

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA AMENDING SECTION 2.04.040 OF THE DESERT HOT SPRINGS MUNICIPAL CODE PERTAINING TO VACANCIES AND THE APPOINTMENT OF A TEMPORARY CITY COUNCILMEMBER.

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

WHEREAS, Government Code Section 36512(b) provides, "(b)If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy" and

WHEREAS, currently the language in Section 2.04.040(a) appears to provide that the Council vacancy must be filled pursuant to a special election; and

WHEREAS, the City Council would like to amend Section 2.04.040(a) to give the City Council the option to either appoint a councilmember or call a special election; and

WHEREAS, the City Council finds that the amending section 2.04.040 of the 2.04.040, deleting subsection "B" thereof, of the Desert Hot Springs Municipal Code is in the best interest of the public health, safety and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Desert Hot Springs as follows:

Section 1. RECITALS

That the foregoing recitals are true and correct and are herein adopted by this reference.

Section 2. AMENDMENT OF SECTION 2.20.125 OF THE DHSMC

Section 2.04.040 of the DHSMC shall be amended to read as follows:

2.04.040 Vacancy—Appointment of temporary City Councilmember.

A. If a vacancy occurs on the City Council, including the office of Mayor, the City Council shall, **fill the vacancy by either appointment of a new councilmember or calling a special election. Any council action must comply with** ~~-in accordance with California Government Code Section 36512, as may be amended. (c)(1), immediately call a special election to fill the vacancy which shall be scheduled on the next regularly established election date, but not less than 114 days from the call of the special election. The City Council may thereafter appoint a person to fill the vacancy of the City Council for a term that shall expire upon the date of the special election to fill the seat for the remaining term of the original office holder who initially created the vacancy, as provided by Section 36512(c)(3). This section shall apply to all vacancies occurring on or after January 1, 2006.~~

~~— B. Notwithstanding subsection A of this section, if a vacancy on the City Council occurs for any reason after the adoption of a resolution by the City Council calling for a general municipal election to elect members of the City Council, but not more than 90 days after the date of the general election, the person who received the highest number of votes in said~~

~~election, but was not elected, shall be appointed by the City Council to fill that vacancy. The person appointed pursuant to this section shall serve the remaining unexpired term of office. (Prior code § 30.04)~~

Section 3. **SEVERABILITY**

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. **REPEAL OF CONFLICTING PROVISIONS**

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

Section 5. **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 6. **EFFECTIVE DATE**

That this ordinance shall be effective thirty days after the second reading of the ordinance.

Section 7. **CERTIFICATION**

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

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

AYES:

NOES:

ABSTAIN:

ABSENT:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, City Clerk

APPROVED:

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney

DRAFT