

RESOLUTION NO. 2020-008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, PLACING AN IMMEDIATE MORATORIUM ON RESIDENTIAL AND COMMERCIAL EVICTIONS IN LIGHT OF THE FEDERAL, STATE, COUNTY AND CITY-DECLARED EMERGENCIES PERTAINING TO COVID-19.

WHEREAS, the City of Desert Hot Springs (“City”) is a charter city in the State of California; and

WHEREAS, the COVID-19 virus (“COVID-19”) has been declared by the United States, the State of California, and the County of Riverside (“County”) as a pandemic and an emergency situation; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency in the State of California due to the outbreak of COVID-19 within the State (“State of Emergency”); and

WHEREAS, on March 8, 2020, the Riverside County Public Health Officer Dr. Cameron Kaiser declared a public health emergency due to the spread of COVID-19; and

WHEREAS, California Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, on March 18, 2020, the City did in fact declare a state of local emergency; and

WHEREAS, in addition to applicable State law, Chapter 2.48 “Civil Emergencies” of the Desert Hot Springs Municipal Code (“DHSMC”), provides the rules and regulations for declaring and implementing civil emergencies; and

WHEREAS, pursuant to Chapter 2.48, the City hereby avails and in fact availed itself of any and all rights and remedies included therein; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20 waiving certain requirements related to residential and commercial evictions and foreclosures to allow local jurisdictions more flexibility to prohibit residential and commercial evictions and foreclosures through May 31, 2020; and

WHEREAS, on March 27, 2020, the Governor issued Executive Order N-37-20 prohibiting the enforcement of evictions under specific circumstances; and

WHEREAS, the economic impacts of COVID-19 have been significant, and could threaten to undermine housing security for City residents and the stability of local businesses; and

WHEREAS, because of COVID-19, the City must take measures to preserve and increase housing security for residents of the City to protect public health safety and welfare; and

WHEREAS, additional measures are necessary to promote housing security and stability to mitigate the impacts of COVID-19; and

WHEREAS, it is necessary to promote stability amongst commercial tenants in the City which is conducive to public health, safety and welfare, since it prevents those employed by those businesses from losing the income they rely upon to pay their rent, buy food, and other necessities; and

WHEREAS, this temporary moratorium on the eviction of tenants of residential and commercial spaces, including without limitation, retail, commercial and office spaces is based on the following:

1. The moratorium will promote stability and fairness within the residential rental and commercial real estate markets in the City during the COVID-19 outbreak;
2. The moratorium will prevent avoidable homelessness and widespread business disruption;
3. The moratorium will provide compliance with Stay at Home orders;
4. The moratorium will discourage displacement of families;
5. The moratorium will help alleviate the undue hardship, stress and anxiety for residents and businesses that can be caused by eviction due to addition relocation costs and other costs; and
6. The moratorium will promote compliance with various Federal, State, County and City orders.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS DOES RESOLVE, AS FOLLOWS:

Section 1. Recitals.

That the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. Temporary Moratorium on Evictions for Non-Payment of Rent by Tenants and Lessees Impacted by COVID-19.

1. No landlord or lessor, commercial, residential or otherwise, shall evict a tenant or lessee for nonpayment of rent if the tenant or lessee can demonstrate that the tenant or lessee is unable to pay due to financial impacts related to COVID-19; and
2. That landlords and lessors who know that a tenant or lessee cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure Section 1161(2), file or prosecute an unlawful detainer action based on a pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord or lessor knows of a tenant or lessee's inability to pay within this meaning of this Resolution if the tenant or lessee, within 10 days after the date that the rent is due, notifies the landlord or lessor in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support

the claim. For purposes of this Resolution, "in writing" means any writing, including emails, text messages, to the landlord of lessor, or their representatives, with whom the tenant or lessee has previously corresponded by email or text. Any medical or financial information provided to the landlord of lessor shall be held in confidence, and only used for evaluating the tenant or lessee's claim.

3. That for purposes of this Resolution, "financial impacts related to COVID-19" include, but are not limited to, tenant's or lessee's loss of household or business income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses related to COVID-19; or (5) child care needs arising from school closures related to COVID-19; and
4. That a violation of this Resolution shall be subject to all the remedies set forth in Title 4 of the Desert Hot Springs Municipal Code, including without limitation a misdemeanor offence, and the remedies set forth therein shall be cumulative and in addition to any and all other remedies, civil, equitable or criminal, afforded to the City under State and Federal laws; and
5. That nothing in this Resolution shall prevent a tenant or lessee who is able to pay all or some of the rent due from paying that rent in a timely manner or relieve tenants or lessees of liability for any unpaid rent, which the landlord or lessor may seek after expiration of the State of Emergency and the tenant and lessees must pay within six months following the expiration of the State of Emergency, albeit the landlord and lessor may not charge or collect any interest or any late fee for rent that is delayed for the reasons stated in this Resolution; and
6. That no other legal remedies available to landlord are affected by this Resolution; and
7. That this Order shall become effective immediately and terminate on May 31, 2020, unless terminated earlier, or extended by the City Manager/Director of Emergency Services or the City Council; and
8. That notwithstanding the foregoing, and in order to prevent inconsistencies, the City Manager may suspend the effectiveness of this Resolution in the event that the President of the United States, Congress, Governor of the State of California, or California State Legislature adopts an order or legislation that similarly prohibits evictions for failure to pay rent by individuals financially impacted related to COVID-19.

Section 3. Severability.

That the City Council declares that, should any provision, section, paragraph, sentence or word of this Resolution 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 Resolution as hereby adopted shall remain in full force and effect.

Section 4. Repeal of Conflicting Provisions.

That all the provisions heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 5. Effective Date.

That this Resolution shall take effect immediately.

Section 6. Certification.

That the City Clerk shall certify to the passage of this Resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at an emergency meeting held on the 27th day of March, 2020, by the following vote:

AYES: 5 – Betts; Gardner; Griffith; Pye; and Mayor Matas.

NOES: None.

ABSENT: None.

ABSTAIN: None.

CITY OF DESERT HOT SPRINGS

Scott Matas, Mayor

ATTEST:

Jerryl Soriano, City Clerk

APPROVED AS TO FORM:

Jennifer Mizrahi, City Attorney