

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE PEOPLE OF THE CITY OF DESERT HOT SPRINGS, AMENDING CHAPTER 3.32 (PUBLIC SAFETY SPECIAL TAX) OF THE CITY OF DESERT HOT SPRINGS' MUNICIPAL CODE EXTENDING THE DURATION OF THE EXISTING, VOTER-APPROVED PUBLIC SAFETY SPECIAL TAX, AMENDING THE TAX RATES UNTIL ENDED BY THE VOTERS

THE PEOPLE OF THE CITY OF DESERT HOT SPRINGS ORDAIN AS FOLLOWS:

**Section 1.**                    **ELECTIONS CODE SECTION 13119 STATEMENT**

- A. That the **decrease** in the Public Safety Special Tax rate for:
1. Single Family Residential/R-1/CON, which is measured per dwelling unit, which will be decreased from \$138.64 (which is the current rate for FY 2017/2018) to \$103.00
- B. That the **increase** in the Public Safety Special Tax rates for:
1. Residential Vacant, which is measured per dwelling unit, which will be increased from \$9.82 (which is the current rate for FY 2017/2018) to \$19.14
  2. Commercial Vacant, which is measured per acre, which will be increased from \$133.80 (which is the current rate for FY 2017/2018) to \$267.60
  3. Industrial Vacant, which is measured per acre, which will be increased from \$2.71 (which is the current rate for FY 2017/2018) to \$5.42
  4. Hotel Vacant, which is measured per acre, which will be increased from \$11.25 (which is the current rate for FY 2017/2018) to \$22.50

All of the above is expected to produce annually an additional \$91,138.44 of revenue for the 245 Fund, with the Public Safety Tax remaining in place until subsequently repealed by the voters.

**Section 2.**                    **AMENDMENT TO CHAPTER 3.32**

That Chapter 3.32 of the Desert Hot Springs Municipal Code shall be amended to read as follows (the only edit is shown in bold and underline in Section 3.32.210 "Expiration date"):

**3.32.010 Definitions.**

Except where the context otherwise requires, the definitions of the words and phrases set forth in this section shall govern the application and administration of the provisions of this chapter:

“Administrator” means the City of Desert Hot Springs Finance Director, or designee.

“Animal control services” means services directed towards maintaining a safe and stray-free community, including the enforcement of applicable state and City laws and citing of violators; kennel operation and maintenance services; care for impounded animals and adoption services; pick-up of stray animals; issuing and recording dog licenses; investigating animal abuse; handling endangered species; and removing wild animals and reptiles from the community; and administrative costs directly related thereto.

“City” means the City of Desert Hot Springs.

“Code enforcement services” means services directed toward the enforcement of municipal code provisions with respect to public nuisances, including zoning, signs, land use and property maintenance violations, and toward the enforcement of municipal code provisions with respect to business licensing and removal of abandoned vehicles; and administrative costs directly related thereto.

“Dwelling unit” means, without limitation, one or more rooms including bathroom(s) and a kitchen, designated as a unit for occupancy by one family or for living and sleeping purposes for developed properties. In calculating the special tax for residential vacant properties, the number of dwelling units per acre shall be assigned based on the approved residential zoning according to the following formula: (1) R-L Residential Low—Three dwelling units per acre; (2) R-M Residential Medium—Five dwelling units per acre; (3) R-MH Residential Mobile Home—Six dwelling units per acre; and (4) R-H Residential High—Eight dwelling units per acre. In instances in which the appropriate zoning for a residential vacant property is uncertain, the Administrator shall assign the property to a zoning district, referring to the City of Desert Hot Springs General Plan, Zoning Ordinance, and Zoning Map in making the determination.

“Fire protection services” means the services provided by the Riverside County Fire Department pursuant to a cooperative agreement to provide fire protection, fire prevention, rescue and medical aid for the City entered into by and between the City and Riverside County Fire Department, and administrative costs directly related thereto.

“Parcel” means an individual property assigned its own assessment number by the Riverside County Assessor’s office.

“Person” means any natural individual, firm, trust, common law trust, estate, joint stock company, joint venture, limited liability company, corporation (foreign or domestic), cooperative, or receiver, trustee, guardian or other representative appointed by order of any court.

“Police protection services” means services protecting the safety of the citizens of the City through the maintenance of law and order, including the enforcement of criminal and vehicular laws and municipal code provisions; services to enhance the quality of life, environment and safety of the citizens of the City; services responding to calls for police assistance; services in cooperation with other City departments, including code enforcement and animal control, and services in cooperation with other law enforcement agencies and social service agencies; and administrative costs directly related thereto.

“Public safety services” means animal control services, code enforcement services, fire protection services and police protection services.

“State” means the state of California.

#### 3.32.020 Use of special tax revenues.

The revenues of the special tax may be used only for funding public safety services and collection costs related to:

A. The collection of the tax by the Assessor and Tax Collector of the County of Riverside; and

B. Foreclosure activities in the event of nonpayment of the tax.

#### 3.32.030 Separate public safety services accounts.

The revenue produced by the special tax shall be placed by the Finance Department into a separate public safety services account.

#### 3.32.040 Prohibited use of revenue for other services—Annual reporting and audit.

A. No revenue generated by the special tax shall be used for any purpose whatsoever other than for funding public safety services and the collection costs described in Section 3.32.020 unless this chapter is amended to provide otherwise pursuant to the approval of at least a two-thirds vote of the electors of the City at an election called for such a purpose in a manner consistent with California Constitution Article XIID, Section 3, California Government Code Sections 53722 et seq., and/or any other applicable state constitutional provision, law or regulation pertaining to such matters.

B. The City of Desert Hot Springs’ existing Public Safety Commission shall, in addition to the Commission’s existing responsibilities, serve as an advisory committee to the City Council with respect to the receipt and expenditure of public safety special tax funds. In that capacity, the Public Safety Commission

shall at least annually prepare and provide to the City Council a review of the expenditures of funds generated by the public safety special tax.

C. By no later than December 31st of each year, the City's independent auditors shall complete a compliance and internal control audit report for public safety special tax funds received. Such report shall review whether the tax revenue is collected, managed and expended in accordance with Chapter 3.32 of the Municipal Code.

#### 3.32.050 Special tax area.

The special tax area is all land within the City of Desert Hot Springs.

#### 3.32.060 Land use category.

The amount of the special tax shall be based in part upon the land use category of the subject parcel (land use category), as set forth in Appendix A hereto and incorporated herein by this reference, and shall be initially in the amounts set forth in Appendix A.

#### 3.32.070 Prohibited additions and modifications to special tax areas and/or land use categories.

No boundary modifications to the existing special tax area and no modifications to the land use categories shall be made which will result in an increase in the rate or amount of any special tax above the rate or amount set forth in this chapter unless such an addition or modification is submitted to the voters and is approved by at least a two-thirds vote of the electors of the City at an election called for such a purpose in a manner consistent with California Constitution Article XIID, Section 3, California Government Code Sections 53722 et seq., and/or any other applicable constitutional provision, law or regulation pertaining to such matters.

#### 3.32.080 Change in special tax rate resulting from change in zoning, development or usage.

Notwithstanding Section 3.32.070, any increase in the rate or amount of the special tax which results from a change in zoning (e.g., from recreational to commercial), a change in development (e.g., from unimproved to improved) or usage (e.g., from a hotel to a boarding house) shall not be required to be submitted to the voters for approval. For each real property which is subject to a change in zoning, or for which a change in development or a change in usage is approved, the rate of the special tax that will be levied upon the real property shall be the rate applicable to other similarly situated properties in that particular zone, with that particular type of development and usage. This paragraph shall be interpreted in a manner which is consistent with this chapter.

### 3.32.090 Parcels subject to special tax.

The special tax shall be imposed on all parcels of real property located within the special tax area unless otherwise specifically exempted in this chapter.

### 3.32.100 Exempted parcels.

Parcels owned by the City, the federal government, the state, or any other local public agency and parcels owned by any other public or private entity that is specifically exempted from local property-related taxation regulations under any applicable federal or state statute or regulation shall be exempt from the imposition of the special tax set forth in this chapter.

### 3.32.110 Possessory interests in exempted parcels.

Any non-public entity holding or possessing a leasehold interest or any other similar possessory interest in any real property specifically exempt under Section 3.32.100 shall be subject to the imposition of the special tax in a manner consistent with the purposes and provisions of this chapter.

### 3.32.120 Annexations.

Parcels annexed by the City after the effective date of the ordinance codified in this chapter shall be included in the special tax area which most closely resembles the zoning, land use and locational characteristics of the respective parcel, as shall be determined by the City, and the subject parcel shall be subject to the imposition of the special tax set forth in this chapter only if the imposition of the special tax on the subject parcel is accomplished in a manner consistent with California Constitution Article XIII D, Section 3, California Government Code Sections 53722 et seq., and/or any other applicable constitutional provision, law or regulation pertaining to such matters.

### 3.32.130 Annual adjustments.

The amount of the special tax as set forth in this chapter shall be adjusted annually by the cost of living increase as represented in the Consumer Price Index utilized by the Department of Labor for the area including Riverside County (currently, the Metropolitan Los Angeles area) for the most recent 12 months preceding the annual review of the cost of living pursuant to this section, or three percent, whichever is less.

### 3.32.140 Prohibition against discretionary adjustments in amount of special tax.

Other than the annual adjustments set forth in Section 3.32.130, the City, the City Council and/or any other decision-making authority of the City shall be prohibited

from increasing the rate or amount of the special tax above the rate or amount set forth in this chapter unless such an increase in the rate or amount is submitted to the voters and is approved by at least a two-thirds vote of the electors of the City at an election called for such a purpose in a manner consistent with California Constitution Article XIID, Section 3, California Government Code Sections 53722 et seq., and/or any other applicable constitutional provision, law or regulation pertaining to such matters.

#### 3.32.150 Civil debt.

The special tax and all applicable penalties and interest shall be deemed a civil debt owing to the City which may be collected in the manner provided by the municipal code or any other applicable law, rule or regulation.

#### 3.32.160 Assessment and collection duties.

The assessment and tax collection duties associated with the special tax described in this chapter shall be, pursuant to California Government Code Section 51501, the responsibility of the Assessor and Tax Collector of the County of Riverside.

#### 3.32.170 Installment dates.

The special tax set forth in this chapter shall be due in two equal installments on the same dates in accordance with the schedule utilized by the assessor and tax collector of the County in collecting other property taxes on behalf of the City.

#### 3.32.180 Method of collection.

The special tax set forth in this chapter shall be collected in the same manner in accordance with the procedures utilized by the Assessor and Tax Collector of the County in collecting other property taxes on behalf of the City.

#### 3.32.190 Penalties and interest.

The special tax shall be subject to the same penalties and interest set forth by the County on behalf of the City and such penalties and interest shall constitute a lien upon the subject parcel until it has been paid.

#### 3.32.200 Limited authority of the City Council.

The City Council, by three affirmative votes, is authorized:

A. To reduce the amount of the special tax pro rata among parcels for a current fiscal year if it is determined within the City Council's sole discretion that the

amount of revenue produced by the special tax exceeds the cost of the public safety services for that fiscal year.

B. To sit as a Board of Equalization under procedures to be adopted to equalize inequities and reduce hardships for the current fiscal year created by a literal interpretation of this chapter and any such action taken in this capacity shall be deemed an administrative action.

C. To annually provide an official assessment book designating the actual special tax levy on each parcel to the Assessor and Tax Collector of the County.

D. To amend this chapter for the purpose of administering the general purposes of the article and conforming with any applicable federal and/or state statute, rule or regulation.

3.32.210 Expiration date.

This chapter shall expire until repealed by the voters ~~June 30, 2020.~~

**Appendix A.**

LAND USE CATEGORY	UNIT OF MEASURE	TAX RATE	<b><u>NEW TAX RATE</u></b>
Single Family Residential/R-1/CON	Per dwelling unit	\$120.87	<b><u>\$103</u></b>
Duplexes/R-2	Per dwelling unit	\$67.60	
Apartments/Mobile Homes/ R-3	Per dwelling unit	\$3,837.1	
Residential Vacant	Per dwelling unit	\$8.57	<b><u>\$19.14</u></b>
Commercial Developed	Per acre (<or = 0.15 acres)	\$3,734.14	
Commercial Developed	Per acre (>0.15 acres)	\$3,253.20	
Commercial Vacant	Per acre	\$116.66	<b><u>\$267.60</u></b>
Industrial Developed	Per acre	\$521.92	
Industrial Vacant	Per acre	\$2.36	<b><u>\$5.42</u></b>
Hotel Developed	Per room	\$38.16	
Hotel Vacant	Per acre	\$9.80	<b><u>\$22.50</u></b>

**Section 3. VOTER APPROVAL**

That this ordinance was approved by at least two-thirds (2/3<sup>rd</sup>) of the voters voting in the Desert Hot Springs special municipal election held on November 7, 2017.

**Section 4. SEVERABILITY**

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. REPEAL OF CONFLICTING PROVISIONS**

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

**Section 6. CERTIFICATION**

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

**Section 7. EFFECTIVE DATE**

That this ordinance shall take effect ten (10) days following the City Council's certification of the results of the November 7, 2017, special municipal election.

**PASSED AND ADOPTED** by the People of the City of Desert Hot Springs at a special municipal election held on November 7, 2017.

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Scott Matas, Mayor

**ATTEST:**

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Jerryl Soriano, City Clerk



**APPROVED AS TO FORM:**

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Jennifer A. Mizrahi, City Attorney