

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS AMENDING SECTION 17.40.110 FENCES, WALLS AND HEDGES TO INCLUDE REGULATIONS FOR FENCING SURROUNDING VACANT PROPERTY**

**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 fencing surrounding vacant property; and

**WHEREAS**, unprotected vacant property can subject the property owners to illegal dumping; and

**WHEREAS**, this Ordinance, among other avenues will help curb illegal dumping on vacant property and help secure the property; and

**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 Recitals are hereby incorporated by this reference.

**Section 2. AMENDING 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. Solid masonry fencing (i.e., block rock, brick—with and without stucco covering) is permitted in any location 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. Other fence or wall materials may be approved by the Planning Commission through the design review process if it can be demonstrated that said materials will survive the extreme desert conditions and maintain an acceptable finished appearance.

**4. Vacant Property. [KIND] of fencing may be used along the perimeter of vacant property in order to secure the property, which fencing shall be kept in good working order at all times.**

**54. 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 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.

**65. 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.

**76. 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	8 feet	Commercial

from public rights-of-way (located behind required yards)	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.

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**

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 4. 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 5. 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 6. 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 7. AMENDMENT**

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

### **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 at a Regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2017 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Jerryl Soriano, City Clerk

\_\_\_\_\_  
Scott Matas, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jennifer A. Mizrahi, City Attorney