



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: William F. Sherry, A.A.E.

SUBJECT: SEE BELOW

DATE: 03-26-07

Approved

Date

4/4/07

Council District: City-Wide

**SUBJECT: APPROVAL OF AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING THE ADMINISTRATIVE AND CONTRACT AUTHORITY GRANTED
TO THE DIRECTOR OF AVIATION**

RECOMMENDATION

Approval of Ordinances:

(a) Amending Chapter 9.44 of Title 9 of the San Jose Municipal Code to authorize the Director of Aviation to designate smoking and non-smoking areas at all outdoor areas at the Norman Y. Mineta San Jose International Airport.

(b) Amending Chapter 25.08 of Title 25 of the San Jose Municipal Code to increase the authority of the Director of Aviation to execute leases, licenses, exclusive use permits and other commercial activity agreements with terms in excess of 3 years and a total value of up to \$250,000.

CEQA: Resolutions No. 67380 and 71451, PP 07-046.

OUTCOME

Approval of the Ordinance will serve to reduce the processing time and administrative burden for routine decisions, leases, licenses, exclusive use permits and other commercial activity agreements at the Airport. The Ordinance will also authorize the Director of Aviation to designate smoking and non-smoking areas at all outdoor areas at the Airport

BACKGROUND

Pursuant to Chapters 25.08 of Title 25 of the San Jose Municipal Code, the Director of Aviation presently has the authority to execute new leases, licenses, permits for exclusive use of Airport

premises and other commercial activity agreements with a total term of 3 years or less, including within such term the period of any extension or renewal. If the total term of such agreements or exclusive use permits, including any amendments, is longer than 3 years, City Council approval of the execution of the agreement is required. These agreements include passenger and cargo air carrier agreements, rental car agreements, concession agreements, and other agreements to conduct commercial activities at the Airport.

In addition, Chapter 9.44.045 of Title 9 of the San Jose Municipal Code authorizes the Director of Aviation to designate smoking areas within the terminal buildings and other indoor areas at the Airport, but not areas outside the terminal buildings at the Airport.

ANALYSIS

Chapter 25.08 of the Municipal Code sets forth the authority of the Director of Aviation to enter into leases, licenses, permits for exclusive use of Airport premises and other commercial activity agreements, with a total term of 3 years or less, on behalf of the City. The Director has authority with no limitation on the term, to approve permits for commercial activity at the Airport that do not require the exclusive use of Airport premises. Once the 3 year term has been reached, any amendment extending the agreement must be approved by Council. As a result, even the most routine and low revenue agreements go before Council for approval, including amendments for items such as overnight delivery drop boxes, small terminal and hangar offices, and storage areas. The total revenue from these agreements typically ranges from \$4,680 to \$250,000.

The proposed changes to Chapter 25.08 of the Municipal Code will delegate authority to the Director of Aviation to execute leases, licenses, permits for exclusive use of Airport premises and other commercial activity agreements in excess of 3 years that have total revenue to the City that not exceeding \$250,000. This will enable the Director to execute routine, lower total revenue agreements and amendments without obtaining Council approval. Any other agreement, exclusive use permit or amendment in excess of 3 years with total revenue in excess of \$250,000 will continue to require Council approval. In addition, the Director retains the discretion to request Council approval of agreements with total revenue of less than \$250,000 if deemed appropriate.

Chapter 9.44.045 of the Municipal Code permits the Director of Aviation to designate smoking areas within terminal facilities, but does not authorize the Director to designate smoking and non-smoking areas at outdoor areas at the Airport. Council Policy 9-9, dated April 27, 1993 and revised in October 2006, states that no city employee or member of the public shall smoke or dispose of any tobacco product within 20 feet horizontally or vertically of a main exit, exterior entrance, operable window, or air intake opening of a City-owned or City-leased building.

The proposed changes to Chapter 9.44.045 of the Municipal Code will delegate the authority to the Director of Aviation to designate specific outdoor locations for smoking and non-smoking areas at the Airport. This will provide flexibility and responsiveness to changes in facilities, traffic patterns and passenger needs that are specific to the Airport in regard to the designation of

smoking and non-smoking areas at all outdoor areas at the Airport. While exact designated outdoor smoking locations have not yet been identified, the locations will be situated away from entrances, per Council Policy 9.9, and away from areas where the public is queuing for services. These designated outdoor smoking locations will provide users with shelter from the elements and some form of seating.

POLICY ALTERNATIVES

As an alternative to the new Ordinances, the City has the option of maintaining the Ordinances as they are currently written. This alternative, however, perpetuates the less efficient processing time and administrative burden for routine decisions, leases, licenses, permits and agreements, with this burden impacting not only staff, but Council as well.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach). **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet the above criteria requiring additional notification; however, it will be posted on the City's Council Agenda Website for the April 17, 2007 Council Meeting.

COORDINATION

This requested Ordinance amendments have been coordinated with the Budget Office and the City Attorney's Office.

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FISCAL/POLICY ALIGNMENT

The Agreement is consistent with the Economic Development Strategy adopted by Council in November 2003 and aligns most significantly with Strategic Initiative #1: Build a World-Class Airport and Air Services.

CEQA

CEQA: Resolutions No. 67380 and 71451, PP 07-046.

Frank Kirkbride
for WILLIAM F. SHERRY, A.A.E.
Director of Aviation

For questions, please contact William Sherry, Director of Aviation, at (408) 501-7669.