

ORDINANCE NO. 2018-_____

**AN ORDINANCE OF THE CITY OF DESERT HOT SPRINGS
ESTABLISHING A SPECIAL PUBLIC SAFETY TAX FOR
POLICE AND FIRE PROTECTION SERVICES SUBJECT TO
VOTER APPROVAL OF THE VOTERS OF THE DESERT HOT
SPRINGS PUBLIC SAFETY TAX AREA ZONE 30 (DESERT
GROW LLC)**

**THE VOTERS OF ZONE 30 OF THE DESERT HOT SPRINGS SPECIAL PUBLIC SAFETY
TAX AREA DO ORDAIN AS FOLLOWS:**

Section 1. Purpose, Intent and Authority.

It is of critical importance to the City Council of the City of Desert Hot Springs that residents of the City receive high quality police and fire protection services. In carefully reviewing the City's budget and revenue projections with the Police and Fire Departments, it has become clear to City staff that the City budget does not contain adequate funding to ensure the continued delivery of adequate high quality public safety services unless additional revenues are obtained.

It is the purpose and intent of this Ordinance to generate additional funds to pay for police and fire protection services by authorizing the levy of a tax on improved parcels of real property on the secured property tax roll of Riverside County that are within Zone 30 of the Desert Hot Springs Special Public Safety Tax Area (the "Zone"). The voters of Zone 30 recognize the importance of adequate public safety services to the entire Desert Hot Springs community and approve this tax to ensure that those services will be maintained and improved citywide.

This tax is a special tax within the meaning of Section 4 of the Article XIII A of the California Constitution. Because the burden of this tax falls upon property, this tax also is a property tax, but this tax is not determined according to nor in any manner based upon the value of property; this tax is levied on a parcel and use of property basis. Insofar as not inconsistent with this Ordinance or with legislation authorizing special taxes and insofar as applicable to a property tax that is not based on value, such provisions of the California Revenue and Taxation Code and of Article XIII of the California Constitution as relate to ad valorem property taxes are intended to apply to the collection and administration of this tax (Section 4 of this Ordinance), as authorized by law. This tax is not an ad valorem property tax; it is an excise tax on the use of property. Because the revenue from the tax may be used only to fund public safety services, it is also a special tax.

The revenues raised by this tax are to be used solely for the purposes of obtaining, furnishing, operating, and maintaining police and fire protection equipment or apparatus, for paying the salaries and benefits of police and fire protection personnel, and for such other police and fire protection service expenses as are deemed necessary for the benefit of the residents of Zone 30.

This Ordinance is enacted pursuant to the authority of Government Code Section 53978 and is in compliance with that law and all others applicable to the tax. At the time that the Council submitted this Ordinance to the voters of Zone 30, there were 0 registered voters residing there and a single property owner. Because the Special Public Safety Tax will be

imposed on property in Zone 30 and paid by the owner of the property, the Council finds that restricting the vote on the Special Public Safety Tax to property owners in Zone 30 is appropriate and consistent with the principles and requirements of California Constitution Article XIII C (Proposition 218).

Section 2. Definitions.

The following definitions shall apply throughout this Ordinance.

A. "Animal control services" means services directed toward maintaining a safe and stray-free community, including but not limited to 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; removing wild animals and reptiles from the community; and administrative costs related to those activities.

B. "Code enforcement services" means services directed toward the enforcement of provisions of the Desert Hot Springs Municipal Code related to public nuisances, including but not limited to zoning, signs, land use, and property maintenance violations; businesses licensing; removal of abandoned vehicles; and administrative costs related to those activities.

C. "Constant first year dollars" shall mean an actual dollar amount which, in years subsequent to the first fiscal year the tax is levied, shall have the same purchasing price as the base amount in first fiscal year dollars as measured by the Consumer Price Index. The base amount shall be the amount of tax per parcel as specified in Section 3(A) herein. The adjustments from actual to constant dollars shall be made by use of the Consumer Price Index, as specified in Section 3(B) herein.

D. "Consumer Price Index" means the Consumer Price Index for all Urban Consumers (CPI-U) for the Metropolitan Los Angeles Area in the month of April as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Consumer Price Index had not been discontinued or revised.

E. "Fiscal year" means the period of July 1 through the following June 30.

F. "Desert Hot Springs Special Public Safety Tax Area" means all the properties within the jurisdictional limits of the City of Desert Hot Springs.

G. "Desert Hot Springs Special Public Safety Tax Area Zone 30" (the "Zone") means that portion of the incorporated area of the City of Desert Hot Springs located within the boundaries described in Exhibit A hereto and as shown on the map Exhibit B hereto.

H. "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 of Desert Hot Springs, or any successor agreement, entered into by and between the City and Riverside County Fire Department, or another public agency, and the administrative costs directly related to those activities.

I. "Parcel" means the land and any improvements thereon, designated by an assessor's parcel map and parcel number and carried on the secured property tax roll of Riverside County. For the purposes of this Ordinance, parcel does not include any land or improvements outside the boundaries of the Zone nor any land or improvements owned by any governmental entity.

J. "Police protection services" means services protecting the safety of the citizens of the City through the maintenance of law and order, including but not limited to the enforcement of criminal, civil, and vehicular laws and provisions of the Desert Hot Springs Municipal Code; 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 administrative costs directly related to those activities.

K. "Public safety services" means police protection, fire protection, code enforcement, and animal control services.

L. Pursuant to Government Code §53978, "voter" means a person owning real property within the Zone at the time this Ordinance was adopted, as shown on the last equalized assessment roll prepared by the Riverside County Assessor's Office.

Section 3. Amount and Level of Taxes. The tax per year on each parcel in the Zone shall not exceed the amount applicable to the parcel, as specified below.

A. For First Fiscal Year:

The tax per year for the first fiscal year (July 1, 2017 through June 30, 2018) shall be the amount of Tax per Parcel for a Property Use Code Category as set forth in Exhibit C hereto. The use code assigned to each parcel shall be reviewed and updated periodically.

B. For Subsequent Fiscal Year:

In order to keep the tax on each parcel in constant first year dollars for each fiscal year subsequent to the first fiscal year, the tax per year shall be adjusted as set forth below to reflect any increase in the Consumer Price Index beyond the first fiscal year the tax is levied.

For each Property Use Category on Exhibit C, the tax per year on each parcel for each fiscal year subsequent to the first fiscal year shall be an amount determined as follows:

$$\begin{array}{ccccc} \text{Tax Per Parcel} & & \text{Tax Per} & & \text{Consumer Price Index} \\ \text{For the Current} & & \text{Parcel For} & & \text{for April of immediately} \\ \text{Fiscal Year} & = & \text{Preceding} & \times & \text{Preceding Fiscal Year} \\ & & \text{Fiscal Year} & & \text{OR 1.03, whichever is} \\ & & & & \text{less} \end{array}$$

Provided, however, that in no event shall the tax per parcel for any fiscal year be less than the amount established for the first fiscal year.

C. Nature of Tax Levy.

The taxes levied on each parcel pursuant to this Article shall be a charge upon the parcel and shall be due and collectible as set forth in Section 4, below.

D. Reduction of Tax for Parcels Subject to Existing Public Safety Parcel Tax.

The tax imposed on any parcel in Zone 30 shall not be reduced by the amount of tax imposed on that parcel pursuant to Ordinance No. 517 (codified as §§ 35.150 *et seq.* of the Desert Hot Springs Municipal Code). The tax imposed on any parcel in Zone 30 pursuant to this ordinance shall be the full amount set forth in Exhibit C, adjusted for inflation as provided for in Section 3(B).

Section 4. Collection and Administration.

A. Taxes as Liens Against the Property.

The amount of taxes for each parcel each year shall constitute a lien on such property, in accordance with Revenue and Taxation Code Section 2187, and shall have the same effect as an ad valorem real property tax lien until fully paid.

B. Collection.

The taxes on each parcel shall be billed on the secured roll tax bills for ad valorem property taxes and are to be collected in the same manner in which Riverside County collects secured roll ad valorem property taxes. Insofar as feasible and insofar as not inconsistent with this Ordinance, the times and procedures regarding exceptions, due dates, installment payments, corrections, cancellations, refunds, late payments, penalties, liens, and collections for secured roll ad valorem property taxes (as established by Riverside County) shall be applicable to the collection of this tax. Notwithstanding anything to the contrary in the foregoing, as to this tax:

1. The secured roll tax bills shall be the only notices required for this tax, and
2. The homeowners and veterans exemptions shall not be applicable because such exemptions are determined by dollar amount of value.

C. Costs of Administration by County.

The reasonable costs incurred by the County officers collecting and administering this tax shall be deducted from the collected taxes.

D. Use of Tax Revenue.

The revenue collected from the tax imposed by this ordinance shall be placed into a separate account and may be used only to fund public safety services, including the costs of administering and collecting the tax and enforcing the provisions of this ordinance. Revenue from the tax may be used for public safety services citywide.

E. Refunds.

1. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the City pursuant to this ordinance, it may be refunded as provided in this Section.
2. No refund may be made except upon a written claim verified by the person who paid the tax or by his or her guardian or conservator or the executor or administrator of his or her will or estate and stating the grounds upon which the claim is made. All claims filed pursuant to this subsection must be presented within one year after payment of the amount for which the claimant is seeking a refund.
3. No order of a refund may be made until a written claim therefore has been presented in accordance with this subsection. No suit for money, damages or a refund may be brought against the City until a written claim therefore has been presented to the City and has been acted upon or has been deemed rejected by the City, in accordance with this subsection. Only the person who filed the claim may bring such a suit, and if another person should do so, judgment shall not be rendered for the plaintiff.

F. Initiatives to Affect Tax.

Consistent with the California Constitution (art. XIIC, §3) the tax imposed by this ordinance may be affected by initiative. The procedures for qualification of such an initiative and the election on a qualified initiative shall be consistent with the California Constitution (art. 2, sec. 8), the California Elections Code (Chapter 3 of Division 9), and the Municipal Code. The minimum number of signatures necessary to qualify an initiative to affect the tax approved by this ordinance shall be equal to 5 percent of the votes in the City for all candidates for Governor at the last gubernatorial election. The election on a qualified initiative to affect the tax shall be a regular citywide election. An initiative affecting the tax shall be approved only if at least two-thirds of the votes cast on the measure are in favor of its approval.

Section 5. Severability Clause.

If any article section, subsection, sentence, phrase of clause of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The voters of the Zone hereby declare that they would have adopted the remainder of this Ordinance, including each article, section, subsection, sentenced phrase or clause, irrespective of the invalidity of any other article, section, subsection, sentence, phrase or clause.

Section 6. Effective Date and Posting.

A. Canvass of Election.

The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (on January 16, 2018, or when all qualified electors have voted)

at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall certify the results of the election.

B. Effective Date

This Ordinance shall take effect immediately upon its approval by two-thirds of the voters voting within the Zone in an election to be held on January 16, 2018, so that taxes shall first be collected hereunder for the tax year beginning July 1, 2018.

Dated: January 16, 2018

[SIGNATURES FOLLOW ON THE NEXT PAGE]

APPROVED by the following vote of the Voters of Zone 30 of the Desert Hot Springs Special Public Safety Tax Area on January 16, 2018: Yes Votes: _____ No. Votes: _____ Percent (%) Approval: _____

PASSED AND ADOPTED by Declaration of the vote by the City Council of the City of Desert Hot Springs on this sixteenth day of January, 2018, by the following vote:

AYES:

NAYS:

ABSENT:

ATTEST:

APPROVED:

Jerryl Soriano, CMC, City Clerk

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer Mizrahi, City Attorney

EXHIBIT A

DESERT HOT SPRINGS SPECIAL PUBLIC SAFETY TAX ZONE 30 (DESERT GROW LLC) ZONE DESCRIPTION

The City of Desert Hot Springs Special Public Safety Tax District (the “District”) boundary is coterminous with that of the City of Desert Hot Springs’ (the “City”) incorporated territory. Each zone within the District is a portion of that area and is described below by Riverside County Assessor’s Parcel Number (APN) included within the zone.

(Note: the APN is current as of the Final Tax Lien Assessment Roll for FY 2017-2018)

Assessor’s Parcel Number	Lot Size Acres
665-040-017	1.26

EXHIBIT B

**BOUNDARY MAP
SPECIAL PUBLIC SAFETY TAX AREA
ZONE 30 (DESERT GROW LLC)
CITY OF DESERT HOT SPRINGS**

A map of the above entitled zone within the City of Desert Hot Springs Special Public Safety Tax follows on the next page.

BOUNDARY MAP
SPECIAL PUBLIC SAFETY TAX AREA
ZONE 30 (DESERT GROW LLC)
CITY OF DESERT HOT SPRINGS

COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
SW⁴ OF NW⁴, SEC. 1, T.3S., R.4E.

LEGEND

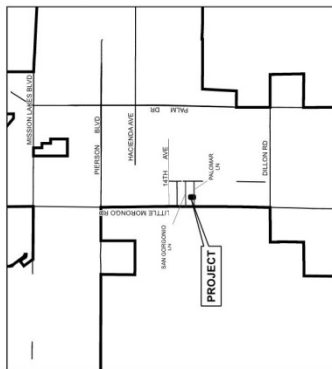
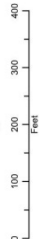
— ZONE 30 BOUNDARY

— PARCEL LINES

XXX-XXX-XXX ASSESSOR PARCEL NUMBER



N



VICINITY MAP
NOT TO SCALE

THIS BOUNDARY MAP CORRECTLY SHOWS THE BOUNDARIES OF ZONE 30 (DESERT GROW LLC). FOR DETAILS CONCERNING THE LINES AND DIMENSIONS OF LOTS OR PARCELS REFER TO THE COUNTY ASSESSOR'S MAPS FOR FISCAL YEAR 2017-2018.

ALBERT A. WEBB
ASSOCIATES
ENGINEERING CONSULTANTS

EXHIBIT C

CITY OF DESERT HOT SPRINGS SPECIAL PUBLIC SAFETY TAX TAX RATE TABLE

City Land Use Category	County Property Use Code Category	Per Parcel Annual Tax Rate
Single Family Residential/R-1	R1 (Single Family Residential)	\$292.04 per unit
	CR (Single family residential on commercially zoned property)	\$292.04 per unit
Duplexes/R-2 and other Non-rental Multi-family Residential	R2 (2 or 3 unit dwelling units on a single parcel)	\$163.24 per unit
	RC (Condos with private entry)	\$163.24 per unit
	RD (Condos with common entry)	\$163.24 per unit
Apartments and Mobile Homes/R-3	R3 (Apartment buildings)	\$93.44 per unit
	RM (Individually owned mobile home lot with mobile home hook-up; mobile home not assessed by assessor)	\$93.44 per unit
	MF (Individually owned parcel improved by assessor because it is on a legal foundation)	\$93.44 per unit
	MI (Mobile home assessed by assessor, located on leased land, and not associated with rental park)	\$93.44 per unit
	MO (Individually owned parcel improved with mobile home hook-up; mobile home assessed by assessor)	\$93.44 per unit
	MP (Mobile home located on rented land in rental park and assessed by assessor)	\$93.44 per unit
Commercial	CL (Commercial building on leased land)	\$486.75 for 1 acre or less \$730.13 > than 1 acre to 3 acres \$1,095.18 > than 3 acres to 5 acres \$1,642.79 > than 5 acres to 15 acres \$2,464.18 > than 15 acres to 25 acres \$3,695.65 > than 25 acres to 40 acres \$5,542.86 > than 40 acres

**CITY OF DESERT HOT SPRINGS SPECIAL PUBLIC SAFETY TAX
TAX RATE TABLE (CONTINUED)**

City Land Use Category	County Property Use Code Category	Per Parcel Annual Tax Rate
Commercial (Continued)	C1 (All other commercial property)	\$486.75 for 1 acre or less \$730.13 > than 1 acre to 3 acres \$1,095.18 > than 3 acres to 5 acres \$1,642.79 > than 5 acres to 15 acres \$2,464.18 > than 15 acres to 25 acres \$3,695.65 > than 25 acres to 40 acres \$5,542.86 > than 40 acres
Industrial		\$486.75 for 1 acre or less \$730.13 > than 1 acre to 3 acres \$1,095.18 > than 3 acres to 5 acres \$1,642.79 > than 5 acres to 15 acres \$2,464.18 > than 15 acres to 25 acres \$3,695.65 > than 25 acres to 40 acres \$5,542.86 > than 40 acres
Hotel		\$92.28 per room