

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 AMENDING SAME TO REGULATE FENCES ON VACANT LAND

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, it has come to the City's attention that unprotected vacant property can subject the property owners to illegal dumping; and

WHEREAS, this Ordinance would make it permissive for persons to construct fencing to be used along the perimeter of vacant property in order to secure the property; and

WHEREAS, on June 13, 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 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.
 - g. **Post and wire fencing, not to exceed 48 inches in height, may be used along the perimeter of vacant property.**
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;
 - e. Proposed fencing is complimentary to the fencing in the surrounding neighborhood.
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.
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.

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 4 feet	Solid structures or plants 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 6 feet	Solid structures or plants 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 required yards)	8 feet 8 feet	Commercial Industrial
All districts traffic safety site area	30 inches	
Public right-of-way	6 feet	
Retaining walls	6 feet	
<u>Vacant Lots</u>	<u>48 inches</u>	<u>Post & Wire</u>

* 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 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
- 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 of the City of Desert Hot Springs at a regular meeting held on the _____ day of _____, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, City Clerk

APPROVED:

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney