found to have violated any laws of the United States, the State of California, or any city ordinance, resolution, policy, rule, or regulation on such city property where that person has been given a notice by authorized city personnel or a police officer to cease the violation, and where that person continues the violation and has been asked to leave the city property.

B. Any person who has been found by authorized city personnel or a police officer to have violated any laws of the United States, the State of California, or any city ordinance, resolution, policy, rule, or regulation on city property may be banned from such city property by authorized city personnel or a police officer by issuance of a trespass notice pursuant to Section 9.58.040 provided that the violation occurred on, and in any manner relates to, the city property from which the person has been banned.

C. No person shall enter or remain upon any city property after having been banned therefrom for the duration specified on the trespass notice.

## **9.58.040 Authority to Issue Trespass Notice – Service and Content.**

A. Authorized city personnel and police officers are authorized to issue a trespass notice to any individual who, pursuant to Section 9.58.030 or a court of law, has been found to have violated any laws of the United States, the State of California, or any city ordinance, state statute, or government rule or regulation while such individual is on or within any city property.

B. Trespass notices may be delivered in person to the individual or by first class mail to the individual at the individual’s last known address.

C. The trespass notice shall be in writing, shall contain the date of issuance, shall describe the behavior that is the basis for the trespass notice, shall state a specific location from which the individual shall be banned and state a time period, not exceeding one year, that the ban will be in effect, shall be signed by the issuing city personnel or police officer, and shall state the consequences for failure to comply. The individual need not be charged, tried, or convicted of any crime or infraction for the trespass notice to be issued or be effective.

**9.58.050 Violation – Trespass.**

- A. Any person who is found on city property in violation of a trespass notice shall be guilty of a trespass on city property.
- B. Any violation of this Chapter shall be subject to the penalties under Chapter 1.16, which are intended to be cumulative and may be enforced by the City in addition to, or in lieu of, each other.
- C. Any violation of this Chapter shall constitute a public nuisance, subject to abatement by any means authorized by law, including but not limited to, injunctive relief.

**9.58.060 Exceptions.** This Chapter shall not apply in the following circumstances:

- A. Where its application results in or is coupled with any acts prohibited by the Unruh Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of color, race, religion, sexual orientation, creed, ancestry or national origin;
- B. Where its application would result in an interference with or inhibition of peaceful labor picketing or other lawful labor activities;
- C. Where its application would result in an interference with or inhibition of any other exercise of a statutory or constitutional right; or
- D. Where it is necessary for the person to enter city owned or controlled property from which that person has been banned in order to conduct city business but only for as long as necessary to conduct said city business.

**9.58.070 Rules and Procedures.** The city manager is authorized to adopt rules and procedures consistent with this Chapter.

**Section 2. CEQA.** This Ordinance is exempt from the California Environmental Quality Act in accordance with Section 15061(b) (3) there is no possibility that the activity in question may have a significant effect on the environment.

**Section 3. Severability.** If any provision of this Ordinance or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

**Section 4. Effective Date.** This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31<sup>st</sup>) day after the date of adoption.

**Section 5. Certification.** The City Clerk shall certify to the passage of this Ordinance and shall cause a synopsis of the same to be published according to law.

**Passed and Adopted** on this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Natasha Johnson  
Mayor

Attest:

\_\_\_\_\_  
Candice Alvarez, MMC  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF LAKE ELSINORE )

I, Candice Alvarez, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Ordinance No. 2023-\_\_\_\_ was introduced by the City Council of the City of Lake Elsinore, California, at the Regular meeting of March 28, 2023 and adopted at the Regular meeting of \_\_\_\_\_, 2023 and that the same was adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Candice Alvarez, MMC  
City Clerk