

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS,
CALIFORNIA AMENDING CHAPTER 12.04 REGARDING CAMPING RESTRICTIONS.**

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

WHEREAS, under California Constitution Article XI, Section 7, the City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, according to California Government Code Section 38771, the City may declare by ordinance what constitutes a nuisance; and

WHEREAS, Chapter 12.04 of the Desert Hot Springs Municipal Code ("DHSMC") currently prohibits any person to camp, occupy camp facilities, or use camp paraphernalia on any streets, any public parking lot, and any private property subject to certain exceptions; and

WHEREAS, violations of Chapter 12.04 of the DHSMC is currently punishable by all civil, equitable, and criminal remedies under the law; and

WHEREAS, use of private or public property for camping or storage of personal property can constitute a public health, sanitation and safety hazard which adversely affects private property rights as well as public health, sanitation, safety and welfare of the public; and

WHEREAS, the City Council has determined that maintaining private and public areas within the City in a clean, sanitary, safe and nuisance free condition protects the health, safety and public welfare of the community, while allowing camping, subject to reasonable conditions, which can be beneficial to the cultural and educational experience of the residents of the City; and

WHEREAS, the City Council has further determined that criminal penalties for violations of Chapter 12.04 are unnecessary to advance the goals of protecting the public health and safety against unlawful camping or storage of personal property; and

WHEREAS, the City Council desires to amend Chapter 12.04 to remove criminal penalties, while preserving all other remedies, civil and equitable, available to the City under the law.

**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 12.04 OF THE DESERT HOT SPRINGS MUNICIPAL
CODE**

That Chapter 12.04 of the Desert Hot Springs Municipal Code shall be amended to read as follows:

Chapter 12.04 CAMPING RESTRICTIONS

12.04.010 Purpose.

The public streets, private property, and areas within the City should be readily accessible and available to residents, the public at large, property owners, or lawful tenants, as may be applicable, and maintained in a clean, safe and attractive condition that promotes the quality of life of the citizens. The use of these areas for camping purposes or storage of personal property interferes with such purposes and the rights of owners, lawful tenants, or others, as may be applicable, to use the areas for which they were intended. **The provisions of this Chapter shall not be implemented in any way to infringe upon the constitutional rights of any person.** The purpose of this chapter is to maintain public streets, private property, and areas within the City in a clean and accessible condition.

12.04.020 Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

“Camp” means to pitch or occupy camp facilities; to use camp paraphernalia; to sleep outdoors, or in, on or under any structure not intended for human occupancy, **or in, on or under any vehicle.**

“Camp facilities” means and includes, but is not limited to, tents, huts, **or** temporary shelters, **campers, trailers, recreational or other vehicles.**

“Camp paraphernalia” means and includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-city-designated cooking facilities and similar equipment.

“Habitable” shall refer to a dwelling that has not been declared unfit for habitation by the City or other agency with jurisdiction thereover.

“Nonresidential” is intended to refer to property, or any portion thereof, that is not improved with a habitable dwelling unit.

“Park” means any public park or recreation or playground area or building or facility thereon within the City, owned and maintained by the City as a public park or recreation or playground area, whether or not such areas have been formally dedicated to such purpose.

“Publicly accessible area” means that portion of any privately owned, nonresidential property that is not enclosed by a City-approved structure, including but not limited to vacant land or the exterior of commercial or business establishments.

“Public property” means any property owned or managed by any government entity.

“Store” means to put aside or accumulate for use when needed; to put for safekeeping; to place or leave in a location.

“Street” means and includes all highways, avenues, lanes, alleys, courts, places, squares, sidewalks, parkways, curbs, or other public ways in this City that have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

12.04.030 Unlawful camping.

It is unlawful for any person to camp, occupy camp facilities, or use camp paraphernalia in the following areas, except as otherwise provided:

- A. Any street;
- B. Any public parking lot, publicly accessible area visible from any off-site location, or public property, improved or unimproved.
- C. Any Private Property.
 1. Overnight camping on private property by persons other than the property owner(s) or lawful tenants is prohibited, except when the overnight camping meets all of the following: (a) is limited to no more than one night; (b) overnight camping is in the rear yard, or in an area of a side yard or front yard that is separated from view from the street by a fence, hedge, or other lawful obstruction; and (c) the property owner or person in lawful possession consents to such overnight camping.
 2. Nothing in this chapter is intended to prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and provided further, nothing is intended to prohibit or make unlawful activities of a property owner or other lawful user if such activities are expressly authorized by any State, Federal and local laws, rules, regulation, or policies.
 3. Camping shall not be permitted. Where it is conducted in such a manner as to create a public nuisance, including any noise disturbance, as provided in Chapter 8.12 of this code, inadequate sanitation, or other matters offensive to reasonable persons, nor where the camping activity is of such frequency, intensity or duration as to constitute a use of land prohibited by any provisions of Title 17 of this code or where the camping and or activities incidental to it constitute a public nuisance.

12.04.040 Permitted camping.

No person shall camp in or on any park, street, public parking lot, publicly accessible area visible from any off-site location, or public property, improved or unimproved, except where one of the following conditions exist:

A. The area has been designated by the City for camping with a permit and the requisite permit has first been obtained from the City; or

B. The area has been designated by the City for camping without a permit.

12.04. ~~040 050~~ Storage of personal property.

1. It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following areas, except as otherwise provided **by permit issued by the City or other resolution of the City Council**:

- A. Any park;
- B. Any street;
- C. Any public property, improved or unimproved; or
- D. Any private property without the written consent of the owner or lawful tenant.

2. The impoundment and retrieval of such property shall be in accordance with procedures established by the City Manager, or his or her designee, or according to the procedures of the law enforcement agency whose peace officers impounded the property.

12.04.060 Camping permits.

~~A. Upon finding that the application has met City requirements, the City may issue a permit authorizing persons or groups to camp in designated areas for camping subject to the City's requirements for:~~

~~1. Parking and traffic control;~~

~~2. Toilet and other sanitary facilities;~~

~~3. Security;~~

~~4. Liability insurance;~~

~~5. Garbage collection and cleanup;~~

~~6. Security and cleanup deposits;~~

~~7. Such other public health, safety and general welfare matters as may be raised by the camping application; and~~

~~8. Environmental compliance according to the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines.~~

~~B. Except as set forth in this chapter, no person or group may camp under the authority of this section for more than three nights in any four-month period. No permit shall be required for security guards who camp in City parks incident to a lawful event.~~

~~C. Where the camping activity is taking place in conjunction with an authorized and permitted restoration or conservation project being performed by campers at or near the campsite, the Director of Development may permit an individual~~

or group to camp for a period of time in excess of that prescribed in subsection B of this section.

D. To ensure the fair and consistent application of this section, the Director of Development shall promulgate regulations defining the criteria for permit issuance consistent with the provisions of this chapter.

12.04.060 070 Enforcement authority.

Departments or personnel designated by the City Manager shall have the power and authority to enforce any and all provisions of this chapter.

12.04.080 Violation—Infractions—Nuisance.

A. Any person violating any of the provisions of this chapter shall be deemed guilty of an infraction. Any violation of the provisions of this chapter shall constitute a public nuisance and may be enforced pursuant to any applicable provision of Title 4 of this code. If a violation of this chapter is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense. All remedies set forth in this chapter shall be cumulative and in addition to any and all other remedies, civil and equitable, afforded to the City under the law.

B. Notwithstanding any other provision of this code, no violation of the provisions of this chapter shall constitute an infraction or misdemeanor.

12.04.090 Continuing or subsequent violation—Misdemeanor.

A. If a violation of this chapter is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.

B. A violation of the same provision of this chapter, by any person having been previously convicted of a violation of this chapter, may be prosecuted, at the discretion of the City Attorney, as either an infraction or as a misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment in the County Jail for a term not exceeding six months, or by both such fine and imprisonment.

12.04.100 Other code enforcement remedies.

Notwithstanding any other provision herein, a violation of this chapter may be enforced pursuant to any applicable provisions of Title 4 of this code. Any campsite established in the City in violation of this chapter is declared to be a public nuisance, and the Chief of Police, after consultation with appropriate City officials and upon a determination that such a campsite constitutes an immediate threat to the health, safety or welfare of persons in the City, including persons using the campsite, is authorized and empowered to remove any such campsite immediately. If persons are occupying the campsite at the time the campsite is to be removed, then prior to removing the campsite,

~~the Chief of Police, or the officer designated by the Chief, shall warn the person or persons occupying the campsite that they are in violation of this chapter and shall give them the opportunity to remove the campsite and all camp paraphernalia immediately.~~

~~12.04.110 Cumulative remedies.~~

~~All remedies set forth in this chapter shall be cumulative and in addition to any and all other remedies, civil, equitable, or criminal, afforded to the City under the law.~~

Section 3. SEVERABILITY

That the City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 4. 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 5. 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 6. 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 7. EFFECTIVE DATE

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

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs on the ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Jerryl Soriano, City Clerk

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney

DRAFT