

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS AMENDING DESERT HOT SPRINGS MUNICIPAL CODE SECTION 17.40.110 FENCES, WALLS AND HEDGES**

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

**WHEREAS**, the City of Desert Hot Springs Municipal Code ("DHSMC") regulates fences in Section 17.40.110; and

**WHEREAS**, the DHSMC currently does not allow certain kinds of solid fencing, including vinyl fencing; and

**WHEREAS**, over the past decade, different kinds of solid fencing, including vinyl fencing, has become more sturdy and aesthetically pleasing; and

**WHEREAS**, on February 14, 2017, the Planning Commission held a public hearing on this Ordinance; and

**WHEREAS**, the Planning Commission recommended that the City Council approve this Ordinance

**WHEREAS**, the City Council deems this ordinance necessary for the public health, safety and welfare.

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

**Section 1. RECITALS.**

The foregoing recitals are hereby incorporated by this reference.

**Section 2. AMENDMENT TO SECTION 17.40.110 OF THE DESERT HOT SPRINGS MUNICIPAL CODE**

Section 17.40.110 of the Desert Hot Springs Municipal Code shall be amended to read as follows:

**17.40.110 Fences, walls and hedges.**

The following standards shall apply to the installation of all fences, walls and hedges:

**A. Height and Type Limits.**

1. Perimeter fences, walls, and hedges located on property lines shall conform to the limitations outlined in Table 17.40.01.

2. Required perimeter fences and walls shall be constructed at the top of slope, adjacent property lines.
3. **The following fence materials are** ~~Solid masonry fencing (i.e., block rock, brick— with and without stucco covering)~~ is permitted in any location on the lot:
  - a. **Solid masonry fencing (i.e. block rock, brick with and without stucco covering), provided the color of the masonry or stucco matches or compliments the adjacent walls or structures;**
  - b. **Solid vinyl fencing, provided that the Director of Development Services can make the findings required in this Section.**
  - c. **Corrugated metal fencing, provided that the Director of Development Services can make the findings required in this Section.**
  - d. **Wrought iron fencing, provided that the Director of Development Services can make the findings required in this Section.**
  - e. **Tan precision concrete block wall.**
  - f. **Gray Precision concrete block wall, only when texture coated or professionally finished to match or compliment existing structures on the lot.**
4. **For all fencing mentioned in this subsection, the Director of Development Services shall make his/her determinations based upon the following findings, all of which must be met:**
  - a. **Proposed fencing is constructed and installed in a manner sufficient to withstand the climatic conditions of the City;**
  - b. **Proposed fencing complies with all applicable local, state and federal standards;**
  - c. **Proposed fencing utilizes professionally, well-designed materials which incorporate interesting architectural elements into the design;**
  - d. **Proposed fencing has complimentary materials, color, texture and design to other existing structures on the lot.**

~~Gray precision concrete block shall not be used unless all exterior surface visible from the outside has been texture coated or other comparable coating approved by the Director.~~
5. **Other fence or wall materials may be approved by the Planning Commission through the design review process. The Planning Commission shall approve or deny the application based upon findings.** ~~if it can be demonstrated that said materials will survive the extreme desert conditions and maintain an acceptable finished appearance.~~
6. Nonconforming Fences. Any fence which does not meet the standards of this section but which was legally established prior to the adoption of these standards may be maintained, provided such a fence which is destroyed or damaged to the extent of more than fifty percent of its total replacement value shall not be repaired, rebuilt, or reconstructed except in conformance with these standards.

7. Measurement of Fence Height. Fence heights shall be measured from finish grade at the base of the fence to the highest point of the fence on the interior or exterior side, whichever is higher.
8. **Prohibited Materials. Chain link material is prohibited for perimeter fencing. Exposed wood, unless specially approved by the Planning Commission, is prohibited for perimeter walls.** ~~Prohibited materials for perimeter walls and fences include chain link and exposed wood unless specifically approved or exempted under another section of this chapter.~~

TABLE 17.40.01

FENCES, WALLS, AND HEDGES HEIGHT AND TYPE LIMITS

Districts	Max. Permitted Height *	Comments
Residential		
Front or side of street yard setback	4 feet	Solid structures or plants
	4 feet	Open work structures or plants (must permit the passage of a minimum of 90% of light)
Corner lot (street side setback)	5 feet	Solid structures **
Other yard area	6 feet	Solid structures include:
Outside of required yard area	6 feet	Solid, decorative masonry wall,
Abutting a nonresidential district	6 feet	wood framed with stucco exterior and wrought iron fence with pilasters
Commercial, Industrial		
Front yard or side of street yard	4 feet	Solid structures or plants
	6 feet	Open work structures or plants
Abutting residential district	8 feet	Solid, decorative masonry wall
Other yard area	6 feet	
Outdoor storage areas visible from public rights-of-way (located behind yards)	8 feet	Commercial
	8 feet	Industrial
All districts traffic safety site area	30 inches	
Public right-of-way	6 feet	
Retaining walls	6 feet	

- \* The limitations shall not apply in the following instances:
  - Where a greater height is required by any other provision of the municipal code; or
  - Where a greater height or type of fence, wall or hedge is required by a condition of approval.
  - Refer to Section 17.40.100(E) regarding residential fencing and wall standards.
- \*\* Solid structures to include: decorative masonry wall constructed of slumpstone, split faced or other similar materials as approved by the Planning Director.

B. Traffic Safety Site Area. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over 30 inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a Traffic Safety Sight Area. The foregoing provision shall not apply to public utility poles; trees trimmed (to the trunk) to a line at least 6 feet above the level of the intersection; saplings or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross view; supporting members of appurtenances to permanent structures existing on the date this Zoning Ordinance becomes effective; and official warning signs or signals.

C. Prohibited Fence Materials/Chain Link Fencing.

1. The use of barbed wire, electrified fence or razor wire fence in conjunction with any fence, wall, roof, hedge, or by itself within any land use district, is prohibited unless required by any law or regulation of the City, the State of California, Federal Government, or agency thereof. Agricultural uses may use electrical fences if approved by the Director.

~~2. Chain link fencing in residential districts within the City shall only be permitted on lots that are an acre or more. Chain link fencing is permitted in the I-L, I-M and I-E districts, excepting industrial lands fronting on a major public street which shall use decorative block or other appropriate design approved by the Director. The fence in such districts may only be located on side and rear property lines behind the front yard setback, and further provided the fence would not be readily visible from a public right-of-way. However, such fence with neutral screening may be readily visible from a public right-of-way. Landscaped planting of sufficient density and height may be used to screen the fence from public view. Notwithstanding any provision to the contrary, chain link fencing may be used with tennis courts, private and commercial, temporarily at construction sites, as approved by the Director, and where it is required by any law or regulation of the City, the State of California, Federal Government, or agency thereof. Any chain link fencing authorized within the City shall have a top rail, bottom wire and caps on the poles, and shall be properly maintained, free from holes, tears, or bent or otherwise disfigured surfaces or materials caused by damage to the fence. Any violation of this subsection shall constitute a public nuisance and an infraction, subject to the remedies set forth in Title 4 of the City's municipal code.~~

**2. Chain link fencing shall be permitted only as follows:**

**a. In Residential Districts, but only as follows:**

- i. where the lot is 1 acre or greater, and when the fencing is located only on the side and/or rear property lines and must not be visible from public right-of-way; or**

- ii. where the lot is 10,000 square feet or greater, and the chain link fencing is only along the rear property line, which chain link fencing must be screened with adequate landscaping.
- b. In Industrial (I-L, I-M, I-E) districts, but only when the fencing is located only on the side and/or rear property lines and is not visible from public right-of-way. The exception to the chain link fence requirements in the industrial districts are:
  - i. Chain link fencing is permitted to be visible from public right-of-way only if landscaped planting is used to screen the fence from public view;
  - ii. Chain link fencing may be used when fronting on a major public street only if decorative rock or other approved design approved by the Director of Development or his/her designee is used.
- c. All chain link fencing must have top rail, bottom wire and caps on the poles.
- d. All chain link fencing must be properly maintained at all times, including being free from holes, tears, or bent or otherwise disfigured.
- e. Notwithstanding the foregoing, chain link fencing may be used as follows:
  - i. Tennis courts
  - ii. In a temporary manner for construction sites
  - iii. Where required by law
  - iv. Where required as a condition of approval

~~3. The above limitations shall not apply where the prohibited fence material is required as a condition of approval.~~

D. Wall Design Standards. Perimeter walls may be required to have articulated planes by providing at a minimum for every 100 feet of continuous wall an 18-inch deep by 8-foot long landscaped recession. Walls shall be constructed with pilasters provided at every change in direction, every 5 feet difference in elevation and at a minimum of every 25 feet of continuous wall.

E. Residential Fencing/Wall Requirement. Fencing or walls are required between individual residential units, and residential developments if adjacent to parks, open spaces, and/or major rights-of-way. All fencing and walls are to be provided by each developer at the time of construction.

### **Section 3. SEVERABILITY**

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 4.     AMENDING OF BAIL SCHEDULE**

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 5.     EXECUTION AND CERTIFICATION**

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 6.     AMENDMENT**

This ordinance may be amended from time to time by the City Council, and in the event the State of California passes an adult use marijuana initiative, the City Council may amend this Ordinance to address said use in the City of Desert Hot Springs.

**Section 7.     EFFECTIVE DATE**

This ordinance shall take effect thirty (30) days after its approval by the City Council.

**PASSED AND ADOPTED** by the City Council at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 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

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