

**RESOLUTION NO. 6290-2020**

**A RESOLUTION OF THE SEBASTOPOL CITY COUNCIL AUTHORIZING HOTEL OPERATORS TO DEFER THE PAYMENT AND REPORTING OF TRANSIENT OCCUPANCY TAX AS AN EXERCISE OF EMERGENCY POWERS PURSUANT TO THE CITY'S EMERGENCY DECLARATION**

**WHEREAS**, the City of Sebastopol City Council does hereby find, order and resolve as follows:

**SECTION 1. Recitals**

- A. A severe acute respiratory illness caused by a novel (new) coronavirus, known as COVID-19, has spread globally and rapidly, resulting in severe illness and death around the world. On March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic. At the time, WHO officials report that sustained human-to-human transmission of the virus is occurring and that transmission from a symptomatic individuals has been documented.
- B. On March 12, 2020, Governor Gavin Newsom issued a new executive order further enhancing state and local government's ability to respond to COVID-19 Pandemic. On March 13, 2020, the President of the United States, Donald Trump, declared a state of national emergency in response to the COVID-19 outbreak.
- C. The City's Director of Emergency Services, in accordance with the California Emergency Services Act and City of Sebastopol Municipal Code, proclaimed the existence of a local emergency within the City of Sebastopol on March 12, 2020. On March 17, 2020, the City of Sebastopol City Council adopted a resolution ratifying the Proclamation of Local Emergency in response to the Federal, State and local emergency declarations due to the COVID-19 emergency and the State and County Orders to "Shelter-in-Place".
- D. Hotels and motels are allowed to remain open pursuant to the Governor's Executive Order 33-20; however, they have all suffered significant revenue losses as a result of loss of business due to the pandemic.
- E. Hotels in the City are subject to Chapter 3.12 of the Sebastopol Municipal Code, which requires them to collect from hotel guests 12 percent occupancy tax, referred to as the transient occupancy tax ("TOT"), and hold such tax revenue in trust for the City and remit such tax on a scheduled basis to the City.
- F. During this time of economic uncertainty and declining hotel revenues, the City Council finds that it is vital to assist the hotels in the City to remain open and viable businesses so that visitors can stay in hotels during this period of local emergency but also so that they will be able to successfully operate again once all state and local orders are lifted.
- G. The City desires to help hotels continue in business and can do so by allowing for a deferral in the due dates of scheduled TOT payments to the City.
- H. This Resolution is an exercise of the City's emergency powers as provided for under State law and Chapter 2.36 of the Sebastopol Municipal Code, is temporary in nature and is intended to provide temporary financial relief to hotels within the City of Sebastopol during, and immediately following, the City's response to the COVID-19 pandemic.

**WHEREAS**, the Sebastopol City Council hereby resolves:

**SECTION 2. Action**

- A. To authorize hotel operators who make a written request with the City to defer payment of the TOT for the months of March and April 2020 to June 30, 2020 and submit a TOT Payment Agreement should they decide to defer payment.
- B. To authorize the City Manager to allow a hotel operator, upon written request, to defer payment of the TOT for months subsequent to April 2020, in two month increments. For example, if the City Manager allows for the deferral of TOT for the months of May 2020 and June 2020, the due date for those months would be August 31, 2020.
- C. If a hotel operator who has requested a deferral does not remit payment and reports required by Chapter 3.12 of the Sebastopol Municipal Code upon the modified due date, the hotel operator shall be subject to the penalties and interest pursuant to Section 3.12.080 with the penalties and interest to apply as of the date that the TOT was originally due, notwithstanding any deferral allowed by this Resolution.
- D. For any hotel operator that has elected to obtain a deferral pursuant to this Resolution, section 3.12.080 of the Sebastopol Municipal Code concerning penalties for failure to remit the TOT when due is hereby suspended, except as provided in Paragraph C and shall be in full force and effect again as set forth in Paragraph E.
- E. For any hotel operator who has elected to obtain a deferral pursuant to this Resolution, section 3.12.070 of the Sebastopol Municipal Code requiring the Tax Collector to take certain actions when an operator fails to remit the TOT collected, including the assessment of penalties and interest, sending notice to the operator, and allowing the operator to have a hearing, is hereby suspended, except as provided in Paragraph C, and shall be in full force and effect again as set forth in Paragraph E.
- F. Upon cessation of the local emergency, all operators who collected the TOT shall remit all payments owed to the City by the end of the following month pursuant to Chapter 3.12. From and after the date the tax is owed, all applicable interest and penalties set forth in Section 3.12.080 shall begin accruing, and the enforcement provisions in Section 3.06.070 may be enforced by the Tax Collector.
- G. Nothing in this resolution shall relieve an operator from collecting from transients the amounts required to be collected, as specified in Section 3.12.030 of the Sebastopol Municipal Code, and all operators shall continue doing so regardless of any deferrals requested under this Resolution. This resolution also does not relieve any operator from its obligation to remit to the City the TOT collected.
- H. Each operator that collects, or has collected, TOT shall continue to comply with Section 3.06.070 of the Sebastopol Municipal Code requiring an operator to report to the City's Tax Collector the total rents charged and received and the amount of tax collected for transient occupancies.

IN COUNCIL DULY PASSED this 21<sup>st</sup> day of April 2020.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City of Sebastopol City Council by the following vote:

VOTE:

Ayes: Councilmembers Carnacchi, Glass, Hinton, Vice Mayor Glass and Mayor Slayter  
Noes: None  
Abstain: None  
Absent: None



APPROVED: \_\_\_\_\_  
Mayor Patrick Slayter



ATTEST: \_\_\_\_\_  
Mary Gourley, Assistant City Manager/City Clerk, MMC



APPROVED AS TO FORM: \_\_\_\_\_  
Larry McLaughlin, City Attorney