

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, AMENDING CHAPTERS 3.20, 4.36, 5.04, 5.08, 5.12, 5.28, 5.36, 5.44, 5.50, 15.60, 17.12, 17.40, 17.45, 17.76, 17.92, 17.144, 17.152, 17.156, 17.164, AND 17.168 OF THE MUNICIPAL CODE PROVIDING MORE CONSISTENT RULES AND PROCEDURES FOR THE DENIAL, SUSPENSION, MODIFICATION, AND REVOCATION OF LICENSES AND PERMITS AND APPEALS THEREOF.

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

WHEREAS, Titles Three, Four, Five, Fifteen, and Seventeen of the Desert Hot Springs Municipal Code regulate various licenses, permits, and other approvals granted by the City to persons or entities (collectively "Permit(s)"); and

WHEREAS, every Permit(s) granted by the City may be denied, revoked, modified, or suspended by the City under certain circumstances; and

WHEREAS, every holder of a Permit(s) that is in jeopardy of suspension, modification, denial, or revocation is entitled to due process under the California and United States Constitution, which includes the opportunity to be heard in a fair hearing; and

WHEREAS, currently, Titles Three, Four, Five, Fifteen, and Seventeen of the Desert Hot Springs Municipal Code prescribes the procedures to deny, revoke, modify, or suspend Permit(s) which, depending on the type of Permit(s), entails: 1) an initial decision by a city staff member, with an opportunity to appeal the city staff member's decision, or 2) a hearing conducted by a neutral third party hearing officer ("Hearing Officer"), whose decision can be appealed, or 3) a hearing conducted by the City Council, whose decision can be appealed to the superior court; and

WHEREAS, the City deems it desirable to allow 1) initial City staff determinations to revoke, modify, or suspend a permit to be appealed to a Hearing Officer, and 2) similarly, if an initial determination to revoke, modify, or suspend a Permit(s) requires a hearing (instead of City staff making the initial determination), by a hearing officer; and

WHEREAS, Hearing Officers are not employees of the City and have no financial conflict or any other impermissible interest in the outcome of a hearing, providing a fair and transparent hearing for Permit(s) holders; and

WHEREAS, this ordinance amends Titles Three, Four, Five, Fifteen, and Seventeen of the Desert Hot Springs Municipal Code to create a consistent and fair process in matters pertaining to the revocation, denial, suspension, or modification of Permit(s); and

WHEREAS, uniformity of rules and procedures promotes efficient and orderly administration of Permit(s) and simplifies procedures for city staff to implement; and

WHEREAS, in addition to utilizing a Hearing Officer, this ordinance amends several sections of the Desert Hot Springs Municipal Code to provide that Permit(s) revocations, denials, suspensions, and modifications adhere to a uniform procedure and

WHEREAS, this ordinance further amends Chapter 4.36 of the Desert Hot Springs Municipal Code to provide a consistent and uniform hearing procedure for Permit(s) revocation, denials, suspension, or modification hearings, as well as appellate hearings; and

WHEREAS, Chapter 4.36 of the Desert Hot Springs Municipal Code, as amended, provides a consistent due process and noticed hearing procedure; and

WHEREAS, nothing contained in this ordinance abrogates the right of appeal or diminishes any due process rights afforded under the California and United States Constitutions; and

WHEREAS, the City Council finds that the adoption of this ordinance is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance in question may have a significant effect on the environment.

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 CHAPTER 3.20 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 3.36 “Transient Occupancy Tax” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

3.20.100 Appeals.

Any operator aggrieved by any decision of the City Manager with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by

filing a notice of appeal with the City Clerk within 15 days of the serving or mailing of the determination of tax due. **The appeal shall be conducted in accordance with the applicable procedures set forth in Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended.** ~~The City Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his or her last known place of address.~~ The **decision of the Hearing Officer finding of the City Council** shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

Section 3. AMENDING CHAPTER 4.36 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 4.36 "Permit And License Suspension, Modification And Revocation Procedures" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

4.36.010 Application.

The procedures set forth in this chapter apply only to those permits and licenses which are not specifically governed by any other procedures which may be applicable pursuant to any provision of the municipal code, and/or statute, rule, code or regulation. **Multiple permits and licenses held by the same user and subject to this chapter may be heard simultaneously in the same proceeding.**

4.36.020 Duty to prepare and serve notice of action recommendation.

Upon reaching the determination that a specific violation of the municipal code and/or applicable statute, rule, code or regulation warrants suspension, modification or revocation of a permit or license, the City Manager or designee shall prepare and serve a written notice of action recommendation upon the subject permit or license holder.

A notice of action recommendation is not required if the provisions of this chapter are being used to conduct an appeal of a decision to suspend, modify, or revoke a license or permit.

4.36.030 Contents of notice of action recommendation.

The notice of action recommendation should **substantially** include all of the following information:

- A. The name of the subject permit or license holder;
- B. The street address or definite location where the violation(s) occurred;

C. The code section(s) violated;

D. A description of the conditions or actions which warrant suspension, modification or revocation of the subject permit or license;

E. The action proposed (i.e., suspension, modification or revocation of the subject permit or license);

F. **If applicable, a** A description of any prior action taken by the City to gain compliance with the code with regards to the subject violation(s);

G. A description of the procedures involved in taking the proposed action, including the license or permit holder's right to attend the hearing on the proposed action; and

H. The name, title and telephone number of the official making the recommendation.

4.36.090 Selection of Hearing Officer

~~_____ The City Manager, or designee, shall select the Hearing Officer to conduct the administrative hearing and ensure the Hearing Officer is an impartial third party who does not possess any interest in the proceeding over which he or she is presiding, nor any pecuniary interest in the outcome thereof.~~

_____ The City Manager, or designee, shall select the Hearing Officer to conduct administrative hearings pursuant to this chapter. All Hearing Officers shall be impartial third parties and shall not have any pecuniary interest in the proceeding over which he or she is presiding, nor any pecuniary interest in the outcome thereof.

4.36.140 Issuing official's report.

A. The issuing official shall prepare an administrative hearing packet for the Hearing Officer to review prior to the hearing. The packet shall include a copy of the notice of action recommendation, **if applicable**, and a staff report, which should include a description of the violations and any actions taken by the subject permit or license holder subsequent to the service of the notice, a record of conversations or correspondence between the City and the permit or license holder concerning the violations and/or the notice of action recommendation.

B. At least five (5) days prior to the hearing, the persons or entities subject to a notice of action recommendation shall be provided with a copy of the issuing official's administrative hearing packet. A copy of any written documents prepared by the subject permit or license holder for the Hearing Officer's review shall likewise be provided to the City at least five (5) days prior to the hearing. No

other discovery is permitted. No additional reports or post-hearing briefs shall be permitted.

4.36.230 Expedited judicial review.

Any appeal of an administrative determination by the Hearing Officer involving the suspension, modification or revocation of a permit, license or other entitlement pertaining to expressive conduct protected by the State or Federal Constitution is eligible for expedited **judicial review pursuant to the applicable Code(s) of Civil Procedure.** ~~administrative review by the City Council.~~

4.36.240 Form of appeal.

~~Any appeal to the City Council of an administrative determination by a Hearing Officer involving the suspension, modification or revocation of a permit, license or other entitlement pertaining to expressive conduct protected by the State or Federal Constitution shall be in writing and shall contain the following information:~~

~~A. Name(s) of each appellant;~~

~~B. A brief statement in ordinary and concise language of the specific items protested, together with any material facts claimed to support the contentions of the appellant;~~

~~C. A brief statement in ordinary and concise language of the relief sought;~~

~~D. The reasons why the administrative determination by the Hearing Officer should be rescinded, modified or otherwise set aside; and~~

~~E. The signatures of all parties named as appellants and their mailing addresses.~~

4.36.250 Processing and scheduling of appeal.

~~A. Any appeal to the City Council of an administrative determination by the Hearing Officer involving the suspension, modification or revocation of a permit, license or other entitlement pertaining to expressive conduct protected by the State or Federal Constitution (administrative appeal) shall be filed with the City Clerk.~~

~~B. The administrative appeal shall be heard and decided by the City Council in a prompt and expedited way at the next regularly scheduled City Council meeting and in no event later than 15 days from the date the written request for appeal was filed with the City Clerk. In the event that the next regularly scheduled City Council meeting will not be conducted within 15 days from the date the written request for appeal was filed~~

~~with the City Clerk, the City Council shall schedule a special City Council meeting to hear and decide the administrative appeal.~~

~~4.36.260 City Council's administrative determination is final.~~

~~——— Administrative determinations by the City Council to suspend, modify, or revoke a permit, license or other entitlement involving expressive conduct protected by the State Constitution or the First Amendment to the United States Constitution are deemed to constitute final determinations by the City Council which determinations are eligible for expedited judicial review by the Superior Court of California pursuant to the Writ of Mandate procedures set forth in California Civil Procedure Code Section 1084 et seq.~~

4.36.240 ~~4.36.270~~ Attorney's fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorney's fees incurred in any such proceeding. In no proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the **City** city in the proceeding.

Section 4. AMENDING CHAPTER 5.04 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 5.04 "General Business Licenses" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

5.04.060 Exemptions.

A. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt, by virtue of the Constitution or applicable statutes of the United States or of this State, from the payment of the taxes prescribed by this chapter.

B. None of the license taxes provided for by this chapter shall be applied so as to occasion an undue burden upon interstate commerce. In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon such commerce, the licensee may apply to the Business License Clerk for an adjustment of the tax so that it shall not be discriminatory or unreasonable as to such commerce. Such application may be made before, at or within six months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume or estimated gross volume of business and such other information as the Business License Clerk may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Business License Clerk shall then conduct an investigation, and, after having first obtained the written approval of the City Manager and the City Attorney,

shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the Business License Clerk shall have the power to base the license tax upon a percentage of the gross receipts or any other measure which will assure that the license assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax prescribed by this chapter. Should the Business License Clerk determine the gross receipts measure of license tax to be the proper basis, the Business License Clerk may require the applicant to submit, either at the time of termination of the applicant's business in the City or at the end of each three-month period, a sworn statement of the gross receipts and pay the amount of license tax therefor; provided, that no additional license tax during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license tax as prescribed in this chapter.

C. Any person claiming an exemption pursuant to this section shall file a verified statement with the Business License Clerk, stating the facts upon which exemption is claimed.

D. The Business License Clerk shall, upon a proper showing contained in the verified statement, issue a license to such person claiming exemption under this section without payment to the City of the license tax required by this chapter.

E. ~~The Business License Clerk, after giving notice and reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein.~~ **If, following issuance of a license, the City determines that such license was not entitled to the exemption as provided herein, said license may be revoked pursuant to Section 5.04.250.**

5.04.120 Appeals ~~to Council~~ from actions of Business License Clerk.

Any person aggrieved by any decision of the Business License Clerk with respect to the issuance or refusal to issue any license **shall have fifteen (15) days to may** appeal ~~to the City Council~~ by filing a **written** notice of appeal with the **City Clerk**. Clerk of the Council. **Selection of a Hearing Officer and the conduct of the hearing shall be pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.** ~~The City Council shall thereupon fix a time and place for hearing such appeal. The Clerk of the Council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States post office at Desert Hot Springs, California, postage prepaid, addressed to such person at his or her last known address. The City Council shall have authority to determine all questions raised on such~~

~~appeal. No such determination shall conflict with any substantive provision of this chapter.~~

5.04.250 Revocation or suspension of license.

A. Generally. The payment of any license fee required by this title, its acceptance by the City, and the issuance of such license to any person shall not entitle the holder thereof to carry on any business called for by the license, unless he or she has complied with all requirements of this title, or to carry on any business at any location contrary to the City's building and zoning regulations.

B. **Any license issued pursuant to the provisions of this title may be suspended, modified, or revoked by the City pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.** ~~Revocation of License Tax Certificate. Any license issued pursuant to the provisions of this title may be revoked by the City Council for what it may deem good and sufficient reasons in order to preserve the peace, health, safety or general welfare of the City or upon receiving satisfactory evidence that the licensee thereof has violated any provision of other laws relating to the City, County, state and federal government, or is conducting a business other than that for which licensed. Such revocation shall be made only upon a hearing held before the City Council, after ten days written notice to such licensee, stating the grounds of complaint against him or her and stating the time and place when such hearing will be held. Service of such notice shall be deemed complete by either delivery to the licensee personally, his or her agent, or manager, or by certified mail or by posting the notice in a conspicuous place on the premises where such licensee is conducting his or her business, at least ten days prior to the hearing. Such hearing may be continued from time to time by the City Council. The findings and conclusions by the Council thereon shall be final and conclusive, with right of appeal by the licensee to any court of competent jurisdiction.~~

~~C. Suspension of License Tax Certificate. The license tax certificate issued to conduct any business may be suspended forthwith with approval by the City Council, when such suspension is necessary to preserve the peace, health, safety or general welfare of the City. Such suspension shall not continue for more than 30 days unless within such 30 days a hearing is held by the City Council pursuant to subsection B of this section in which event such suspension may continue until such hearing has been held and the matter disposed of by the City Council.~~

Section 5. AMENDING CHAPTER 5.08 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 5.08 "Community Antenna Television System" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

5.08.080 Rights reserved to city.

A. Nothing in this article shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the grantee, either by purchase or through the exercise of the right of eminent domain, at a fair and just value, which shall not include any amount for the franchise itself or for any of the rights or privileges granted, and nothing contained in this chapter shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain.

B. There is reserved to the City every right and power which is required to be herein reserved or provided by this code or any other ordinance of the City, and the grantee, by its acceptance of any franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power, heretofore or hereafter enacted or established.

C. Neither the granting of any franchise under this article, nor any of the provisions contained in this chapter shall be construed to prevent the City from granting any identical or similar franchise to any other person, within all or any portion of the City.

D. There is reserved to the City the power to amend any section or part of this article so as to require additional or greater standards of construction, operation, maintenance or otherwise on the part of the grantee.

E. Neither the granting of any franchise nor any provision of this chapter shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

F. The City Council may do all things which are necessary and convenient in the exercise of its jurisdiction under this chapter, and may determine any question of fact which may arise during the existence of any franchise granted under this chapter. The City Manager is authorized and empowered to adjust, settle or compromise any controversy or charge arising from the operations of any grantee under this chapter, either on behalf of the City, the grantee or any subscriber, in the best interest of the public. Either the grantee or any member of the public who may be dissatisfied with the decision of the City Manager may appeal the matter **by filing a written appeal to the City Clerk within 15 days of the City Manager's decision. The appeal shall be conducted in accordance with the applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The Hearing Officer may adjust, settle or compromise any controversy or cancel any charge arising from the operations of any grantee or from any provision of this chapter. The decision of the Hearing Officer shall be final.** ~~to the City Council for hearing and determination. The City Council may adjust, settle or compromise any controversy or cancel any charge arising from the operations of any grantee or from any provision of this chapter.~~

Section 6. AMENDING CHAPTER 5.12 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 5.12 “Dance Clubs And Public Dancehalls” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

~~5.12.090 Complaints concerning revocation of license.~~

~~Any person may file a complaint with the Clerk of the City Council or may petition the City Council to conduct a hearing concerning the revocation of the license of any licensee.~~

5.12.100 Revocation.

The **City may initiate proceedings** licensing officer shall have the power to revoke, **modify, or suspend** any license or to revoke and reinstate any license upon suitable conditions, pursuant **to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code** when one of the following causes exists:

A. The licensee fails, neglects or refuses to pay the licensing officer the fee prescribed by this chapter.

B. The licensee, his or her employee or agent fails, neglects or refuses to fulfill any of the conditions imposed by this chapter.

C. The licensee allows activities of the dance club or public dancehall to be conducted in a manner which violates any law or regulation established by the laws or ordinances of the City or by the laws of the state.

D. The licensee allows the activities of the dance club or public dancehall to be conducted in a boisterous or disorderly manner or allows any person to remain on the premises of the dance club or public dancehall while under the influence of intoxicating liquor or any narcotic or dangerous drug.

Section 7. AMENDING CHAPTER 5.28 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 5.28 “Sidewalk Vendors and Peddlers” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

5.28.100 Appeals.

A. Decisions of the City Manager or designee to revoke or deny a permit shall be appealed in the following manner:

1. Appeals shall be filed within 15 calendar days of service of the City Manager or designee's notice of the decision.

2. Appeals of decisions shall be made in writing on forms provided by the City.

3. Decisions that are appealed shall not become effective until the appeal is resolved.

4. All appeals of decisions shall be **conducted** ~~heard by a Hearing Officer designated pursuant to Section 4.24.250~~ applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, or any successor section.

~~5. The Hearing Officer shall have the powers set forth in Sections 4.24.250 and 4.24.260 of the Desert Hot Springs Municipal Code, or any successor section.~~

~~6. All appeals of decisions shall be conducted in accordance with Sections 4.24.270 through 4.24.380 of the Desert Hot Springs Municipal Code, or any successor sections, and shall comply with the following additional procedures:~~

~~a. At least 10 days prior to the hearing, the person requesting the hearing shall be provided with copies of the citations, reports and other documents or evidence submitted or relied upon by the City Manager or designee;~~

~~b. No other discovery is permitted. Formal rules of evidence shall not apply. Administrative hearings are intended to be informal in nature. The Hearing Officer has the authority to determine the relevance and credibility of any evidence at a hearing. The Hearing Officer also has the authority to exclude unduly repetitious and cumulative evidence, regardless of its relevancy.~~

57. The decision of the Hearing Officer shall be final.

B. Administrative citations shall be appealed in the following manner:

1. Any recipient of an administrative citation may request an ability-to pay-determination, contest that there was a violation of the Desert Hot Springs Code, and/or that he or she is the responsible person, by completing a request for hearing in a form provided by the City. Any person requesting a hearing and ability-to-pay determination may file the request within the time frames set forth in **Government Code Section 51039(f)(1), or any successor section.**

~~Gov-ernment Code Section 51039(f)(1), or any successor section.~~

2. All appeals of administrative citations shall be heard by a Hearing Officer designated pursuant to Section 4.24.250 of the Desert Hot Springs Municipal Code, or any successor section.

3. All appeals of decisions shall be conducted in accordance with Sections 4.24.270 through 4.24.380 of the Desert Hot Springs Municipal Code, or any successor sections.

4. The Hearing Officer shall have the powers set forth in Sections 4.24.250 and 4.24.260 of the Desert Hot Springs Municipal Code, or any successor section, and the Hearing Officer shall have the following additional powers:

a. Reduce the fine based upon the person's ability to pay the fine;

b. If the Hearing Officer finds the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the Hearing Officer, shall order the City to accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to this chapter;

c. The Hearing Officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

5. The decision of the Hearing Officer shall be final.

Section 8. AMENDING CHAPTER 5.36 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 5.36 "Alarm Systems" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

5.36.170 Suspension of permit.

The Chief of Police or Fire Chief shall suspend the permit of an alarm user whose alarm system has been designated a public nuisance. The Chief of Police or Fire Chief shall serve the alarm user with a written order of suspension which shall state the reason for the suspension. The order shall be effective immediately if personally served, or 72 hours after the order has been deposited with postage prepaid in the United States mail. As soon as such order of suspension becomes effective, the alarm user shall disconnect the alarm system. In the case of police alarm systems, the police alarm system shall receive nonpriority response from the police.

5.36.180 Revocation of permit.

The suspension of the alarm user's permit shall become a revocation 15 days after the order of suspension becomes effective unless the alarm user presents to the appropriate Chief written verification that the system has been completely evaluated and the causes of the false alarms located and corrected. Notice of revocation shall be served by personal service or by certified mail. Upon service of such notice of

revocation, the false alarm shall be disconnected. The alarm user shall surrender any permit revoked pursuant to this section to the appropriate Chief.

5.36.190 Appeals.

Within **fifteen (15)** ~~ten~~ days from the date of receiving notice of a revocation pursuant to Section 5.36.180 of this chapter, the alarm user may appeal the revocation to the City **Clerk Manager**. Such appeal shall be in writing and shall be filed with the City Clerk. **The appeal shall be conducted pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.** ~~At an informal meeting with the alarm user, not less than five days and no more than 20 calendar days thereafter, the City Manager shall hear and determine such appeal. The decision of the City Manager thereupon shall be final and conclusive. The City Clerk shall notify the appellant in writing no later than three days prior to the scheduled hearing of the time, date and place of such hearing by mailing such notice to the applicant at the address stated in his or her written appeal.~~

Section 9. AMENDING CHAPTER 5.44 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 5.44 "Vacation Rentals" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

5.44.110 Violations and penalties.

A. Any person who uses, or allows the use of, residential property in violation of the provisions in this chapter may be issued a citation pursuant to Sections 4.32.010 and 5.04.250 and the administrative citation provisions of Chapter 4.24 of the municipal code.

B. Notwithstanding the provisions of Chapter 4.24 and except for complaints regarding the conduct of the occupants or the operation of the unit, and the response to complaints by the owner, agent and/or emergency contact person, any other pre-citation or courtesy notice issued for any violations of this chapter may provide for a reasonable compliance date or time of less than 15 calendar days from the date the pre-citation notice is given, unless, due to the nature of the violation, a shorter compliance period is necessary or appropriate, as determined in the reasonable judgment of the City official issuing the notice.

C. Upon the fourth or subsequent violation issued under Section 4.32.010 in any 24-month time period, and/or upon revocation of the business license for the unit, or other permit or certificate required by the City, the City Manager **or designee** may initiate an investigation to determine whether an owner, agent and/or emergency contact person has failed to comply with the provisions of this chapter. Should the investigation reveal substantial evidence to support a finding that a violation occurred,

the City Manager or designee may initiate proceedings to revoke, modify, or suspend a vacation rental registration certificate pursuant to the applicable shall ~~issue a written decision suspending or revoking the vacation rental registration certificate. The appeal and hearing provisions of Chapter 4.36 of the Desert Hot Springs Municipal Code, or successor chapter. 4.24 shall apply to any revocation or suspension of a registration certificate.~~

D. The remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this code or other public nuisance.

Section 10. AMENDING CHAPTER 5.50 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 5.50 “Marijuana Facilities Regulatory Permit” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

5.50.190 Inspections and enforcement.

A. Recordings made by security cameras at any marijuana facility shall be made immediately available to the City Manager or designee upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

B. The City Manager or designee shall have the right to enter all marijuana facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.

C. Operation of the marijuana facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code.

D. The City Manager or designee may ~~summarily~~ suspend or revoke a marijuana regulatory permit, pursuant to section 5.50.200, if any of the following, singularly or in combination, occur:

1. The City Manager or designee determines that the marijuana facility has failed to comply with this chapter, any other applicable provision of the municipal code, ~~or any condition of approval,~~ any terms or conditions imposed pursuant to this chapter, or any other applicable statute or rule. ~~or a circumstance or situation has been created that would have permitted the City Manager or designee to deny the permit under Section 5.50.030;~~

2. Operations cease for more than 90 calendar days, including during change of ownership proceedings;

3. Ownership is changed without securing a regulatory permit;
4. The marijuana facility fails to maintain 240 continuous hours of security recordings; or
5. The marijuana facility fails to allow inspection of the security recordings, the activity logs, or the premises by authorized City officials.

5.50.200 Administrative Review Appeals.

~~Any decision regarding the denial, suspension or revocation of a regulatory permit may be appealed to a hearing officer.~~ **Upon making findings under section 5.50.190, the City Manager or designee may suspend or revoke a regulatory permit** pursuant to the **applicable** provisions set forth in Chapter 4.36. The **applicable** procedures governing suspension and revocation in Chapter 4.36 shall apply equally to the **appeal of a** denial of a regulatory permit. Said appeal shall be made by a notice of appeal from the person appealing within 30 days from the date of the **City Manager or designee's** decision **to deny a regulatory permit**.

Section 11. AMENDING CHAPTER 15.60 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 15.60 "Moving Buildings" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

15.60.080 Appeal from granting or denial of permit.

Any person who deems himself or herself aggrieved by any act or determination of the City Manager or the Building Official **shall have fifteen (15) days to** ~~may appeal to the City Council during such five day period,~~ by filing a written notice of appeal with the Building Department and paying a fee of \$40. Any number of persons may join in one notice of appeal. The notice of appeal will be sufficient in form if it contains the names and addresses of the applicants and states that the appeal is from the action of the Building Official in either granting or denying application No. _____, made by (names of the applicant) for a building moving permit. The Building Department shall forthwith send a notice of appeal, with a copy of the application and the objection thereto, to the City Clerk.

15.60.090 Procedure on appeal.

The appeal shall be conducted in accordance with applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as amended.

~~A. The City Clerk shall forthwith set the matter for hearing before the City Council at a regular meeting or adjourned regular meeting, to be held not less than 15 days nor more than 35 days after the date of filing the notice of appeal. The City Clerk shall forthwith deposit in the United States Post Office written notices of the time and place of hearing, addressed to the applicant and to the property owners who have filed written objections to the application, as their names and addresses appear on record; such notices to be so deposited at least ten days prior to the date of hearing.~~

~~B. At the time and place of hearing, the City Council shall consider the application and the objections thereto and shall hear such evidence as may be offered. Petitions shall not be considered as evidence. The City Council shall thereupon grant the application or deny the application or impose conditions upon the granting of the application, as it may deem proper.~~

15.60.110 Application for permit to move building from or through the City.

A. Application for permits to move buildings from or through the City shall be made at the Building Department upon forms provided by the Building Official, and need not be in duplicate. The applicant for such a permit shall comply with the applicable provisions of Section 15.60.100 of this chapter, and shall furnish such additional information as may be required by the Building Official. The application may be granted and the permit may be issued by the Building Official, without notice, if it appears that the building may be moved without danger of damage to any street, tree or any utility or installation, and that the use of streets along the route will not be unduly interfered with.

B. Upon the removal of any building or structure from its foundation within the City, the mover thereof shall be required to do the following:

1. Pump out the septic tank, cesspool, seepage pits and basement.
2. Fill and pack such tank, pool, pit and basement.
3. Remove the building foundations and any other debris.
4. Leave the lot cleared and in good order.

C. To guarantee compliance with all of the foregoing requirements, as a condition precedent to the issuance of a permit for the removal of any building or structure, the mover shall post a cash or surety bond in the sum of \$500.

D. If the application is denied by the Building Official, the applicant may appeal to the City Council as provided in Section 15.60.080 of this chapter.

Section 12. AMENDING CHAPTER 17.12 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 17.12 “Commercial Districts” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.12.120 Outdoor dining.

Outdoor dining shall be a development permitted use (Development Permit required) in all zoning districts in which restaurant uses are permitted or conditionally permitted within the City. In addition to meeting all standards necessary for the approval of a Development Permit, such use shall further comply with all of the following standards and conditions:

A. Parking shall be provided pursuant to the off-street parking standards set forth in Chapter 17.48 of this Zoning Ordinance.

B. No area used for open air dining shall be located in the public right-of-way except as provided in this section.

C. Any lighting in outdoor dining areas shall comply with all applicable City ordinances regulating outdoor lighting and shall be of a design that is directed away from and avoids disruptions to nearby properties and uses. Flame lighting such as Tiki torches shall only be permitted if encased in a design that eliminates fire safety hazards in a manner satisfactory to the City’s Fire Department.

D. Reviewing Authority.

1. Unless otherwise specified herein, the reviewing authority for a Development Permit for outdoor dining shall be the Director of Community Development. If, in the opinion of the Director, an application merits review by the Planning Commission, the Director may refer such application to the Planning Commission, and the Commission shall serve as the reviewing authority and shall conduct a noticed public hearing regarding the request consistent with Chapter 17.104.

2. Notwithstanding the provisions of subsection (D)(1) of this section, if the application for a Development Permit for outdoor dining accompanies an application for any other type of discretionary approval from the Planning Commission or City Council for the same site area, the Planning Commission or City Council, as appropriate, shall be the reviewing authority for the application for a Development Permit for outdoor dining and shall conduct a noticed public hearing regarding the request.

E. Outdoor Dining in the Public Rights-of-Way. No outdoor dining use shall be established in the public right-of-way without further complying with the following conditions:

1. A minimum distance of not less than a 5-foot-wide wheelchair accessible path of travel pedestrian aisle shall be maintained on the public right-of-way at all times: to

assure the required pedestrian travel aisle, all outdoor dining areas shall be set back a minimum of 5 feet from the edge of the curb and any fixed sidewalk obstruction including, without limitation, curblines, tree wells, street trees, parking meters, water hydrants, light poles, utility equipment boxes, newspaper racks and bus benches.

2. Umbrellas located in the outdoor dining area shall have a minimum 7-foot clearance from the ground to the lowest element of the umbrella and shall be located completely within the outdoor dining area's permitted boundaries. No writing or graphic of any type shall be permitted upon the umbrella or upon any other furniture located in the outdoor dining area.

3. Portable heaters shall be located a minimum of 3 feet from any combustible material and shall be located completely within the outdoor dining area's permitted boundaries.

4. Unless a permanent structure is approved pursuant to the Development Permit, all fixtures and furniture used in an outdoor dining area shall be removed from the public right-of-way and stored out of public view during non-business hours. At the discretion of the reviewing authority, outdoor dining areas with more than 8 chairs that present increased safety risks due to their configuration may be required to provide a permanent barrier delineating the usable open air dining area from the public right-of-way.

5. The outdoor dining area must be immediately adjacent to and abutting the associated restaurant space. Areas used for outdoor dining shall not extend beyond the building frontage for the associated restaurant space.

6. The material and design of the furniture (including umbrellas) and barrier, if any, shall be reviewed and approved by the reviewing authority prior to installation. The reviewing authority shall consider whether the design of the furniture and barrier are integrated and compatible in terms of color, shape and size with the adjacent restaurant and shall further ensure that all outdoor furniture and other permitted structures are of a size, shape and weight that can resist being moved in severe wind conditions.

7. An encroachment permit allowing establishment of an outdoor dining area shall be issued by the Public Works Department in a form satisfactory to the City Attorney. Such permit shall be conditioned in a manner acceptable to the City Attorney to protect the health, safety and welfare of the City and its citizens, and shall include, without limitation, reasonable insurance requirements and indemnification provisions acceptable to the City Attorney to protect persons and the City from injury and risks associated with the outdoor dining use.

8. Areas used for outdoor dining in the public right-of-way shall comply with all applicable provisions of the City's building codes, including, but not limited to, maintaining proper building egress and ingress at all times, observing maximum seating capacities, providing proper circulation, and providing appropriate handicap access.

9. An annual rental fee payable to the City shall be imposed on the use or operation of outdoor dining areas located in the public right-of-way. The rental fee schedule shall be set by resolution of the City Council. In the event that a permit is suspended pursuant to this section, rental fees shall not be required to be paid during the period of suspension.

10. Areas used for outdoor dining in the public right-of-way shall at all times be maintained in a neat and orderly manner free from any visible signs of disrepair.

11. Music, whether live or prerecorded, and any other form of live or prerecorded entertainment, shall not be broadcast or performed within outdoor dining areas occupying the public right-of-way. Electronic sound amplification equipment (e.g., speakers, microphones, amplifiers, sound receivers) is prohibited within outdoor dining areas occupying the public right-of-way.

12. Alcohol served in outdoor dining areas in the public right-of-way shall only be served in its original container or in nondisposable drinkware. A permittee serving alcohol within a sidewalk dining area shall place a notation on the menus provided to patrons that states in bold lettering of a size that is no smaller than 1/4 of an inch in height:

“People consuming alcohol on the public sidewalk or other public place outside of this outdoor dining area are subject to arrest. DHSMC Section 9.08.040.”

Any outdoor dining area located in the public right-of-way that intends to serve alcohol shall be required to have a barrier satisfactory to the reviewing body cordoning off the entire outdoor dining area from the public sidewalk or other public areas.

13. All outdoor dining areas located in the public right-of-way shall remain free of litter at all times.

14. There shall be no modification of the texture of the surface of the public right-of-way to accommodate the outdoor dining facilities.

15. Outdoor dining areas located in the public right-of-way shall not interfere with visibility, vehicular or pedestrian mobility.

16. Use, occupation and obstruction of the public right-of-way for outdoor dining purposes is a **revocable** revokable privilege. As such, **a Development Permit** the privilege may be temporarily suspended **or revoked according to procedures of this Chapter** when, in the discretion of the Director of Community Development, the Police Chief, the Fire Chief, the City Engineer, the Public Works Director, or the City Manager, any such use, occupation or obstruction may interfere with public safety efforts or programs, street improvement activities, construction activities, public utility installations, cleaning efforts or other similar activities or with the health, welfare or safety of the citizens of the City. ~~No hearing shall be required prior to such suspensions.~~

~~However, the City shall provide the permittee with at least 20 days prior written notice of such suspension by posting such notice at the entrance to the permittee's eating establishment where the outdoor dining facilities are located, unless due to an immediate threat to health, welfare or safety, the City is unable to provide such notice, in which case, such notice shall be provided as soon as is reasonably possible,~~

17. Consistent with Section 17.44.060 of the City's Zoning Ordinance, no signs, including, without limitation, portable signs or A-frame signs, shall be permitted in the outdoor dining area occupying the public right-of-way.

F. In addition to any other noticing requirements provided in this Zoning Ordinance, the following noticing requirements shall apply to Development Permit applications for outdoor dining uses:

1. A notice of application, in a form approved by the City, shall be posted in a conspicuous place on the subject site of any proposed outdoor dining use within 3 days after an application for an outdoor dining permit has been deemed complete. Such notice shall be visible from a distance of 60 feet and shall remain posted in such conspicuous place for no less than 10 days. Within 5 days of posting, the applicant for an outdoor dining permit shall submit an affidavit to the City certifying such notice has been posted in compliance with this provision.

2. A notice of intended decision regarding an application for an outdoor dining permit shall be mailed at least 10 days prior to any decision rendered by the Director of Community Development to all property owners and residential occupants within 100 feet of the exterior boundaries of a project site.

3. A notice of public hearing shall be mailed at least 10 days prior to any hearing held by a reviewing authority other than the Director of Community Development, by United States mail, postage paid, to all property owners and occupants within 100 feet of the exterior boundaries of a project site, as shown on the latest equalized assessment roll.

4. When a decision regarding a Development Permit for outdoor dining is rendered by the Director of Community Development, then a notice of decision shall be mailed in the same manner as the notice of intended decision.

G. All outdoor dining areas shall comply with the City's noise ordinances, including, without limitation, Section 17.40.180 (Noise) of the City's Zoning Ordinance.

H. In approving a Development Permit for outdoor dining, the reviewing authority may impose such conditions as may be reasonably necessary to protect the public health, safety and general welfare, and to ensure that the proposed outdoor dining use is established and conducted in a manner that is consistent with this section and the development standards for the underlying commercial zone. The conditions imposed by the reviewing authority may include, but shall not be limited to:

1. The appropriate setback for the proposed outdoor air dining use;
 2. Pedestrian access and safety;
 3. Barrier requirements surrounding the proposed open air dining use;
 4. The time limit on the permit;
 5. Restrictions governing the hours the proposed outdoor dining use may operate;
 6. Design restrictions to ensure neighboring properties and uses are not negatively impacted by noise, light or other attributes of the outdoor dining use.
- I. Revocation **or suspension** of a Development Permit for outdoor dining shall occur pursuant to the standards and procedures set forth in **applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code**. ~~Section 17.92.110 of this Zoning Ordinance. An appeal from any determination to revoke a Development Permit for outdoor dining shall be pursuant to the procedures set forth in Chapter 17.104 of this Zoning Ordinance.~~
- J. Any violation of subsection A, B, C, D, E, or G of this section shall constitute a public nuisance and an infraction, subject to all remedies available by law.

Section 13. AMENDING CHAPTER 17.40 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 17.40 “Property Development Standards” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.40.170 Outdoor lighting standards.

- A. Intent and Purpose. This section is intended to provide standards for outdoor lighting so as to maintain ambient lighting levels as low as possible in order to enhance the City’s community character and charm and maintain dark skies; provide for good visibility while maintaining minimum glare and spillage onto other properties or into the sky; and maintain safety, utility, security and productivity while enhancing nighttime enjoyment of property and the night skies.
- B. Applicability. All outdoor artificial lighting devices shall be installed and operated in accordance with the provisions of this section, plus any Uniform Building or Uniform Electrical Codes, NEC codes, NFPA codes or any other code presently or subsequently administered or adopted by the City. Any language contained therein which may conflict with this section shall be construed in a manner that is consistent with this section.
- C. Alternative Materials and Methods of Installation. The provisions of this section are not intended to prevent the use of any material or method of installation not

specifically prescribed by this section provided any such alternative has been approved by the Building Official. Any alternative method must meet the following:

1. The proposed design, material or method provides protection that is equivalent to the protection specified in this section; and
2. The proposed alternative method otherwise complies with the intent of this section.

D. Definitions. For the purposes of this section, certain terms are defined as follows:

1. "Display lighting" means a beam of light projected into the sky.
2. "Individual" means any private individual, tenant, lessee, owner, or any commercial entity including, but not limited to, companies, partnerships, joint ventures or corporations.
3. "Installed" means the initial installation of outdoor light fixtures defined in this section following the effective date of the ordinance codified in this section.
4. "Outdoor lighting wure" means outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot and flood lights for:
 - a. Buildings and structures.
 - b. Recreational areas.
 - c. Parking lot lighting.
 - d. Landscape lighting.
 - e. Billboards and signs.
 - f. Street lighting.
 - g. General area and yard lighting.

E. General Requirements.

1. Shielding. All exterior illuminating devices, except those exempt from this section and those regulated by subsection F of this section shall be fully or partially shielded as required in Table 17.40.170 of this section.

a. “Fully shielded” means the fixture shall be shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted, thus preventing the emission of light above the horizontal.

b. “Partially shielded” means the fixture shall be shielded in such a manner that the bottom edge of the shield is below the plane centerline of the light source (lamp), minimizing the emission of light rays above the horizontal.

2. Filtration. Those outdoor light fixtures requiring a filter per Table 17.40.170, shall be equipped with a filter consisting of a glass, acrylic or translucent enclosure. Quartz glass does not meet this requirement.

3. Requirements for Shielding and Filtering. The requirements for shielding and filtering light emission from outdoor light fixtures shall be as set forth in Table 17.40.170.

TABLE 17.40.170

REQUIREMENTS FOR SHIELDING AND FILTERING OF OUTDOOR LIGHTING

(see also footnotes following table)

Fixture Lamp Type	Shielding Requirement	Filtering Requirement
Low pressure sodium ⁽¹⁾	Partially	None
High pressure sodium	Fully	None
Metal halide ⁽²⁾	Fully	Yes
Fluorescent	Fully ⁽³⁾	Yes ⁽⁴⁾
Quartz ⁽⁵⁾	Fully	None
Incandescent, greater than 160 watts	Fully	None
Incandescent, 160 watts or less	None	None
Mercury vapor	Fully ⁽⁶⁾	Yes
Fossil fuel	None	None
Glass tubes filled with neon, argon or krypton	None	None
Other sources	As required by the Building Official	As required by the Building Official

⁽¹⁾ This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations.

- (2) Metal halide display lighting shall not be used for security lighting after 11:00 p.m. (or after closing hours if before 11:00 p.m.) unless fully shielded. Metal halide lamps shall be in enclosed luminaries.
- (3) Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.
- (4) Warm white and natural lamps are preferred to minimize detrimental effects.
- (5) For the purposes of this section, quartz lamps shall not be considered an incandescent light source.
- (6) Recommended for existing mercury vapor fixtures. The installation of new mercury fixtures is prohibited.

F. Prohibited Lighting.

- 1. Outdoor Building/Landscaping Illumination. The unshielded outdoor illumination of any building, landscaping, signing, or other purpose is prohibited except with incandescent fixtures less than 160 watts, fossil fuels, and/or glass tubes (see Table 17.40.170 in this section).
- 2. New Mercury Vapor Installations. The installation of mercury vapor fixtures is prohibited. All existing mercury vapor lights installed shall be fully shielded.
- 3. Illuminated Awnings. The use of lighting inside a transparent or translucent ground or wall mounted awning is prohibited.

G. Procedures for Compliance.

- 1. Applications.
 - a. Any individual intending to install outdoor lighting fixtures (other than incandescent lights of 160 watts or less) shall submit an application to the Building Department providing evidence that the proposed work will comply with this section.
 - b. Any individual applying for a building permit and intending to install outdoor lighting fixtures (other than incandescent lights of 160 watts or less) shall, as a part of the application, submit such evidence as may be requested to assure that the proposed work complies with this section.
 - c. Utility companies, lighting or improvement districts entering into a duly approved contract with the City in which they agree to comply with the provisions of this section shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures, including residential security lighting.
- 2. Contents of Application. The application shall contain, but shall not necessarily be limited to, the following:

a. Plans indicating the location on the premises, the height of the supports and fixtures, and the type of illuminating devices, fixtures, lamps, supports and other devices.

b. Description of the illuminating devices, fixtures, lamps, supports, shielding, filtering and other devices. This description may include but is not limited to, wattage, lighting output, manufacturer's catalog cuts, and drawings (including sections where required).

c. The above required plans and descriptions shall be sufficiently complete to enable the Building Official to readily determine whether compliance with the requirements of this section will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

3. Issuance of a Permit. Upon the determination that the installation will be in compliance with the requirements of this section, the Building Official shall **issue** ~~is sue~~ a permit for installation of the outdoor lighting fixtures, to be installed per the approved application.

4. Appeals. ~~Appeal procedures contained in Chapter 17.104, Hearings and Appeals, applicable to decisions of the Director, shall apply to~~ **Any** decisions of the Building Official **may be appealed within fifteen (15) days of the decision. Selection of a Hearing Officer and the conduct of the hearing shall be pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.**

5. Amendment to Permit. Should the applicant desire to substitute outdoor light fixtures or lamps after a permit has been issued, the applicant must submit all changes to the Building Official for approval. Such application for amendment shall contain adequate information to assure compliance with this section.

H. Exemptions.

1. Nonconforming Fixtures. All outdoor light fixtures existing and fully and legally installed, prior to September 1, 2002, may indefinitely remain in use as nonconforming structures provided that no change in use, replacement, structural alteration, or restoration of outdoor light fixtures, other than bulb replacement, is made unless such change conforms to the regulations of this section.

2. Fossil Fuel Light. Light fixtures using fossil fuel (i.e., light produced directly or indirectly from the combustion of natural gas or other utility type fossil fuel) are exempt from the requirements of this section.

3. Government Facilities. Those facilities and lands owned and operated or protected by the federal government, the State of California, the County of Riverside, the Palm Springs Unified School District or the City of Desert Hot Springs are exempted by law from all requirements of this section. Voluntary compliance with the intent of this section at those facilities is encouraged.

4. Recreational Facilities. The illumination of outdoor recreational facilities, public and private, is exempt from the requirements of this section with the following limitations:

a. The light fixtures for outdoor recreational facilities shall meet the shielding requirements in Table 17.40.170 of this section.

b. No such outdoor recreational facility shall be illuminated by nonconforming means after 10:00 p.m. except to conclude a specific recreation or sporting event or any other activity conducted at a ballpark, outdoor amphitheater, arena, or similar facility in progress prior to 10:00 p.m.

I. Temporary and Special Exemptions.

1. Request for Temporary Exemptions. Any individual may submit application for a minor use permit, on a form prepared by the Community Development Department, to the Building Official for a temporary exemption to the requirements of this section. Such exemptions shall be valid for 30 days. The request for temporary exemption shall contain, at a minimum, the following information:

a. Specific exemptions and justification for the exemptions requested;

b. Type, use and hours of operation of the exterior light involved;

c. Duration of time for the requested exemption;

d. Type of lamp and calculated lumens;

e. Total wattage of the lamp or lamps;

f. Proposed location and height of exterior lights;

g. Physical size of the exterior lights and the type of shielding and/or filtering provided;

h. Previous temporary exemptions, if any.

2. Special Exemption. The Community Development Director may grant a special exemption to the requirements of Table 17.40.170 in this section only by approval of a minor exception permit which includes, in addition to the findings required in Section

17.116.040 of the Zoning Ordinance, a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that will otherwise suffice. The request for a special exemption shall contain, at a minimum, the information specified in subsections (I)(1)(a) through (g) of this section.

3. Additional Information. In addition to the information required in subsection (I)(1) of this section, the Building Official or Community Development Director may request any additional information which would enable the Building Official or Community Development Director to make a reasonable evaluation of the request for temporary exemption or special exemption.

4. Appeal of a Temporary Exemption or Special Exemption. The Building Official or Community Development Director, within 5 days from the date of the properly completed request for an exemption, shall approve or reject in writing the request. If rejected, the individual making the request shall have the right to appeal to the Planning Commission for the City of Desert Hot Springs, for review pursuant to the **applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.** ~~procedures applicable to any other appeal of a decision of the Building Official or Director.~~

5. Extension of Time for a Temporary Exemption. Any individual requesting a temporary exemption for a period greater than 30 days, or an extension beyond the original 30-day period for a temporary exemption, shall apply to the Planning Commission for an extension. The extension request shall contain (in addition to other permit requirements), the information specified in subsection G of this section.

J. Display Lighting Use. With the approval of the City Council, searchlights and laser lights may be used. This type of lighting shall comply with the following requirements:

1. Permits shall be issued for grand openings only or in conjunction with an entertainment event or similar activity. A grand opening shall commemorate an initial building or project opening, a change in ownership of an existing business, or remodel/enlargement of over 50% of the floor area or a new business in an existing building.

2. The only uses allowed to apply for this permit are: shopping centers with not less than 50,000 square feet of leased area, hotel with 50 rooms or more or automobile dealerships that sell new cars.

3. The application for a permit must be received 30 days prior to the event commencing.

4. Hours of operation shall be limited from dusk to 10:00 p.m.

5. Use of the display light(s) is limited to a maximum period of 10 days per calendar year.

6. Approval of the Federal Aviation Agency, if required, shall be obtained prior to each event.

K. Public Nuisance. Any light fixture installed after December 1, 2002 which violates the provisions of this section constitutes an infraction and a public nuisance and shall be abated.

Section 14. AMENDING CHAPTER 17.45 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 17.45 "Outdoor Advertising Displays" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.45.020 Outdoor advertising displays.

No person shall erect, use or maintain an outdoor advertising display in the incorporated area of the City, except in accordance with the following provisions. The changing of an advertising message or customary maintenance of a legally existing outdoor advertising display shall not require a permit pursuant to this section.

A. Permit Procedure.

1. Application. In addition to all other applicable Federal, State, and local laws, rules, regulations and ordinances, no outdoor advertising display shall be placed, erected, used or maintained until an Outdoor Advertising Display Permit therefor has been issued by the City Manager, following the receipt and approval of an application (on the form provided by the Community Development Department) accompanied by the filing fee set forth in Chapter 17.148. The application shall consist of 5 copies of a plot plan and elevations drawn to scale, containing the name, address, and telephone number of the applicant, owner of the property, and a general description of the property upon which the outdoor advertising display is proposed to be placed. The plot plan shall show the precise location, type, and size, maximum height, and dimensions of the proposed outdoor advertising display and display face, all property lines, zoning, and the dimensions, location of the distance to the nearest advertising displays, buildings, public and private roads, and other rights-of-way, setback lines, and specifically planned future road right-of-way lines, and any and all other information required by the City Manager such that the proposed display may be readily ascertained, identified, and evaluated.

2. Issuance/Denial. The City Manager shall, within 30 days of the filing of a complete permit application, approve and issue the Outdoor Advertising Display Permit if all of the standards listed in subsection B, Permit standards, and other requirements of this chapter have been met; otherwise, the permit shall be denied. Unless the applicant

files with the Community Development Department a written request for an appeal hearing within the 30 days of the date the denial notice was mailed, the City Manager decision to deny the application will be considered final. Failure to timely file a written request for an appeal hearing constitutes a waiver of the right to an appeal hearing. Notice of the appeal hearing shall be given by mail to the applicant. **Selection of a Hearing Officer and the conduct of the appeal hearing shall be pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.** ~~The appeal hearing will be conducted in the same manner as set forth in Chapter 17.104 of the Desert Hot Springs Municipal Code. For purposes of this chapter "Director of Development" as used in Chapter 17.104 shall be the "City Manager."~~

3. Building Permit Required. Assuming the City Manager issues an Outdoor Advertising Display Permit, no person shall place, erect, use, maintain, alter, repair or relocate an outdoor advertising display or connect an outdoor advertising display to a power supply without first also obtaining a building permit from the Community Development Department.

4. Revocation. Any Outdoor Advertising Display Permit or any related building permit may be revoked by the City Manager, if the City ~~Manger~~ **Manager** finds that any permittee, agent or any other person exercising management or control of the business, including, but not limited to, a member, partner, director, officer or general manager who is exercising authority on behalf of the permittee, has:

a. Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a permit, or in any report or record required to be filed with the City Manager; or

b. Committed any act which violates any rule or regulation adopted by any governmental agency relating to the permittee's business, including, but not limited to, failure to pay local taxes, fees or assessment imposed by the City, or any district created by the City; or

c. Violated any condition or restriction of the permits; or

d. Conducted the permitted business in a manner contrary to the peace, health, safety and the general welfare of the public; or

e. Failed or refused to notify the City Manager of any material change in facts stated in the application for any permit; or

f. Failed to maintain the Outdoor Advertising Display in good condition;

g. Maintained the outdoor advertising display in a state of disrepair.

5. ~~Notice of Revocation Hearing.~~ If the City Manager concludes that grounds for revocation exist, the City Manager or designee ~~Manger~~ **shall: may initiate a hearing pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended.**

a. ~~Serve the permittee with notice of the revocation hearing ("Notice") by certified mail, and/or by regular U.S. mail, to the address last shown on the application for the permit, unless the permittee has provided the City Manager with written notice of a change in address, in which case the notice shall be sent to such address. Such hearing date shall be at least 15 days from the date of the Notice, and no longer than 30 days from the date of the Notice. Notwithstanding the foregoing, permittee and City Manager may mutually agree on any hearing date.~~

b. ~~The Notice shall state the reasons for the proposed action, the right of the permittee to attend the hearing, the right for the permittee to submit testimony in writing and/or orally, the right to provide other forms of evidence.~~

6. ~~Revocation Hearing.~~

a. ~~The City Manager is the hearing officer for purposes of this chapter.~~

b. ~~The City Manager shall receive written and oral testimony at such hearing regarding the revocation.~~

c. ~~Within 30 days of the hearing, the City Manager shall find and determine whether the City shall revoke the permit.~~

d. ~~The City Manager, or the City Council on appeal, shall base its decision on the evidence and issue his or her decision in writing to the permittee no later than 30 days from the date of the hearing.~~

7. ~~Appeal.~~

a. ~~Unless appealed, in accordance with provisions of Chapter 17.104, the City Manager's decision is final and conclusive.~~

b. ~~The appeal hearing will be conducted in the same manner as set forth in Chapter 17.104 of the Desert Hot Springs Municipal Code.~~

8. ~~Final Decision.~~ Upon a final decision by the City Manager, or by the City Council following appeal, as the case may be, it shall thereafter be unlawful for any person to place, erect, use or maintain an Outdoor Advertising Display after the permit has been revoked. Failure to abide by the final decision of either the City Manager or City Council shall be deemed a separate violation of this chapter.

B. Permit Standards.

1. General Plan. Outdoor advertising displays shall be consistent with the Comprehensive General Plan, any specific plans, and all Federal, State, and local laws.
2. Placement. Outdoor advertising displays oriented towards and primarily viewed from freeways are permitted. Outdoor advertising displays are expressly prohibited if oriented towards and primarily viewed from all other roads, streets, boulevards, lanes, or other public rights-of-way.
3. Zoning. Outdoor advertising displays are permitted only in the commercial and industrial zones; provided, that the display meets all of the other requirements of those zoning classifications and this chapter. Outdoor advertising displays are expressly prohibited in all other zones.
4. Height. The maximum height of an outdoor advertising display shall not exceed a height of 35 feet from the roadbed of the adjacent freeway or highway to which the display is oriented, or a maximum height of 35 feet from the grade on which it is constructed, whichever is greater.
5. Setbacks. No outdoor advertising display shall be erected within a road right-of-way line or future road right-of-way line as shown on any specific plan or General Plan. A minimum setback from the property line of 1 foot shall be required. No person shall place, erect, use or maintain any outdoor advertising display located within 660 feet from the edge of the right-of-way of any freeway or primary highway without first obtaining a valid State Outdoor Advertising Permit.
6. Spacing. No outdoor advertising display shall be located within 500 feet in any direction from any outdoor advertising display on the same side of the freeway. No outdoor advertising display shall be located within 150 feet of a residential structure, or within a residential zone.
7. Scenic Highway. No outdoor advertising display shall be permitted adjacent to a scenic highway.
8. Multiple Species Habitat. No outdoor advertising display shall be allowed within any Multiple Species Habitat Conservation Area.
9. Display Face Size. No outdoor advertising display shall exceed a maximum total surface area of 700 square feet per face.
10. Number of Display Faces. No more than 2 display faces per outdoor advertising display shall be permitted. Only single-face, back-to-back and V-type displays shall be allowed; provided, that they are on the same outdoor advertising structure and further; provided, that the V-type displays have a separation between display faces of not more than 30 feet. Display faces shall not be stacked.

11. Number of Displays. No more than 1 proposed outdoor advertising display per application shall be permitted.

12. Poles. A maximum of 1 steel pole is allowed for support of an outdoor advertising display, subject to approval of the City Manager.

13. Lighting and Illumination of Displays. An outdoor advertising display may be illuminated, unless otherwise specified; provided, that the displays are so constructed that no light bulb, tube, filament, or similar source of illumination is visible beyond the display face. Displays making use of lights to convey the effect of movement or flashing, intermittent, or variable intensity shall not be permitted. Displays shall use the most advanced methods to insure the most energy efficient methods of display illumination.

14. Digital displays and automatic changeable message displays are allowed; provided, the message displayed is static and displayed for a minimum duration of 6 seconds and the transition time between messages is no longer than 4 seconds. Animated images, images that give the appearance of movement or changes in illumination intensity during the static display period are prohibited.

15. Display Movement. No outdoor advertising display shall move, rotate or display any moving and/or rotating parts except for automatic changeable message displays. No propellers, flags, or other noise creating devices, and no architectural embellishments which utilize mechanical or natural forces for motion, shall be permitted. Use of daylight reflective materials or electronic message boards using flashing, intermittent or moving light or lights is prohibited.

16. Mobile Displays. No person shall place, use, maintain, or otherwise allow a mobile vehicle, trailer, or other advertising display not permanently affixed to the ground to be used as an outdoor advertising display.

17. Roof Mounts. No outdoor advertising display shall be affixed on or over the roof of any building and no display shall be affixed to the wall of a building so that it projects above the parapet of the building. For the purposes of this chapter, a mansard style roof shall be considered a parapet.

18. Identification. No outdoor advertising display shall be placed, erected, used or maintained anywhere within the incorporated area of the City unless there is securely fastened thereto the name of the outdoor advertising display owner in such a manner that the name is visible from the freeway or highway. Any display placed, erected, or maintained without this identification shall be deemed to be placed, erected, and maintained in violation of this chapter.

19. Display Inventory. In order to evaluate and access outdoor advertising displays within the City, within 180 days of the effective date of the ordinance codified in this chapter and on each 5th anniversary after the effective date of the ordinance codified in this chapter, and upon notice, each business with outdoor advertising displays within

the incorporated area of the City shall submit to the City Manager, a current inventory of the outdoor advertising displays maintained within the incorporated area of the City. Failure to submit a current or accurate inventory within 30 days of receipt of such notice shall be deemed to be a violation of this chapter and subject to the issuance of a Notice of Violation by Code Enforcement. Failure to comply with a Notice of Violation may result in the issuance of a Field Citation, an Administrative Citation, or a Notice of Public Nuisance, or such other action or proceeding pursuant to Title 4 of the Desert Hot Springs Municipal Code.

Section 15. AMENDING CHAPTER 17.76 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 17.76 “Conditional Use Permits” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.76.100 Revocation.

A. The City may initiate proceedings to revoke or modify a Conditional Use Permit granted pursuant to the provisions of this chapter by using the procedures set forth in the applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, or successor chapter. ~~In the event it determines adequate cause, the Commission may hold a hearing to revoke or modify a Conditional Use Permit granted pursuant to the provisions of this chapter. Ten days prior to the hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which such Conditional Use Permit was granted. Notice shall be deemed delivered 2 days after being mailed, first-class postage paid, to the owner as shown on the current tax rolls of the County of Riverside, and/or the project applicant.~~

B. A Conditional Use Permit may be revoked or modified by the Commission if any one or more ~~4~~ of the following findings can be made:

1. That circumstances have changed so that one ~~4~~ or more of the findings contained in Section 17.96.050 can no longer be made;
2. The Conditional Use Permit was obtained by misrepresentation or fraud;
3. The use for which the Conditional Use Permit was granted had ceased or was suspended for 6 or more consecutive calendar months;
4. One or more of the conditions of the Conditional Use Permit have not been met;
5. The use or permit holder is in violation of any statute, ordinance, law, or regulation; and

6. The use permitted by the Conditional Use Permit has subsequently been determined to be detrimental to the public health, safety or welfare or constitutes a nuisance.

Section 16. AMENDING CHAPTER 17.92 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

Chapter 17.92 "Development Permits" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.92.110 Revocation.

A. **The City may initiate proceedings to revoke or modify a Development Permit granted pursuant to the provisions of this chapter. The hearing shall be conducted pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended from time to time. The decision of the Hearing Officer shall be final.** ~~A hearing may be held by the review authority to revoke or modify a Development Permit granted pursuant to the provisions of this chapter. Ten days prior to the hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which such Development Permit was granted. Notice shall be deemed delivered 2 days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County of Riverside, and/or the project applicant.~~

B. A Development Permit may be revoked or modified ~~by the review authority~~ if any of the following findings can be made:

1. That circumstances have changed so that 4 **one** or more of the findings contained in Section 17.92.060 can no longer be made;
2. That the Development Permit was obtained by misrepresentation or fraud;
3. That the use for which the Development Permit was granted had ceased or was suspended for 6 or more consecutive calendar months;
4. That 4 **one** or more of the conditions of the Development Permit have not been met;
5. That the use is in violation of any statute, ordinance, law, or regulation; or
6. That the use permitted by the Development Permit is detrimental to the public health, safety, or welfare or constitutes a nuisance.

Section 17. AMENDING CHAPTER 17.144 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

Chapter 17.144 “Development Impact Fees” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.144.130 Developer construction of facilities.

G. Appeal of Determinations of City Engineer. Determinations made by the City Engineer pursuant to the provisions of this section may be appealed ~~to the City Council~~ by filing a written request with the City Clerk Manager, together with a fee established by resolution of the City Council, within 10 calendar days of the determination of the City Engineer. **The appeal shall be conducted in accordance with the applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.**

Section 18. AMENDING CHAPTER 17.152 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

Chapter 17.152 “Card Clubs” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.152.030 Registration, fingerprinting, photographing and approving employees of licensed gaming clubs.

A. 1. It is unlawful for any licensed card club in the City to employ any person who does not have a valid, unsuspended and unrevoked employment identification card, bearing the employee’s **photograph** ~~photo-graph~~ and all identification information on the badge issued by the card club.

2. Any person wishing to obtain an employment identification card shall obtain one from the card room bearing the employee’s photograph and all identification information on the badge. This badge is presented to the City’s Chief Law Enforcement Officer with the completed City application. The applicant will be fingerprinted at that time and the identification badge will be stamped with a City seal and laminated. Should the Department of Justice report unfavorably, the card shall be revoked immediately and the licensee shall terminate the employee upon notification of such findings. The licensee shall immediately notify the City in writing of the date and time employment was terminated.

B. Any person wishing to obtain an employment identification card shall file an application with the Chief Law Enforcement Officer of the City. The application shall be complete in all respects and shall include photographing and fingerprinting. A processing fee in an amount set by resolution of the City Council shall be paid to the City for such fingerprinting, issuance of the identification card and for a background investigation to be conducted by the Chief Law Enforcement Officer of the City. The fee shall not exceed the City’s reasonable cost of performing such processing.

C. Each application shall contain, in addition to such other information as the Chief Law Enforcement Officer of the City shall require, the following current information:

1. Residence address during the past 5 years;
2. Current occupation or employment;
3. Employment during the past 5 years;
4. Physical characteristics, height, weight, and color of hair and eyes;
5. A history of all convictions for any felony or misdemeanor offense, other than traffic violations, and of violations of any municipal codes or ordinances within the past 10 years;
6. Driver's license and Social Security numbers;
7. A current full face photo.

D. 1. The Chief Law Enforcement Officer of the City shall process the application and may approve, conditionally approve, or deny such application. He or she may deny an application for an **identification** ~~identi—fication~~ card in the following cases:

- a. If the applicant has been convicted of any crime punishable as a felony;
- b. If the applicant has been convicted of an offense involving dishonesty;
- c. If the applicant has engaged in bookmaking, loansharking, or other illegal gambling activities or has been convicted of an offense involving such activities;
- d. If the applicant has made any false statement in the application or as to other information presented as part of the application process; or
- e. If the approval of the applicant would be inimical to the interests of legitimate gaming.

2. If an application is denied, the applicant may appeal such denial by written notice to the City Manager who shall cause a hearing to be held within 30 days after such notice. The Hearing Officer, appointed by the City Manager, may approve, conditionally approve, or deny such appeal. The Hearing Officer's decision shall be final and conclusive. The cost of such hearing shall be borne by the applicant.

E. 1. An employment identification card may be suspended or revoked under the following **circumstances** ~~circum—stances~~:

a. The commission of an act which would have been grounds for the denial of an identification card pursuant to subsection D of this section; or

b. The violation of any condition imposed in issuing such identification card.

2. The identification card may be **suspended or revoked pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended.** ~~immediately suspended by the Chief Law Enforcement Officer of the City if the offense is such to cause an immediate threat to the public welfare. Such immediate suspension shall remain in effect for 7 days or until a final decision is rendered by a Hearing Officer appointed by the City Manager, whichever occurs first. The Hearing Officer may suspend or revoke an identification card after a hearing following 5 days notice to the employee. The employee shall be permitted to submit any relevant evidence to the Hearing Officer. The decision of the Hearing Officer shall be final, and all costs shall be borne by the employee.~~

3. Refund. In the event of surrender, suspension, revocation, or expiration, no license deposit or fee, or any portion thereof, shall be refunded.

F. Unless specifically excepted by the Chief Law Enforcement Officer of the City in writing, each employee, at all times while acting within the scope of their employment in the gaming room area, other than an employee participating in a game in accordance with subsection R of Section 17.152.020, shall wear in a prominently visible place upon their person the identification card issued by the City.

G. The licensee shall notify the City upon termination of any employee.

H. The information received by the City pursuant to the provisions of this section shall be treated as confidential and shall be accessible only to those City officials having jurisdiction over the provisions of this chapter, and to management personnel of the licensee.

17.152.200 Suspension and revocation of license.

A. General. All licenses issued pursuant to the provisions of this chapter may be revoked in the time and manner set forth in this section.

B. Grounds. Any license issued pursuant to the provisions of this chapter shall be suspended as hereinafter set forth:

1. The Attorney General has suspended or revoked a licensee's registration under the Gaming Registration Act of the State;

2. That a licensee has failed to pay, when due and payable, any of the license fees or other fees provided for in this chapter;

3. That a licensee has made any fraudulent statement as to a material fact on an application form, or as to any other information presented as part of the application process; or

4. The licensee has wilfully violated any provisions of Sections 17.152.020 and 17.152.060 of this chapter.

C. Action of City Manager. Whenever the City Manager has information that a violation constituting a ground for suspension or revocation has occurred, he or she shall forthwith investigate the same. If the City Manager determines that such a violation has occurred, he or she shall forthwith set the matter for **a hearing pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended.** ~~consideration by the City Council at its next most convenient meeting. The City Manager shall give notice of the time and the place of the hearing before the City Council to the licensee not less than 2 weeks in advance of the date set for such hearing.~~

D. ~~Hearing. At the time set for such hearing, the City Council shall hear the evidence presented by the City Manager, purporting to show that grounds exist for suspension or revocation; thereafter, the City Council shall permit the licensee, and any other interested person, to present such evidence as may be relevant to dispute the existence of such facts. The City Council may continue the hearing from time to time, and, if the City Council is satisfied that provable cause for suspension or revocation exists and that continued operation of the gaming club jeopardizes, or threatens to jeopardize, the public welfare, may suspend the license pending the conclusion of the hearing.~~

E. ~~Decision of the City Council. If, based upon the evidence presented, the City Council finds that facts are presented which constitute grounds for suspension, it shall suspend, or if grounds for revocation, it shall suspend or revoke the license. If it finds that such facts are not present, it shall dismiss the proceedings.~~

Section 19. AMENDING CHAPTER 17.156 “SPECIAL USES” OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 17.156 “Special Uses” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.156.100 Complaints concerning **Appeal of** revocation of license.

Any person Any licensee may file, **within fifteen (15) days of revocation, a written appeal to the City Clerk** a complaint with the clerk of the Planning Commission or may petition the Planning Commission to conduct a hearing concerning the revocation of the

~~his or her license of any licensee.~~ **The conduct of the hearing shall be pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.**

17.156.110 Revocation of license.

The licensing officer shall have the power to revoke any license or to revoke and reinstate any license, upon suitable conditions, when 4 **one or more** of the following causes exists:

- A. The licensee fails, neglects or refuses to pay the licensing officer the fee prescribed by this chapter.
- B. The licensee, his/her employee or agent fails, neglects or refuses to fulfill any of the conditions imposed by this chapter.
- C. The licensee allows the special use to be conducted in a manner which violates any law or regulation established by the laws or ordinances of the City or by the laws of the state.
- D. The licensee allows the special use to be conducted in a disorderly manner or knowingly allows any person to remain on the premises of the special use while under the influence of intoxicating liquor or any narcotic or dangerous drug.

Section 20. AMENDING CHAPTER 17.164 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

Chapter 17.164 "Motion Picture Production" of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.164.130 Suspension or revocation of permit.

~~If the permittee shall violate~~ **The Film Permit Officer may suspend or revoke a permit if the permittee violates** any of the conditions of approval, perform those activities described in the application for motion picture permit in a manner that poses a threat to the public health and safety or the preservation of property, or engage in activities outside the scope of the activities described in the application, ~~the Film Permit Officer may summarily suspend or revoke the permit.~~

17.164.140 Appeal.

Any person aggrieved by an action taken by the Film Permit Officer may **file a written appeal within fifteen (15) days of** such action ~~to the City Council.~~ **The conduct of the hearing shall be pursuant to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, as may be amended. The decision of the Hearing Officer shall be final.**

Section 21. AMENDING CHAPTER 17.168 OF THE DESERT HOT SPRINGS MUNICIPAL CODE

The following section(s) of Chapter 17.168 “Sexually Oriented Businesses” of the Desert Hot Springs Municipal Code shall be amended to read as follows:

17.168.350 Grounds for permit modification, suspension and/or revocation.

A. An existing permit may be suspended, modified, or revoked as ~~After an investigation, notice and hearing, the City Manager or designee shall suspend or revoke an existing permit, or impose such conditions upon the retention of the permit as shall be found to be necessary to assure the preservation of the public health and safety, if the evidence presented established that 4~~ one of the following conditions exist:

1. The building, structure, equipment, location or manner of operation of such business does not comply with the requirements of or fails to meet the standards of the health, zoning, fire and safety laws of the state and ordinances of the City applicable to such business operations.

2. The permittee, his/her employee, agent, partner, director, officer, stockholder or manager has knowingly made any false, misleading or fraudulent statements of material fact in the application for sexually oriented business permit, or in any report or record required to be filed with the City pertaining to the permit for the sexually oriented business, or has violated any rule or regulation duly adopted by the City relating to sexually oriented businesses, including those set out in this chapter.

3. A court of competent jurisdiction has found that the permittee, his/her employee, agent, partner, director, manager, or stockholder has knowingly engaged in or allowed or permitted to be committed any unlawful act of sexual intercourse, sodomy, oral copulation, masturbation, or distribution of obscenity, on or in the subject premises.

4. A court of competent jurisdiction has found that the permittee, his/her employee, agent, partner, director, manager, or stockholder has knowingly engaged in or permitted or allowed to occur unlawful solicitations for sexual intercourse, sodomy, oral copulation, masturbation or distribution of obscenity, on or in the subject premises.

5. A court of competent jurisdiction has found that the permittee, his/her employee, agent, partner, director, manager, or stockholder has knowingly engaged in or permitted or allowed, in or on the premises, the unlawful possession, use or sale of a controlled substance, as defined by the California Uniform Controlled Substances Act, California Health and Safety Code Section 11000 et seq., as amended from time to time.

6. More than 30 days have elapsed since a tax, fee, fine, any form of regulatory assessment or judgment for monetary damages, irrespective of any other form of relief

set out in the judgment, which is to be paid to the City has been imposed against a sexually oriented business, and the sum remains owing.

B. In the event that a permit for a sexually oriented business is revoked pursuant to any applicable law, the premises shall be closed and shall not be used as a sexually oriented business of any classification for a period of 1 year commencing on the date of revocation. Further, the operators of the sexually oriented business so closed shall be disqualified from operating any other sexually oriented business established thereafter within the City for a period of 1 year commencing on the date that the permit was revoked.

C. In the event that a permit for a sexually oriented business is suspended pursuant to any applicable law, the operators of the subject sexually oriented business shall be disqualified from operating the subject sexually oriented business as well as any other sexually oriented business established thereafter within the City during the entire period of such suspension.

17.168.360 **Procedure to Modify, Suspend, or Revoke Permits Appeal.**

A. **Administrative Review.**

If grounds exist for the modification, suspension, and/or revocation of a permit are found pursuant to Section 17.168.350, the City may initiate proceedings according to applicable sections of Chapter 4.36 of the Desert Hot Springs Municipal Code, or any successor chapter. The decision of the Hearing Officer shall be final.

~~1. A request for an appeal of the suspension or revocation of a sexually oriented business permit application pertaining to expressive conduct that is protected by the State Constitution or the First Amendment to the United States Constitution may be made to the City Council upon the submission of a written request to the City Clerk.~~

~~2. The appeal shall be heard and decided by the City Council in a prompt and expedited way at the next regularly scheduled City Council meeting and in no event later than 15 days from the date the request for appeal was filed with the City Clerk. In the event that the next regularly scheduled City Council meeting will not be conducted within 15 days from the date the request for appeal was filed with the City Clerk, the City Council shall schedule a special City Council meeting to hear and decide the administrative appeal.~~

~~3. Determinations by the City Council after review of the suspension or revocation of a sexually oriented business permit application are deemed to constitute final determinations by the City for purposes of appeal to the Superior Court of California pursuant to the writ of mandate procedures set forth in California Code of Civil Procedure Section 1084 et seq.~~

B. Expedited Judicial Review. In accordance with the California Code of Civil Procedure ~~Section 1094.8, subsection e~~, determinations to issue and deny any sexually oriented business permit application pertaining to expressive conduct that is protected by the State Constitution or the First Amendment to the United States Constitution is determined to be eligible for expedited judicial review pursuant to California Code of Civil Procedure ~~Section 1094.8~~.

Section 22. 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 23. 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 24. 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 25. 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 26. EFFECTIVE DATE

That this ordinance shall take effect thirty (30) days after its second reading by the City Council.

That the foregoing Ordinance was approved and adopted at a meeting of the City Council held on _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Scott Matas, Mayor

ATTEST:

Jerryl Soriano, City Clerk

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney

By: