

**RESOLUTION NO. 2017-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS AMENDING RESOLUTION NUMBER 2016-049 AUTHORIZING THE CITY MANAGER TO NEGOTIATE, AWARD AND EXECUTE AWARD FACILITY USE AGREEMENTS AND/OR OTHER NON-EXCLUSIVE LICENSES FOR CITY-OWNED, OPERATED OR CONTROLLED FACILITIES, AND TO PROHIBIT FACILITY USE AGREEMENTS FOR A PERIOD OF LONGER THAN 30 CONSECUTIVE OR NON-CONSECUTIVE DAYS IN ANY CALENDAR YEAR, UNLESS OTHERWISE APPROVED BY THE CITY COUNCIL**

**WHEREAS**, on December 6, 2016, the City Council adopted Ordinance Number 594, which added Section 3.44.170 to the Desert Hot Springs Municipal Code, which currently reads as follows: “

*The City Council may, by resolution, provide an officer other than the Mayor the specific authority to negotiate, award, and execute Facility Use Agreements and/or Non-Exclusive License Agreements for certain City-owned, operated, or controlled facilities or properties. City Council may set forth restrictions, limitations, or further prescriptions by City Council Resolution, with this ordinance being considered as enabling and directive in this regard.”; and*

**WHEREAS**, pursuant to Section 3.44.170, the City Council adopted Resolution Number 16-049, which authorizes the City Manager to negotiate, award and execute Facility Use Agreements and/or other non-exclusive licenses for City-owned, operated or controlled facilities; and

**WHEREAS**, the City Council desires to amend Resolution 16-049, which provided the City Manager the authority to negotiate, award, and execute facility use agreements and/or non-exclusive licenses for City-owned, operated or controlled facilities or properties, in a manner so as to prohibit persons from using a City Facility for longer than 30 consecutive or non-consecutive days in any calendar year, unless the use is allowed by the City Council; and

**WHEREAS**, City Facilities are designed to fulfil supportive functions related to the residents' quality of life in the City, and should remain open to the residents to the extent possible; and

**WHEREAS**, City Facilities play an essential role in providing services to create viable, sustainable, health and cohesive communities; and

**WHEREAS**, City Facilities are not intended to benefit merely a select few; and

**WHEREAS**, the City Council desires to adopt this Resolution for the benefit of the community.

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

**Section 1.     Recitals.**

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

**Section 2. Facility Use Agreements and/or Non-exclusive Licenses — City Manager Authority.**

That the City Council hereby authorizes the City Manager to negotiate, award, and execute facility use agreements and/or non-exclusive licenses for City-owned, operated or controlled property or facilities. ~~The City Manager shall send a courtesy notice to the City Council when the City and applicant cannot agree on the terms of the Facilities Use Agreement, in which case the City Council may agendaize the agreement for their consideration.~~ **Facility Use Agreements shall not have a term longer than 30 consecutive or non-consecutive days in any calendar year, unless such term is approved by the City Council. A “day” shall include any portion thereof. A Licensee, in good standing with the City, who is experiencing financial hardship may make an appeal to the City Council for a reduction of Facility Use fees, so long as the Licensee provides proof of hardship to the City Council. City Council has the sole discretion to award any fee waiver to the Licensee based upon showing of hardship.**

**Section 3. Severability.**

That if 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. Certification.**

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

**Section 6. Effective Date.**

That this Ordinance shall take effect immediately upon its passage.

**PASSED AND ADOPTED** by the City Council of the City of Desert Hot Springs at a regular meeting held on the 17th day of October, 2017 by the following vote:

**AYES:**

**NAYS:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

\_\_\_\_\_  
Jerryl Soriano, City Clerk

**APPROVED:**

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Scott Matas, Mayor

**APPROVED AS TO FORM:**

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Jennifer A. Mizrahi, City Attorney