

ORDINANCE NO. _____

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"

WHEREAS, the City of Desert Hot Springs ("City") is a charter city organized pursuant to Article XI of the California Constitution; and

WHEREAS, the free-flow of pedestrian traffic in public areas of the City, such as public highways, medians, alleys, sidewalks and crosswalks is critical to the health and safety of citizens and visitors to the City; and

WHEREAS, persons sitting, lying, sleeping or obstructing public areas of the City, such as public highways, medians, alleys, sidewalks, and crosswalks are subject to injury, including injury by pedestrians or vehicular traffic; and

WHEREAS, in addition to the general free-flow of pedestrian traffic, the City also desires to specifically restrict the use of the Carl May Center parking lot, and driveways to persons engaged in the lawful use of the Carl May Center, Library, and appurtenant structures (collectively "Carl May Center") or who are lawfully exercising their rights of free speech under the First Amendment to the United States Constitution; and

WHEREAS, the use of the parking lot and driveways of the Carl May Center by persons who gather for purposes other than lawful use of the Carl May Center or to lawfully exercise their rights to free speech, 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; and

WHEREAS, Section 10.36.050 "Unreasonable interference with free passage of pedestrians" of Title 10 "VEHICLES AND TRAFFIC" at Chapter 10.36 "PEDESTRIAN REGULATIONS" will be replaced by new sections 9.08.410 through 9.08.550 and is, therefore, superfluous; and

WHEREAS, this ordinance is intended to reduce the risk of injury to members of the public due to vehicular traffic, reduce the City's exposure to liability, improve security at the Carl May Center and reduce the cost of maintenance and repair of City property.

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

Section 1. RECITALS.

The Recitals are hereby incorporated by this reference.

Section 2. **AMENDING CHAPTER 9.08 OF THE DESERT HOT SPRINGS MUNICIPAL CODE**

Chapter 9.08 of the Desert Hot Springs Municipal Code shall be amended by adding Article VI (Sections 9.08.410 to 9.08.420) and Article VII (Sections 9.08.510 to 9.08 550) to read as follows:

ARTICLE VI OBSTRUCTION OF PEDESTRIAN TRAFFIC PROHIBITED

9.08.410 – Sitting or lying on streets

A person shall not sit, lie or sleep in or upon any public highway, medians, alley, sidewalk or crosswalk or other place open for pedestrian travel, except when necessitated by physical disability of such person.

9.08.420 – Obstructing pedestrians

A person shall not loiter or stand in or upon any public highway, medians, alley, sidewalk or crosswalk or other public way open for pedestrian travel or otherwise occupy any portion thereof in such a manner as to obstruct or unreasonably interfere with the free passage of pedestrians or as to obstruct or unreasonably interfere with the normal use of the entrance to any place of public assemblage.

ARTICLE VII Carl May Center Parking Lot and Driveways Use Restrictions

9.08.510 – Application

The provisions of this chapter shall only apply to the parking lot and driveways of the Carl May Center, Library, and appurtenant structures (collectively “Carl May Center”)

9.08.520 – Purpose

The purpose of this Chapter is to reduce the risk of injury to members of the public due to the presence of vehicular traffic in a confined and congested space, reduce the City’s exposure to liability for injuries and accidents, improve security, and decrease the cost of maintenance and repair of City property.

9.08.530 – Use restrictions

The parking lot and driveways of the Carl May Center shall only be used by persons engaged in the lawful use of the Carl May Center, or by persons to lawfully gather to exercise free speech rights. Any other use of the parking lot and driveways of the Carl May Center are prohibited.

9.08.540 - Violation

Any person found to be in violation of the provisions of this Chapter shall be guilty of an infraction.

9.08.550 – Other remedies

All remedies set forth in this chapter shall be cumulative and in addition to any and all other remedies, civil, equitable, or criminal, afforded to the City under the law. (Prior code § 90B.11)

Section 3. REPEAL OF SECTION 10.36.050

Section 10.36.050 of the Desert Hot Springs Municipal Code shall be repealed.

~~10.36.050 Unreasonable interference with free passage of pedestrians.~~

~~A. Obstructing Entrances. No person shall loiter or stand in or upon any public highway, street, alley, sidewalk, crosswalk or other public way open for pedestrian travel or otherwise occupy any portion thereof in such manner as to unreasonably obstruct, block or interfere with the normal use of the entrance to any business establishment, public building or other facility which is open to the public, including, but not limited to, any house of worship, hall, theater or place of public assemblage.~~

~~B. Sitting, Lying or Sleeping on Streets and Sidewalks. No person shall sit, lie, kneel or sleep in or upon any street, sidewalk, alley, crosswalk, public highway or other place open for pedestrian travel, or any portion thereof.~~

~~C. Obstructing Pedestrian Passage. No person shall loiter or stand in or upon any street, sidewalk, public highway, alley, crosswalk or public way or any portion thereof in such manner as to unreasonably annoy, molest or menace any pedestrian thereon or so as to unreasonably obstruct or interfere with the free passage of any pedestrian.~~

~~D. Exceptions. Provisions of this section shall not apply to any person standing in line or otherwise standing in or upon a sidewalk waiting to conduct business in a business establishment or public facility; nor shall it apply to any person who is selling or giving political or religious literature to other persons; nor shall it apply to any person who is conducting a lawful business or has a lawful reason for standing in or upon a street or sidewalk; provided, however, that such person is complying with all other laws, rules and regulations applicable to waiting to conduct business, distributing political or religious literature, engaging in a strike or conducting other lawful business. This section further shall not apply to any person or persons sitting on the curb portion of any sidewalk or street while attending or viewing any parade lawfully permitted under this Code; nor shall it apply to any persons sitting upon benches or other seating facilities provided for such purpose by the City or permitted by this Code.~~

~~E. Vehicle Traffic Obstruction. No person shall wilfully, intentionally or maliciously molest, annoy, obstruct or hinder any motor vehicle, its operator or any passenger in such vehicle while the motor vehicle is moving or lawfully stopped or parked upon any public street, highway or alley or entering or exiting from private or public property on any public street or thoroughfare. (Prior code § 71.74)~~

Section 4. SEVERABILITY

That the City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions,

sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 5. CEQA EXEMPTION

That this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the Guidelines for California Environmental Quality Act (California Code of Regulations, Title 14, Chapter 3), because this project does not have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Section 6. AMENDING OF BAIL SCHEDULE

That the City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 7. EXECUTION AND CERTIFICATION

That the City Clerk is directed to do all things necessary to cause the execution of this ordinance immediately upon its adoption and shall thereafter certify to the passage of this ordinance and cause the same to be published according to law.

Section 8. EFFECTIVE DATE

That this ordinance shall take effect thirty (30) days after its second reading by the City Council.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs on the 7th day of February, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, City Clerk

APPROVED:

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney