

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, AMENDING SECTION 2.36.270 OF THE PALM DESERT MUNICIPAL CODE REGARDING PUBLIC CONDUCT, RECORDING, AND DISRUPTION DURING CITY COUNCIL MEETINGS

City Attorney's Summary

This ordinance amends Section 2.36.270 of the Palm Desert Municipal Code regarding conduct during City Council meetings. The ordinance recognizes the public's right to record open meetings, establishes standards for disruptive conduct for in-person and remote participants, authorizes the presiding officer to direct disruptive conduct to stop and remove a person who continues such conduct, and addresses clearing the meeting room as authorized by Government Code section 54957.9. The ordinance also provides that the section shall be enforced in a content-neutral and viewpoint-neutral manner.

WHEREAS, the Ralph M. Brown Act requires meetings of the City Council to be open and public, and protects the public's right to attend, observe, participate, and record open meetings, subject to limited exceptions provided by law; and

WHEREAS, Government Code section 54953.5 provides that a person attending an open and public meeting may record the proceedings unless the legislative body makes a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings; and

WHEREAS, Government Code section 54957.9 authorizes a legislative body to remove an individual whose conduct actually disrupts the meeting and, in limited circumstances, to clear the meeting room when the meeting is willfully interrupted by a group or groups of persons so that orderly conduct of the meeting is unfeasible and order cannot be restored by removing the individuals causing the disruption; and

WHEREAS, Senate Bill 707 amended the Brown Act to clarify that disruption and removal standards apply to persons participating through a two-way telephonic service or two-way audiovisual platform, in addition to persons physically present at the meeting; and

WHEREAS, the City Council desires to amend Palm Desert Municipal Code section 2.36.270 to align the Municipal Code with current Brown Act requirements, protect lawful public participation and recording rights, and provide clear standards for addressing actual disruption during City Council meetings; and

WHEREAS, this Ordinance is not a project under the California Environmental Quality Act pursuant to section 15378 of the CEQA Guidelines because it has no potential

to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and, in the alternative, is exempt under section 15061(b)(3) because it can be seen with certainty that there is no possibility that adoption of this Ordinance may have a significant effect on the environment.

THE CITY COUNCIL OF THE CITY OF PALM DESERT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals.

The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Amendment to Section 2.36.270.

Section 2.36.270 of the Palm Desert Municipal Code is hereby amended in its entirety to read as follows:

§ 2.36.270 Addressing the council—Members of the audience; recording; disruption of meetings.

A. Recording of open meetings.

Any person attending an open and public meeting of the City Council may record the proceedings. Recording may be limited only if the City Council makes a reasonable finding that the manner of recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

B. Conduct during meetings.

Disruptive conduct may include, by way of example and not limitation, conduct that actually interferes with the orderly conduct of the meeting, the ability of the City Council to conduct business, or the ability of the public to observe or participate as permitted by law, including:

1. Yelling, screaming, or making loud noise that prevents the City Council, staff, or the public from hearing the proceedings.
2. Handclapping, stamping of feet, whistling, pounding, or similar demonstrations that continue after direction from the presiding officer to stop and that interfere with the hearing or conduct of the meeting.
3. Speaking out of turn, speaking after allotted time has expired, or continuing to speak after being directed to yield the floor, when the conduct prevents the meeting from proceeding in an orderly manner.
4. Approaching the dais, entering restricted areas of the meeting room, blocking access ways, obstructing the view of attendees, or physically interfering with any person's ability to attend, observe, or participate in the meeting.
5. Displaying signs, objects, lights, or other materials in a manner that obstructs views, interferes with recording, or otherwise disrupts the meeting.
6. Making threats, or engaging in shouting, repeated personal taunts, or other verbal conduct that, by its volume, persistence, or manner, actually interferes with the

orderly conduct of the meeting.

7. Refusing to comply with a lawful direction of the presiding officer that is issued to preserve or restore the orderly conduct of the meeting.
8. For a remote participant, creating excessive noise, speaking over others, refusing to mute when directed, using the remote platform in a manner that prevents others from hearing or being heard, or otherwise interfering with the orderly conduct of the meeting through the City's remote access method.

C. Removal of an individual.

If a person engages in conduct during a meeting that actually disrupts the orderly conduct of the meeting, the presiding officer may direct that person to stop the disruptive conduct. If the person continues the disruptive conduct after that direction, the presiding officer may order the person removed from the council chambers or other meeting location.

D. Remote participants.

The standards in this section apply equally to a person participating through the City's remote access method for the meeting. If a remote participant engages in conduct that actually disrupts the orderly conduct of the meeting, the presiding officer may direct that the conduct stop. If the disruptive conduct continues after that direction, the presiding officer may direct that the remote participant be muted or removed from the remote meeting platform.

E. Clearing the meeting room.

If a meeting is willfully interrupted by a group or groups of persons so that orderly conduct of the meeting is unfeasible, and order cannot be restored by removing the individuals who are actually disrupting the meeting, the City Council may order the meeting room cleared and continue in session in accordance with Government Code section 54957.9. Any such action shall be taken only in the manner authorized by law.

F. Viewpoint-neutral enforcement.

This section shall be enforced in a content-neutral and viewpoint-neutral manner. Criticism of the City Council, City staff, City policies, or City actions does not, by itself, constitute disruption.

G. Other remedies not limited.

Nothing in this section limits the City Council's authority under the Ralph M. Brown Act or other applicable law.

SECTION 3. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase, and portion thereof, irrespective of the fact that any one or more portions be declared invalid or unconstitutional.

SECTION 4. Codification.

The City Clerk shall certify to the adoption of this Ordinance. The City Clerk, in consultation with the City Attorney, is authorized to make minor, nonsubstantive corrections to this Ordinance and to cause this Ordinance to be codified in the Palm Desert Municipal Code.

SECTION 5. Publication and Effective Date.

This Ordinance shall take effect thirty (30) days after its adoption. Within fifteen (15) days after adoption, the City Clerk shall cause the Ordinance, or a summary thereof, to be published in the manner required by law.

ADOPTED ON _____.

EVAN TRUBEE
MAYOR

ATTEST:

ANTHONY J. MEJIA
CITY CLERK

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

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:
- RECUSED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Desert, California, on _____.

ANTHONY J. MEJIA
CITY CLERK