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**CITY OF HERMOSA BEACH
DIRECTOR OF EMERGENCY SERVICES**

EXECUTIVE ORDER NO. 2020-05

**EMERGENCY EXECUTIVE ORDER OF THE CITY
MANAGER/DIRECTOR OF EMERGENCY SERVICES OF
THE CITY OF HERMOSA BEACH, CALIFORNIA,
IMPLEMENTING A TEMPORARY PERMIT FOR OUTDOOR
DINING/SEATING AND OUTDOOR RETAIL DISPLAY TO
ASSIST IN THE REOPENING OF RESTAURANTS, FOOD,
AND RETAIL ESTABLISHMENTS DURING COVID-19**

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SECTION 1. RECITALS

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes which has been named “coronavirus disease 2019,” abbreviated COVID-19 (“COVID-19”).
- B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- C. On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19.
- D. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.
- E. On March 15, 2020, the Mayor Mary Campbell declared a local emergency to ensure an effective City response to COVID-19. At a special meeting on March 16, 2020, the City Council adopted Resolution No. 20-7230, approving and ratifying the declaration of emergency.
- F. On March 16, 2020, the Los Angeles County Public Health Officer issued an order countywide that (1) prohibited gatherings where at least 50 or more people

1 are expected to attend, (2) puts limits and regulations on gatherings of 10-49
2 people, (3) limits restaurants to drive-through/takeout/delivery only, and (4)
3 closes bars (that don't serve food), gyms, movie theaters, etc.

4 G. Also on March 16, 2020, the State Department of Public Health issued public
5 health guidance with a non-exhaustive list of precautionary measures retail food,
6 beverage, and other related service venue owners and management should take
7 for the protection of patrons to prevent further COVID-19 transmission.

8 H. The Centers for Disease Control and Prevention, the California Department of
9 Health, and the Los Angeles County Department of Public Health have all issued
10 recommendations including but not limited to strict adherence to social distancing
11 guidelines, canceling or postponing group events, working from home, and other
12 precautions to protect public health and prevent transmission of this
13 communicable virus. Other counties throughout the state have similar directives.

14 I. On March 19, 2020 the Los Angeles County Public Health Officer issued a
15 second countywide order, the 'Safer at Home' Order, which was further clarified
16 on March 21, 2020. This public health order prohibits all public and private group
17 gatherings and events and requires people to stay in their homes with limited
18 exceptions; and requires closure of all non-essential retail businesses, shopping
19 centers, playgrounds for children, bars, nightclubs, movie theaters and all similar
20 gathering places. The purpose of the order is to further restrict, and limit gathering
21 of persons and require closures of non-essential retail businesses in an effort to
22 stem or slow the spread of the virus.

23 J. On March 19, 2020, the Governor of the State of California, also issued Executive
24 Order N-33-20, (commonly known as the Safer at Home Order) an Order of the
25 State Public Health Officer ordering all individuals living in California to stay
26 home or at their place of residence except as needed to maintain continuity of
27 operations of outlined federal critical infrastructure sectors.

28 K. On April 28, 2020, the California Governor announced a four-stage framework
titled "Resilience Roadmap" for modifying the statewide Safer at Home Order to
gradually permit the phased reopening of the State.

L. On May 4, 2020, California Governor, Gavin Newsom issued Executive order N-
60-20, to modify its state-wide Safer at Home order and allow the state to move
into Stage 2 of the reopening process to permit certain low risk businesses and
open spaces to open with modifications. Executive Order N-60-20, also directs
the State Public Health Officer to establish criteria and procedures, as set forth in
the order to determine how local jurisdictions may implement public health
measures that depart from state-wide directives of the State Public Health Officer.

- 1 M. On May 12, 2020, during its regular City Council meeting, the City Council
2 discussed COVID-19 impacts to City businesses and the need to preserve City
3 retail and restaurants. The City Council directed the Economic Development
4 Committee and/or Planning Commission to (1) hire an economic consultant to
5 assess the market feasibility for economic uses and types of uses in the
6 Downtown; and/or (2) bring back an interim urgency ordinance (moratorium) to
7 address concerns about loss of retail and restaurant while the City studies the
8 issue; and/or (3) establish regulations that give priority to preserving retail and
9 restaurant uses on the ground floor and to address ground floor office conversions
10 in the Downtown ahead of the City’s Zoning Code update process.
- 11 N. On May 13, 2020, the Los Angeles County Public Health Officer issued a Revised
12 Order entitled “Continuation of Safer at Home Order that begins to move the
13 County of Los Angeles into Stage 2 of the County’s Roadmap to Recovery”
14 (“May 13 Revised Order”) that (1) allows specified “Lower Risk Retail
15 Businesses” to reopen for curbside, doorside, outdoor or outside pick-up, (2)
16 partially and conditionally re-opens public beaches for certain types of active
17 recreation, and (3) re-opens additional recreational opportunities.
- 18 O. The California Department of Alcohol Beverage Control (“ABC”) has issued
19 various “Regulatory Relief” orders designed to support the alcoholic beverage
20 industry in its efforts to assist California in slowing the spread of the virus while
21 assisting the industry in dealing with the economic challenges it is facing as a
22 result. More recently on May 15, 2020 , ABC issued its fourth notice of
23 Regulatory Relief providing for temporary relief for licensees to expand licensed
24 footprints in order to serve more people outside where it is safer while the
25 COVID-19 pandemic continues, through an inexpensive ABC permit requiring
26 authorization from local jurisdictions.
- 27 P. On May 20, 2020, ABC issued its fifth Regulatory Relief Notice to permit on a
28 temporary basis, licensees that do not operate kitchen facilities and do not prepare
29 bona fide meals on the licensed premises to partner with businesses that do offer
30 meals to sell bona fide meals in conjunction with to-go containers of alcoholic
31 beverages.
- 32 Q. As the State gradually moves forward with Stage 2 of the State’s “Resilience
33 Roadmap”, it is expected that in order to allow restaurants to open, the Governor
34 of the state of California will require a reduced capacity with new guidelines
35 within restaurants, greatly impacting the maximum number of customers served.
- 36 R. The City of Hermosa Beach seeks to be responsive to allow restaurants to take
37 advantage of ABC’s temporary relief orders to permit, consistent with direction
38 from the County of Los Angeles and its Health Department, to allow restaurants
39 to re-open in light of the County’s Safer at Home order.

1 S. This Order is adopted pursuant to the City’s police powers and powers afforded
2 to the City in time of national, state, county and local emergency during an
3 unprecedented health pandemic, such powers being afforded by the State
4 Constitution, State law, and the Section 2.56.060 of the Hermosa Beach
Municipal Code to protect the peace, health, and safety of the public, and to
protect life and property as affected by the emergency.

5 **SECTION 2.** The following emergency orders are issued effective as of the date set forth
6 below:

7 A. A “Temporary Permit Program” for Outdoor Dining/Seating to assist in the
8 reopening of restaurant and food establishments during the time of limited
9 capacities and social distancing requirements for restaurants as a result of
10 California and Los Angeles County Health orders in response to COVID-19 is
hereby established as set forth in **Exhibit A** attached hereto and incorporated
herein by reference.

11 B. A “Temporary Permit Program” to permit City businesses to display merchandise
12 to assist in the reopening of retail establishments to best abide by limited capacity
13 and social distancing requirements for businesses as established by of State and
14 Los Angeles County orders in response to COVID-19 is hereby established as set
forth in **Exhibit B** attached hereto and incorporated herein by reference.

15 C. The provisions of Hermosa Beach Municipal Code Sections 17.26.050 (B), (C),
16 and 17.44.030 regarding Off-street Parking Requirements for Commercial and
17 Business Uses are hereby temporarily suspended to allow for implementation of
items A and B above on a temporary basis through the duration of City, State,
and County COVID--19 emergency orders.

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19 **SECTION 3.** Severability. If any section, subsection, sentence, clause, phrase or word of this
20 Order is found to be unconstitutional or otherwise invalid by any court of
21 competent jurisdiction, such decision shall not affect the remaining provisions of
this Order.

22 **SECTION 4.** Effective Date and Termination. This Order shall become effective immediately
23 and shall continue until the earlier to occur of: (1) the conclusion of the local
24 emergency; (2) its termination is ordered by the City Manager/Director of
25 Emergency Services; or (3) it is duly terminated by the City Council. The Order
26 may also be superseded by a duly enacted ordinance or order of the City Council
27 expressly superseding this Order.

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ORDERED by the City Manager/Director of Emergency Service this 26th day of May, 2020.

ATTEST:



Suja Lowenthal, City Manager and
Director of Emergency Services



Eduardo Sarmiento, City Clerk

Exhibit A

OUTDOOR DINING DESIGN AND OPERATIONAL STANDARDS

I. INTRODUCTION

- A. The Outdoor Dining Design and Operational Standards are adopted pursuant to Executive Order 2020-05 in order to establish specific design and operational criteria for temporary outdoor dining on public and private areas.
- B. An outdoor dining area is a place on the public sidewalk, public parking stalls, public metered parking spaces, private parking stalls, or other private areas, where patrons may consume food and/or beverages provided by an adjacent and nearby food service establishment..
- C. Establishments serving alcoholic beverages that apply for a Temporary Outdoor Dining Permit shall meet the additional requirements of the State of California Alcohol Beverage Control Board.
- D. These standards and procedures regulate the design and operation of temporary outdoor dining areas. However, they do not provide information on all the government agency requirements for starting a new restaurant or expanding an existing one. Business owners must secure the appropriate licenses and permits from the State Alcohol Beverage Control Board, Los Angeles County Health Department, the City of Hermosa Beach Community Development Department, Public Works Department, and Business License Office.
- E. Approved Temporary Outdoor Dining Permits shall be affective for the duration of the Executive Order, and this Temporary Permit will expire immediately upon Los Angeles County and approval to reopen at capacity levels established prior to the emergency order, and the outdoor area shall be returned to its previous condition.
- F. These regulations apply to outdoor dining on private property and the public right-of-way.

II. APPLICATION PROCEDURE

- A. An application for a Temporary Outdoor Dining Permit shall be obtained from the Community Development Department. A site plan drawn to-scale shall accompany the application form. The plan shall

delineate the proposed outdoor area and the layout of furnishings and allowable amenities.

- B. An encroachment permit shall be required for outdoor areas in the public right-of-way. Proof of Certificate of liability insurance shall be provided to the Public Works Department, with the City of Hermosa Beach named as Additionally Insured, prior to issuance of an encroachment permit.
- C. If the food establishment has an existing license from the California Department of Alcohol Beverage Control (ABC), the food establishment must obtain a temporary permit from both the City of Hermosa Beach and ABC. Applicants shall adhere to ABC conditions of approval prior to serving alcohol. Outdoor permits with proposed alcohol consumption shall be reviewed by the City's Police Department prior to the City permit issuance or ABC approval process and are subject to the City's On-Sale Alcohol Beverage Establishment, General Provisions HBMC Section 17.40.080(A)(1-4).
- D. A Temporary Sign Permit Application shall be submitted in conjunction with the Temporary Outdoor Dining Permit only if temporary signage shall be displayed in the outdoor area. No additional fee shall be paid for the Temporary Sign Permit.
- E. Review of Temporary Outdoor Permits shall be expedited. Applications that do not require review from other Departments (Public Works and/or the Police Department) will be further expedited for review.

III. OUTDOOR DINING SITES

- A. The outdoor dining area shall be permitted in public sidewalks, public street parking or parking areas or other private property located nearby the business. If the business has on-site parking, a portion of the private parking may be used for outdoor dining/seating.
- B. The maximum area of either private or public areas (or the areas combined) may not exceed the area needed to compensate for the loss of capacity of the interior area of the business to achieve social distancing in accordance LA County Health and State of California guidelines.
- C. The buildings adjacent to these dining areas shall maintain building egress as defined by the California Building Code and Title 24 Disabled Access Standards.

- D. The final location and configuration of the outdoor retail area shall be subject to approval by the Director of the Community Development Department, who shall consider public safety issues and maintenance of minimum clearances to comply with ADA requirements and the safety and convenience of pedestrians and customers.

IV. DESIGN STANDARDS

- A. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a physical barrier that satisfies these Standards and of the Alcohol Beverage Control Board if alcohol is to be served.
- B. Barriers shall conform to the Public Works Director's installation standards and be removable. Barriers need not be removed each evening, but shall be capable of being removed; if imbedded into the pavement they must be fixed through the use of recessed sleeves and posts, otherwise by wheels that can be locked into place or weighted in place. No signs or banners of any kind shall be placed, displayed or erected on barriers
- C. The appearance should be made attractive with potted plants or other decorative elements to provide an enhanced and inviting outdoor environment.
- D. No additional parking shall be required for the outdoor dining. To the extent feasible, if existing parking is available, parking spaces should continue to be available to customers. Parking approval will be determined on a case-by-case scenario.

V. Standards of Operation

- A. Restaurant management is responsible for operating and maintaining the outdoor dining area and shall not delegate or assign that responsibility. Outdoor dining areas shall be continuously supervised by management to ensure social distancing guidelines are being met.
- B. Outdoor dining areas are limited to dine-in customers being served from the restaurant (i.e. they cannot be destinations for take-out food and beverages). Alcohol can only be served to customers in conjunction with a food order.
- C. Restaurant management shall keep the outdoor dining area clear of litter, food scraps, and soiled dishes and utensils at all times. Trash receptacles shall be provided in outdoor dining areas used for consuming take-out items.

- D. At the end of each business day, establishments are required to clean (sweep and wash) the area in and around the outdoor dining area and remove the debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street in conformance with the City's storm water quality regulations.
- E. Upon termination of the Outdoor Dining Encroachment Permit, the Permittee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition, and remove all personal property, furnishings, and equipment from the sidewalk. Any personal property remaining on the premises shall be removed pursuant to the laws of the State of California.
- F. The allowable hours of operation will be reviewed on a case-by-case basis, but in no case shall the hours of operation exceed the business's normal operation hours or be open after 11:00 p.m.

VI. ENFORCEMENT

- A. Notice of violation of the outdoor dining design standards or standards of operation shall be made in writing to the Permittee by any Code Enforcement Officer, Public Works Inspector, Building Inspector, Police Department Official, or Fire Department Official of the City. A copy of the notice shall be filed with the Public Works Director. The Permittee shall immediately cure the violation upon receipt of notice. If the violation is not cured within ten (10) days after issuance of the notice to the Permittee, the Director may suspend or revoke the Encroachment Permit.
- B. In the case of non-compliance with conditions of approval, substantial difficulties resulting from the Temporary Permit issuance, or other unforeseen problems with the Temporary Permit, the Community Development Director has the right to reevaluate the permit or its conditions of approval; and, if the Temporary Permit has created neighborhood, Police or Code Enforcement problems, the Temporary Permit may be revoked.

Exhibit B

OUTDOOR RETAIL DESIGN AND OPERATIONAL STANDARDS

I. INTRODUCTION

- A. The Outdoor Retail Design and Operational Standards are adopted pursuant to Executive Order 20-XX in order to establish specific design and operational criteria for temporary outdoor dining on public and private areas.
- B. An outdoor retail area is a place on the public sidewalk, public parking stalls, public metered parking spaces, private areas including parking stalls where business owners may display merchandise and patrons may purchase merchandise displayed provided by an adjacent or nearby a retail establishment.
- C. These standards and procedures regulate the design and operation of temporary outdoor retail areas. However, they do not provide information on all the government agency requirements for starting a new retail establishments or expanding an existing one. Business owners must secure the appropriate licenses and permits from the, the City of Hermosa Beach Community Development Department, Public Works Department, and Business License Office.
- D. Approved Temporary Outdoor Retail Permits shall be affective for the duration of the State of California's Emergency Orders for Covid-19. This Temporary Permit will expire immediately upon County and State approval to reopen at capacity levels established prior to the Covid-19 pandemic limits.
- E. These regulations apply to outdoor retail on private property and the public right-of-way.

II. APPLICATION PROCEDURE

- A. An application for a Temporary Outdoor Retail Permit shall be obtained from the Community Development Department. A site plan drawn to-scale shall accompany the application form. The plan shall delineate the proposed outdoor area and the layout of furnishings and allowable amenities.
- B. An encroachment permit shall be required for outdoor areas in the public right-of-way. Proof of Certificate of liability insurance shall be provided to the Public Works Department, with the City of Hermosa

Beach named as Additionally Insured, prior to issuance of an encroachment permit.

- C. A Temporary Sign Permit Application shall be submitted in conjunction with the Temporary Outdoor Dining Permit only if temporary signage shall be displayed in the outdoor area. No additional fee shall be paid for the Temporary Sign Permit.
- D. Review of Temporary Outdoor Retail Permits shall be expedited. Applications that do not require review from other Departments (Public Works and/or the Police Department) will be further expedited

III. OUTDOOR DINING SITES

- A. The outdoor retail area shall be permitted in public sidewalks, public street parking or private areas including parking lots adjacent to or nearby the business. If the business has on-site parking, a portion of the private parking may be used for outdoor dining/seating.
- B. The maximum area of either private or public areas (or combined area) may not exceed the area needed to compensate for the loss of capacity of the interior area of the business due to social distancing requirements.
- C. The buildings adjacent to these dining areas shall maintain building egress as defined by the California Building Code and Title 24 Disabled Access Standards.
- D. The final location and configuration of the outdoor retail area shall be subject to approval by the Director of the Community Development Department, who shall consider public safety issues and maintenance of minimum clearances to comply with ADA requirements and the safety and convenience of pedestrians and customers.

IV. DESIGN STANDARDS

- A. Outdoor areas in the public right-of-way may be required to provide a physical barrier to the satisfaction of the Community Development Director and the Public Works Director. Physical barriers may be required for the safety for patrons.
- B. Barriers shall conform to the Public Works Director's installation standards and be removable. Barriers need not be removed each evening, but shall be capable of being removed; if imbedded into the

pavement they must be fixed through the use of recessed sleeves and posts, otherwise by wheels that can be locked into place or weighted in place. No signs or banners of any kind shall be placed, displayed or erected on barriers

- C. Retailers with an existing license from the California Department of Alcohol Beverage Control (ABC) to sell alcohol, shall not permitted to be displayed in the outdoor sales area.
- D. The appearance should be made attractive with potted plants or other decorative elements to provide an enhanced and inviting outdoor environment.
- E. No additional parking shall be required for the outdoor area. To the extent feasible, if existing parking is available, parking spaces should continue to be available to customers. Parking approval will be determined on a case-by-case scenario.

V. Standards of Operation

- A. Management is responsible for operating and maintaining the outdoor retail area and shall not delegate or assign that responsibility. Outdoor areas shall be continuously supervised by management to ensure social distancing guidelines are being met.
- B. Management shall keep the outdoor area clear of litter and food scraps.
- C. At the end of each business day, establishments are required to clean (sweep and wash) the area in and around the outdoor area and remove the debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street in conformance with the City's storm water quality regulations.
- D. Upon termination of the Outdoor Retail Permit, the Permittee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition, and remove all personal property, furnishings, and equipment from the sidewalk. Any personal property remaining on the premises shall be removed pursuant to the laws of the State of California.
- E. The allowable hours of operation will be reviewed on a case-by-case basis, but in no case shall the hours of operation exceed the business's normal operation hours or be open after 11:00 p.m.

VI. ENFORCEMENT

- A. Notice of violation of the outdoor retail design standards or standards of operation shall be made in writing to the Permittee by any Code Enforcement Officer, Public Works Inspector, Building Inspector, Police Department Official, or Fire Department Official of the City. A copy of the notice shall be filed with the Public Works Director. The Permittee shall immediately cure the violation upon receipt of notice. If the violation is not cured within ten (10) days after issuance of the notice to the Permittee, the Director may suspend or revoke the Encroachment Permit.

- B. In the case of non-compliance with conditions of approval, substantial difficulties resulting from the Temporary Permit issuance, or other unforeseen problems with the Temporary Permit, the Community Development Director has the right to reevaluate the permit or its conditions of approval; and, if the Temporary Permit has created neighborhood, Police or Code Enforcement problems, the Temporary Permit may be revoked.