

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF HERMOSA BEACH
ADDING CHAPTER 5.80 TO THE HERMOSA BEACH
MUNICIPAL CODE TO ESTABLISH THE DOWNTOWN
ALCOHOL ESTABLISHMENT LICENSE, AND AMENDING
SECTION 1.10.040 TO MAKE VIOLATIONS OF CHAPTER
5.80 SUBJECT TO ADMINISTRATIVE PENALTY
PROCEDURES

The City Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. Findings and Declaration of Nuisance.

A. According to PLAN Hermosa, the Downtown District of Hermosa Beach is a primary social and commercial activity center in Hermosa Beach, serving as a centralized location for social gatherings and the recreational activities of residents and visitors. Pier Plaza serves as a popular venue for outdoor events and dining, connecting Downtown to the beach, pier, and The Strand. However, the area also contains a high concentration of on and off sale alcohol serving establishments. The correlation of the sale of alcohol and negative impacts on the community are well documented in peer-reviewed scholarly literature. A study prepared by the Urban Institute Justice Policy Center found that a concentration of on- and off-premise alcohol sales were associated with high levels of disorderly conduct, as evidenced in the Downtown District of Hermosa Beach

B. The Downtown District constitutes less than 5% of the total land area of the City. As a result of the high number of on- and off-premise alcohol establishments in this concentrated area, the Downtown District also serves as an attraction to those who want to indulge in consumption of alcoholic beverages and engage in a rowdy, party-like environment. In a review of the crime statistics over the previous ten years, the Downtown District generates 16% of the daytime (3:00 to 10:00 p.m.) calls for service and 35% of the nighttime (10:00 p.m. to 3:00 a.m.) calls for service. This increase in calls for service is directly attributed to the operation of bars, nightclubs, and liquor stores. Repeated and consistent crimes related to the sale and service of alcohol in the Downtown District include without limitation disorderly conduct, larceny, public urination and defecation, vandalism, and driving under the influence. The disproportionate alcohol-related crime rates have created an adverse impact and disruptions to the community, resulting in a collective, consistent and long-term nuisance. All crime data for the past ten years is available and reported on the city's website: hermosabeach.gov.

C. In 2017, the City of Hermosa Beach commissioned Kosmont Companies to prepare a cost benefit analysis of the Downtown. The cost benefit analysis found "...that it is likely that the downtown area generates direct municipal revenues equal to or greater than the expenses it directly incurs..."; however, this finding is based on the current deployment of police resources, with its long-standing, disruptive atmosphere and corresponding negative impacts. The analysis did not take into consideration the cost of deploying additional resources needed in downtown to address the disruptions, negative impacts and nuisance activity through an enforcement only model. Had the cost benefit analysis

considered the additional resources needed, it could not have reached the same conclusion. Furthermore, attempting to resolve the collective nuisance problems through the deployment of additional police resources is not a sustainable, cost-effective solution and diverts resources away from the other 95% of the land area in the city.

D. The Kosmont report also noted that approximately 25% of the Hermosa Beach Police Department budget is utilized to provide police services just in the Downtown area, which, as previously noted, is not a cost-effective solution to address the negative impacts created by the operation of alcohol servicing establishments in the Downtown. This disproportionate expenditure on an area that consists of only 5% of the city land area is not an effective deployment of police resources, which should be more evenly deployed throughout the city. This means that businesses and residents in the remainder of city experience a negative impact in that fewer police resources are available to them when police resources are deployed in such a disproportionate manner. Inasmuch as the city cannot continue to sustain the disproportionate deployment within the Downtown District, additional regulations are required to abate the collective nuisance and minimize the impacts on the community resulting from the operation of alcohol serving establishments.

E. On evenings and weekends, many of the on-sale establishments operate at standing room only capacity, which is well beyond their seating capacity. Patrons crowd into the establishment to consume alcoholic beverages, while additional patrons queue up outside, waiting to get into the business. The queueing at multiple establishments, creates an environment where large numbers of intoxicated individuals are congregating and loitering in a small, concentrated area. The congregation and crowds have led to fights breaking out and other disorderly and dangerous behavior. Preventing queueing will have a positive effect on the atmosphere and culture in the area, especially on Pier Plaza and city sidewalks. The removal of the queue lines will make the sidewalks and Pier Plaza more passable, accessible, and welcoming and disperse the concentration of people. This has been evidenced during the COVID-19 emergency when queues were prohibited for social distancing purposes. Furthermore, wireless technology and widely available cell phone applications allow the businesses to establish an electronic queue to call or text patrons when the business is able to accommodate them without the patrons congregating in one area. Accordingly, queues are not a necessary component of a successful business. Many of the businesses in the Downtown District already use this method of reservation management, and it should be standardized as a best practice and optimization of available technology to reduce negative community impacts. This also supports other local businesses, as patrons are free to move around and visit other businesses while waiting to enter their intended destination. Imposing operational conditions also promotes fairness among businesses throughout the city, by requiring businesses in the downtown area to function for their intended purposes (serving food and beverages to customers) and not create disproportionate impacts on the community.

F. Limiting capacity to patrons who have an available seat will also have a far-reaching impact to reduce the negative impacts in the Downtown District. A standing-room only atmosphere makes it difficult for servers to monitor intoxication and facilitates the overserving of alcohol. Requiring patrons to have an available seat in order to be served serves two purposes. First, it allows servers to monitor patrons and prevent overserving

of alcohol. It also has been proven to be an effective tool at reducing alcohol related crimes and disturbances. By way of illustration, as a result of the COVID-19 pandemic, the City has the opportunity to compare operations: 1) the business as usual model; and, 2) a limited operation as a result of the emergency health regulations. As part of the emergency health regulations, the number of patrons allowed within the on-sale alcohol establishments was limited (and for a time meal service with alcohol sales was also required). These emergency regulations resulted in a drastic reduction of the alcohol related crimes in the Downtown District and demonstrates a direct correlation between normal operations and the crimes and disturbances reported in the downtown area. The seating requirement is intended to be an operational regulation, notwithstanding structural occupancy limits under the Building Code, which are building standards that control the design and construction of a building's egress components. Such structural limitations do not limit the City's ability to implement operational restrictions on the business activity that are adopted under the City's police power for the purposes stated in this ordinance. Accordingly the seating plan required under this ordinance providing for a specific number of seats for customers may dictate an operational capacity limit that is lower than the maximum occupant load under the Building Code.

G. The conditional use permit process provides varying regulations on the individual business, with the conditions of approval being considered on a case-by-case circumstance. This results in an enforcement challenge for Police and City Code Enforcement in the Downtown District, as the businesses all operate under different conditions of approval. A uniform regulatory system will make it possible for law and code enforcement to quickly and easily identify which businesses that are not operating in a safe and allowed manner and are contributing to the collective nuisances in the Downtown District. This ordinance will ensure that alcohol serving businesses operate in a safe and responsible manner; and, are responsible and accountable for the impacts to the community from irresponsible alcohol service.

H. It is the desire of the City Council of the City of Hermosa Beach to provide a safe and welcoming environment for those who live, work, and visit the Downtown District. The City Council wishes to attract visitors to the Downtown District that can patronize the businesses within the beach community. The City Council also desires to reduce adverse impacts on the community that result from the operation of the alcohol establishments. Creating a safer and more welcoming environment that does not require an unsustainable deployment of police resources is a benefit to all businesses in the Downtown District as well as to city residents and visitors.

I. The existing code regulations and policies the City has implemented over the years to address negative impacts to the community in the Downtown District have not been successful at curtailing the disruptive, party-like, nuisance atmosphere. These existing measures include a three time a year review of all conditional use permits by the Planning Commission, a cap on the maximum number of late-night alcohol serving establishments, and restrictions on food to alcohol sales ratios at businesses that are licensed as restaurants. These existing regulations and policies have had limited success in reducing overall adverse impacts, as individual businesses may only contribute a portion to the collective issues, crimes, disturbances and other nuisances. The additional regulations

are intended to uniformly address the impacts created by the aggregate of all the alcohol establishments operating in the Downtown District.

J. The disturbances are not limited to patrons from on-sale establishments. Due to the availability of alcoholic beverages for off-sale consumption in close proximity to the on-sale establishments, the consistent and repeated public drinking takes place in parking lots, at the beach and other parts of the downtown area. This is evidenced by the need for enhanced trash clean up in the area in the mornings, as well as by alcohol-related citations in the Downtown Area, including citations for open alcohol containers. In 2019, the police department issued 34 alcohol related citations in the downtown area, which is a high number in and of itself for a land area that makes up only 5% of the city. In 2020 when the on-sale establishments were closed or limited in capacity due to COVID-19, the citations increased to 94, showing the propensity of people to purchase alcohol for public outdoor consumption in the area when the other establishments in the area are closed or limited in capacity. These numbers are conservative as they only represent those who are caught and cited for the violation. The alcohol bottles and cans left in public areas in the morning reflect a much larger problem. While the public drinking already creates a nuisance activity, the data suggests that the problems generated from off-sale alcoholic beverage sales will be exacerbated by the new operating restrictions on on-sale alcohol beverage establishments. The City can't trade one disruptive nuisance for another. This ordinance may have the indirect impact of limiting capacity in the on-sale establishments to those who can be seated and avoiding a standing-room only party atmosphere. This ordinance also prohibits queueing while waiting for a seat in the establishment. The City must avoid the equally disruptive behavior of patrons purchasing small and chilled servings of alcohol to drink in public while waiting for entrance to the establishment and after closing time. This ordinance attempts to balance the need to prevent the nuisance and criminal activity associated with public consumption of alcohol (which is more convenient when sold in small quantities and sold in chilled condition in the late evening hours) with the intention of allowing off-sale alcohol sales to continue. The ordinance is intended to prevent the creation of nuisances and prevent facilitation of criminal activity associated with certain products sold. Accordingly, further regulation of the off-sale alcohol serving establishments is necessary and appropriate to holistically respond to the disruptive nuisance activity in the area.

K. In 2017 due to documented crime and security concerns, the City commissioned a study to assess security and lighting concerns in the Downtown area. The study culminated in a Crime Prevention Through Environmental Design (CPTED) Lighting Assessment Report. The report provides: "The City of Hermosa Beach has encountered security concerns in undesired behaviors of the patrons of their Downtown bars and restaurants upon leaving the establishments late at night. To address these concerns the local police department proactively patrols the downtown area. Naturally, there are typically not enough officers deployed to be in every single area during this time as this would not be an efficient use of resources. To augment the presence of officers the City has implemented flood lights along Pier Plaza, which are turned on strategically after hours. However, the City is still experiencing issues with unwanted and illegal behavior in areas of poor lighting." High security concern areas were identified to be prioritized as a first step of action, including: 13th Court Alleyway, 13th Street Alleyway, Beach Drive

Alleyways, Parking Lot A, Parking Lot B, and the Pier Plaza. While the City is improving lighting to reduce crime in the area, the City should not bear all of the burden to remedy the criminal and nuisance problems in the area. The alcohol serving establishments must also be accountable and work in partnership with the City to reduce impacts. This ordinance is one critical element of that partnership.

L. Furthermore, the Downtown area creates a unique and challenging enforcement problem. The negative impacts and nuisances cannot be directly linked to one particular business and traditional license revocation, CUP review and/or nuisance abatement is not possible when the problems stem from the collective. Traditional nuisance abatement tools and process are not available for a collective nuisance of this character. Nevertheless, the confluence of all of the alcohol serving establishments in the Downtown Area, particularly those that operate after 11 p.m., has created a nuisance environmental and the City Council finds that the businesses are being operated in such a way as to be injurious to persons living and working in the area. This ordinance is intended to allow the businesses to continue operating; while requiring accountability for the negative impacts that have plagued this community.

M. The City Council of the City of Hermosa Beach hereby finds, determines, and declares that these regulations are needed to achieve a safe and welcoming environment for those who live, work, and visit the Downtown District. The focus of the ordinance is to abate or eradicate nuisance and criminal activities in a particular geographic area by imposing conditions aimed at mitigating those effects. By implementing these regulations through its police power to regulate the secondary effects of alcohol sales, the Hermosa Beach Municipal Code will continue to allow for a variety of uses, including the safe and responsible sale of alcoholic beverages; but will provide the City the necessary enforcement tools needed to minimize adverse negative impacts to the community that result from the operation of on- and off-premise alcohol sales. This ordinance is intended to work in conjunction with and to supplement existing zoning and conditional use permit requirements. A separate and complementary amendment to the zoning ordinance to reconcile the procedural elements of Title 17 and this Chapter 5.80 is being processed through the Planning Commission, and will come before the City Council at a later date after Planning Commission review and recommendation.

Section 2. Chapter 5.80, entitled "Downtown Alcohol Establishment License" is hereby added to Title 5 of the Hermosa Beach Municipal Code to read as follows:

Chapter 5.80

Downtown Alcohol Establishment License

Sections:

5.80.010 Purpose.

5.80.020 Definitions.

5.80.030 License required.

5.80.040 License application procedure.

- 5.80.050 Issuance and Grounds for Denial of License.**
- 5.80.060 Term and Renewal.**
- 5.80.070 License Nontransferable.**
- 5.80.080 Operating Requirements for On-Sale and Off-Sale Alcohol Beverage Establishment.**

- 5.80.090 Violations: Fines, Tiered Penalties.**
- 5.80.100 Modification and Revocation.**

5.80.010 Purpose.

The Downtown Alcohol Establishment License is established to encourage the responsible operation of businesses in the Downtown Area and to protect the public health, safety, and general welfare of the surrounding community. The concentration of business establishments engaging in the sale of alcoholic beverages in Downtown has necessitated the regulations established herein to enable the City to effectively address nuisance and criminal activities occurring in the area.

5.80.020 Definitions.

Whenever used in this Chapter, words and phrases shall have the meanings defined in this section, or in HBMC Title 17, unless the context clearly requires otherwise:

“ABC” means the California Department of Alcohol Beverage Control.

“Chief of Police” means the Chief of the City of Hermosa Beach Police Department, or designee.

“Customer” means any individual occupying an establishment’s service area when the establishment is open for business, excluding establishment personnel.

“Downtown” means the Downtown District as that District is defined in PLAN Hermosa.

“Immediate Area” means: on Pier Plaza, fifty feet in all directions of the Premises; and for all other places it means (1) to the edge of the sidewalk in the front of the Premises, and the depth of the alley behind the Premises, to adjacent property lines on both sides; (2) the public right of way in front of and to the rear of the Premises that is in full view from the business entrances; and (3) any parking lot under the control of the Licensee, or where spaces are provided for the business.

“Premises” means any property occupied by or devoted to use as an Alcohol Beverage Establishment.

5.80.030 License required.

In addition to any license or permit required under HBMC Chapter 5.04, Title 17 or any other applicable law, it shall be unlawful for any person to carry on, maintain, or

conduct the sale of alcoholic beverages in the Downtown without first obtaining a valid license pursuant to the provisions of this Chapter. This Chapter applies to Alcohol Beverage Establishments, on and off sale, in the Downtown, excluding Restaurants with On Sale Alcoholic Beverages limited to beer and wine and closing at 11:00 p.m. or earlier.

5.80.040 License application procedure.

A. Any person seeking a license pursuant to this Chapter shall submit a completed application to the City on a form prescribed by the Police Department and containing the following information:

1. The name, address, and telephone number of each business owner seeking a license.
2. The business name, address, and telephone number of the single, fixed location for which a license is sought.
3. A single name and mailing address of an agent authorized by each business owner to receive all communications and notices required by, authorized by, or convenient to the enforcement of this Chapter. If an authorized agent is not supplied, each business owner shall be understood to consent to the provision of notice at the business address specified in subparagraph 2 above.
4. A certified copy of all valid ABC permits, licenses, and conditions of operation.
5. Description of business activity and business operations.
6. A Security Plan, which must include (a) details on training employees for safe alcohol service (ABC Responsible Beverage Service Training or its equivalent as determined by the Chief of Police); (b) plan for dealing with intoxicated customers; (c) protocols for preventing loitering and criminal activity outside any of the entrance/exit doors at all times the business is open and in the Immediate Area; (d) preventing service to minors; (e) training and procedures for ID recognition; (f) other security protocols to ensure safe and responsible alcohol sales; and (g) a light plan for interior and exterior lighting.
7. Alcohol service and food service plan, including the kitchen floor plan.
8. Designated managers, and contact information for all managers, current as of at the time of application.
9. Detailed floor and seating plan, including tables, chairs, service areas, kitchen, storage, host area and other details to demonstrate the full scope

of operations. The plan must meet all applicable code requirements, including without limitation requirements for ingress, egress, accessibility and fire safety.

10. All city permits required for the business operation.
11. Certification on management having received ABC Licensee Education on Alcohol and Drugs (LEAD) training and Responsible Beverage Servers Training, or equivalent as determined by Chief of Police.
12. Such other information as the Chief of Police deems necessary for the administration or enforcement of this Chapter as specified on the application form required by this Chapter.

B. The City Council may establish by resolution the amount of an application fee in an amount not to exceed the City's reasonable cost of providing the services required by this Chapter. The City shall not accept a license application unless accompanied by payment of such fee.

C. An applicant or agent thereof shall inform the Police Department in writing of any change in the information submitted on an application for a Downtown Alcohol Establishment License within ten (10) business days of a change, including the names and contact information for designated managers.

5.80.050 Issuance and Grounds for Denial of License.

- A. Upon the receipt of a completed application for a Downtown Alcohol Establishment License and the corresponding application fee, the Police Department, with consultation of the Finance, Community Development, and Public Works Departments, shall issue a license unless substantial evidence exists for one or more of the following grounds for denial:
 1. The information presented in the application is inaccurate or false or incomplete. Intentionally supplying inaccurate or false information shall be a violation of this Chapter.
 2. Issuing a permit at the proposed location is unlawful pursuant to this Code (including without limitation the Hermosa Beach zoning ordinance and business license regulations), or is unlawful pursuant to any other law.
 3. The applicant's business is not operating in compliance with any applicable ABC license or permit.
 4. The applicant has had a license issued pursuant to this Chapter revoked within the preceding twelve (12) months.

5. The applicant is indebted to the City for any unpaid fee or fine.

B. Prior to license issuance, the Chief of Police may provide comments in writing or may request a meeting with the applicant to review the application submittal and may request revisions or supplemental information for the application to demonstrate that all of the required information in 5.80.040 has been provided and that none of the findings for denial in 5.80.050 can be made in the affirmative. Prior to license issuance, a signed 'Acceptance of License' form shall be filed with the Police Department stating that the applicant is aware of, and agrees to accept, all of the conditions of this license.

C. Any person aggrieved by a decision approving or denying a license may appeal that decision in accordance to the appeal procedures set out in Section 5.80.090.B.4.

5.80.060 Term and renewal.

A. A license issued pursuant to this Chapter shall be valid for one (1) year after the date of issuance, unless it is revoked earlier in accordance with the provisions of this Chapter. The expiration date of each license shall be shown on the license itself and each license shall expire at midnight on the expiration date.

B. A person who seeks to renew a license issued pursuant to this Chapter shall submit a renewal application on a City-approved form and tender any applicable fees to the City no later than sixty (60) calendar days prior to the expiration of the license. Any license issued pursuant to this Chapter that is not timely renewed shall expire and become null and void at the end of its term.

C. The application for a renewal shall be on a form provided by the Police Department and indicate any change in operation that deviates from the submitted license application materials submitted under Section 5.80.040.

D. The Chief of Police may perform a license compliance review prior to issuance of a renewal to determine if the findings for issuance can still be made in the affirmative and whether any additional conditions are necessary to meet the purpose and requirements of this Chapter and/or to protect the public health, safety and welfare.

E. Imposition of Conditions on Renewal; Hearings. Not less than fifteen days' prior to the renewal date, the Chief of Police shall give written notice to the licensee of any conditions to be imposed on the renewal of a license as may be required to assure that the business operates in a manner consistent with the purpose and requirements of this Chapter and to protect the public health, safety and welfare (with the exception of conditions regarding the hours of operation). Conditions addressing hours of operation shall have a duly noticed public hearing before the City Council, and any other hearing that may be required by law under the Zoning Ordinance (Title 17). The existing license will remain in effect and not expire during the period of any required hearing on hours of operation.

F. Appeal of Conditions of Renewal. Within fifteen days of receipt of the notification from the Chief of Police of the imposition of conditions on a renewal, or denial of a renewal, the licensee may in writing object to the conditions and request a public hearing before the City Manager, or designee or a hearing officer. Notwithstanding, any decision that impacts the terms of a conditional use permit (CUP) may be appealed directly to the City Council. In the event of an appeal, the Chief shall set the application for renewal with conditions for public appeal hearing in the manner set out in Section 5.80.090.B.4. The existing license will remain in effect and not expire pending the determination of any appeal hearing on the renewal.

G. Associated Fees. No license shall be renewed unless all other city fees and taxes owed by the applicant (for example, encroachment permit and business taxes) are paid in full.

H. An application to renew a license may be denied by the Police Department upon the grounds set forth in Section 5.80.050 of this Chapter, or upon the grounds for Modification and Revocation.

5.80.070 License nontransferable.

A. No person shall operate under a name, or conduct business under a designation, not specified on the license.

B. A license issued pursuant to this Chapter may not be transferred from one person to another or from one location to another. A change in business owner, business name, or location shall render the license null and void, and shall require a new license to be obtained in accordance with the provisions of this Chapter.

5.80.080 Operating requirements for On-Sale and Off-Sale Alcohol Beverage Establishment.

1. Any person operating under a License issued pursuant to this Chapter shall, at all times, observe the following operating requirements:

A. The holder of a License issued pursuant to this Chapter ("Licensee") shall abide by the requirements of any applicable ABC permit, license, or conditions of operation, and any other applicable permit, license, code, law and conditions of the license issued under this Chapter 5.80.

B. A copy of the operational standards/findings, any applicable ABC and/or City operating conditions, and any training requirements set forth in this Section shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment and presented to any law enforcement officer or authorized official upon request.

- C. A manager who is aware of the conditions of this License shall be on the premises during business hours.
- D. No exterior vegetation may be planted or maintained that could be used as a hiding place for persons on the premises. Exterior vegetation may be planted and maintained in a manner that minimizes its use as a hiding place.
- E. Lighting shall be installed as set out in the Security Plan required under Section 5.80.040.A.6. Exterior lighting shall be operable, and shall remain lit during all hours of darkness when the business is in operation (motion detector lighting may be used during hours of darkness when the business is closed, except low-level (three feet or less in height) security lighting). Any required lighting must be directed and shielded so as not to glare onto adjoining residential properties and must have a housing to protect against breakage. Any required lighting must illuminate the adjacent public sidewalks and all parking lots under the business establishment's control in a manner that allows law enforcement personnel to identify persons standing in those areas. Any broken or burned out lights shall be required to be replaced within seventy-two hours. New lighting shall be energy-conserving. Lamp bulbs and images for new fixtures shall not be visible from within any on-site or off-site residential unit. New exterior lighting shall not be deemed installed until 30 days after installation, during which period the Building Official may order the dimming or modification of any illumination found to be excessively brilliant or impactful to nearby properties.
- F. To ensure the safety of the business owner, patrons and law enforcement officers, no more than 20% of the square footage of windows and clear doors of the establishment shall be obstructed by signs or advertising. All signs and advertising shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises. This includes the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. This latter requirement shall not apply to premises where there are no windows, or where existing windows are located at a height that precludes a view of the interior of the premises to a person standing outside the premises.
- G. The exterior of the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times. The removal of all graffiti from the walls, fences, pavement or buildings within twenty-four hours of discovery of its appearance on the property may be required.
- H. Licensee shall prohibit loitering and littering outside any of the entrance/exit doors at all times open for business and prohibit patrons making excessive noise at closing time.
- I. The following signs shall be prominently posted in a readily visible manner: (a) "California State Law prohibits the sale of alcoholic beverages to persons under

twenty-one years of age"; (b) "No Loitering or Public Drinking"; and (c) "It is illegal to possess an open container of alcohol in the vicinity of this establishment". Signs shall be posted in a conspicuous location warning patrons of the illegality of removing alcoholic beverages from the subject property, and carrying and consuming alcoholic beverages in any public place such as the public sidewalk.

- J. Licensee shall install and maintain a video surveillance system that monitors within the interior of the business and the Immediate Area. The video system must be capable of delineating on playback the activity and physical features of persons and areas within the premises and Immediate Area. Recordings shall be retained for a minimum of sixty (60) days and video will be available to Police Department upon request. All video security cameras shall be installed to the satisfaction of the Chief of Police. At the discretion of the Chief of Police, Licensee may be required to add additional video cameras.
 - K. The establishment or its operations shall not adversely affect the quality of life for the residents, and/or commercial establishments nearby.
 - L. The establishment shall prevent unruliness and boisterous activities of the patrons on any outdoor patio, any area subject to an encroachment permit from the city, the area outside the business, and in the Immediate Area.
 - M. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance (Hermosa Beach Municipal Code Chapter 8.24).
 - N. Management shall successfully complete ABC Licensee Education on Alcohol and Drugs (LEAD) training and Responsible Beverage Servers Training, or equivalent as determined by Chief of Police. All persons who are personally engaged in the sale or service of alcoholic beverages or who supervise or otherwise control the sale or service of such beverages shall successfully complete Responsible Beverage Service Training, or equivalent as determined by Chief of Police. The alcohol establishment shall maintain records that management and employees have participated in the required trainings. Records shall be maintained for two years after training.
 - O. The alcohol beverage establishment may be subject to a periodic review process established by the City to verify conformance with the license.
2. The following additional operating requirements shall apply to any business operating under a license issued pursuant to this Chapter for on-sale alcohol beverage sales:
- A. All alcoholic beverages shall be served in non-disposable drink ware.
 - B. If the business operates under an Alcohol Beverage Control license that requires food service, the continued operation of the business shall be as a bona fide restaurant: the kitchen shall be equipped to prepare food from its component

ingredients whenever the restaurant is open and it shall offer a full-service menu; food service from the menu shall be available during all hours that the establishment is open for business, provided that said food service may cease one hour prior to close daily.

- C. Under no circumstances shall furniture or other interior/exterior improvements be rearranged from the floor plan attached to the license application to accommodate dancing, more entertainment or greater occupant load absent approval by the Chief of Police, or Planning Commission if the business operates under a Conditional Use Permit that governs the floor plan.
- D. Notwithstanding the structural occupant load limits under the Building Code, each Customer in the establishment shall have an available seat at a table or counter, in substantial conformance with the floor and seating plan on file with the Police Department with the license application. Customers are permitted to freely move around the establishment and are not required to be seated at all times; however, each customer shall have an available seat.
- E. Congregating or lining up of potential customers waiting to enter the establishment (queues) outside the business in any manner, on sidewalks or other public rights-of-way, including Pier Plaza, is prohibited. Unless no table is available, the business must immediately seat a customer if the customer is dining or consuming on-site. In the event no table is available, the staff shall ask the customer to wait in a vehicle or at a location away from the premises. To eliminate queues and crowds outside the business, and the public safety concerns associated with crowds, the business shall implement a phone reservation/callback system and/or digital queueing system that notifies the waiting customer via text, phone call, or other method once a table or seat has become available. No customer shall be permitted in the dining area until the customer has been notified by the restaurant that he or she can be seated.

Staff shall be responsible for instructing customers not to form lines or congregate in abutting public areas while waiting to be seated. Notwithstanding the above, any business with an Alcohol Beverage Control License to operate without required food service (commonly referred to as a bar) shall implement a digital queueing system whereby when the business is operating at maximum occupancy, the business can notify the customer when it is their turn to enter the business and discourage queueing outside the establishment.

3. The following additional operating requirements shall apply to any person operating under a license issued pursuant to this Chapter for off-sale alcohol beverage sales:

- A. Chilled Alcoholic Beverages. Refrigerated or otherwise chilled alcoholic beverages shall not be sold after 11:00 p.m. daily.
- B. The sale or distribution to the customer of paper or plastic cups in quantities

less than their usual and customary packaging is prohibited.

C. Prohibited Products. To discourage nuisance activities and public consumption of alcohol, an off-sale alcoholic beverage establishment shall be prohibited from selling the following products:

- a. Wine or distilled spirits in containers of less than three hundred seventy-five milliliters;
- b. After 11:00 p.m., wine or distilled spirits in containers of less than seven hundred fifty milliliters;
- c. Single containers of beer, malt liquor, alcoholic seltzers, malt beverages, wine coolers and other similar flavored alcoholic beverages;
- d. Containers of beer, malt liquor, alcoholic seltzers, malt beverages, and wine coolers not in their original factory multi-packages;
- e. Containers of beer, malt liquor, alcoholic seltzers, malt beverages, and wine coolers larger than thirty-nine ounces.

5.80.090 Violations: Fines, Tiered Penalties.

- A. Administrative fine. In addition to any other penalty authorized by law, violations of this Chapter are subject to the administrative citations and penalties provisions in Title 1, Chapter 1.10 of this Code.
- B. Tiered Penalties.
 1. Tier 1. Counseling. If the Chief of Police determines that the Licensee has violated the terms of this Chapter, including without limitation the operating requirements in Section 5.80.080, conditions of the license or Licensee's obligation to comply with all ABC requirements, the Licensee shall meet with the Chief of Police and other related City Departments to address the violations, any community concerns and to discuss how Tier 2 Probation may be avoided.
 2. Tier 2. Probation. If the Chief of Police determines that the Licensee has violated the terms of this Chapter, including without limitation the operating requirements in Section 5.80.080, conditions of the license or Licensee's obligation to comply with all ABC requirements, again within a 90-day period, or there is a single incident involving violence, the Chief of Police may impose some or all of the following additional conditions on Licensee's operations for a period up to four weeks, in the Chief's discretion based on the severity, frequency and impact of the violations:
 - a. Licensee shall provide security personnel, at the licensee's expense, on the Premises during all or specified hours to prevent Licensee's operations from creating a public nuisance. Security personnel must be

devoted to providing security services during the work shift and shall not be engaged in other assigned employment duties. Employees with other assigned employment duties during a work shift shall not be considered to be providing security, as may be required by this this Section.

- b. All entertainment activity must cease by no later than 9:00 p.m. on Sunday through Wednesday nights and no later than 10:00 p.m. on Thursday through Saturday nights. The Chief of Police is authorized to make adjustments of up to one (1) hour in these times to protect the public peace.
 - c. If the violations have caused disruptions to the community, require the Licensee to meet with concerned community members and city personnel.
 - d. Provide a periodic report to the Chief of Police explaining how the violation has been remedied and/or discontinued and steps taken to avoid future violations. The number of reports required shall be determined by the Chief of Police.
 - e. Weekly meetings with the Chief of Police.
 - f. The business shall close earlier than its allowed closing time.
 - g. Any additional measures deemed necessary by the Chief of Police or the Fire Chief or designee to protect the public health and safety.
3. Tier 3. Suspension. Licensee's failure to correct the Tier 2 violations as directed by the City within a period not to exceed thirty (30) days, and/or any additional violation of the operating requirements in 5.80.080, conditions of the license or Licensee's obligation to comply with all ABC requirements within the following six month period after the time for correction has ended, shall result in the temporary suspension of the License. The length of suspension shall be determined by Chief of Police. In lieu of suspension, the Chief of Police may impose additional Tier 2 conditions for longer periods of time.
4. Appeal. Any person aggrieved by a decision to impose Tier 2 probation conditions or Tier 3 suspension may appeal the decision to the City Manager, or designee or designated hearing officer, by filing a written notice of appeal with the City Manager within ten (10) days of the City mailing out the notice of decision from the Chief of Police. Notwithstanding the above, any decision that impacts the terms of a conditional use permit (CUP) and/or is issued in conjunction with a suspension of the CUP is appealable directly to the City Council in conjunction with the appeal provided for in Section 17.70.040.B. Upon receipt of a timely, written request for an appeal, the City Clerk shall set a hearing to occur within forty-five (45) days and shall provide written notice of

same by first class mail to the appellant. The appeal review body may sustain, modify or reverse the decision upon written findings within thirty (30) days of the conclusion of the hearing. The appeal decision may include imposition of different or additional Tier 2 conditions or a different suspension period, and the appeal hearing may be combined with Revocation or Modification proceedings. The decision to impose Tier 2 conditions or a Tier 3 Suspension will be stayed pending the decision on the appeal; however, any additional violations that take place before the appeal hearing may be considered in making the determination on the appeal. Notwithstanding, the decision to suspend the license that is based on an imminent threat to public health or safety may not be stayed pending the appeal hearing; however, the appeal hearing shall be expedited and heard promptly. The decision on the appeal shall be final.

5.80.100 Modification and Revocation.

1. In addition to any other penalty authorized by law, a license issued pursuant to this Chapter may be modified or revoked based on any of the following grounds:
 - a. The review authority finds that any of the circumstances specified in Section 5.80.050 exist.
 - b. Licensee has not modified business operations in compliance with applicable Tier conditions and continues to violate the terms and conditions of the License.
 - c. The licensee or his/her agent or employee has continued to operate after a license issued pursuant to this Chapter has been suspended.
 - d. The licensee has repeatedly and continuously violated the provisions of the License or conducted the licensed business in a manner contrary to the peace, health, safety and the general welfare of the public.
 - e. The building, structure, or equipment used in the conduct of the business does not comply with or fails to meet any health, zoning, fire, and building and safety laws of the State of California or the ordinances of the City of Hermosa Beach.
 - f. That the licensee has been found to have committed a crime of moral turpitude which bears a substantial relationship to the conduct of the business activity whose license is being considered for revocation.
 - g. That the licensee has knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record to be filed with the Chief of Police.

- h. That the licensee, licensee's employees, agents or manager, has violated any provision of federal or state law or any provision of the City of Hermosa Beach Municipal Code or any other statute, rule or regulation on the business premises or relating to the licensed activity.
 - i. That the licensee has failed or refused to notify the Chief of Police or designee of any change in facts as required by this chapter within ten days after such change.
 - j. That the licensee has been held liable or convicted of any offense involving the maintenance of a nuisance resulting from any act performed in the exercise of any rights permitted by the issuance of the license which is being considered for revocation.
2. No license may be revoked or modified without affording the holder thereof notice of the potential revocation or modification, and an opportunity to be heard at a hearing before the City Manager, or designee or designated hearing officer. Notwithstanding the above, any potential revocation or modification that impacts the terms of a conditional use permit CUP shall be heard by the City Council. The decision on the revocation or modification shall be final.

Section 3. Administrative Citations and Penalties. Section 1.10.040 of Chapter 1.10 of Title 1 the HBMC is hereby amended to add subparagraph (A)(22) to read as follows:

"22. Chapter 5.80: Downtown Alcohol Establishment License"

Section 4. The Chief of Police may promulgate and enforce administrative regulations in the implementation and enforcement of this chapter.

Section 5. Environmental Review. The City Council finds this ordinance is exempt from the California Environmental Quality Act ("CEQA") as provided in Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3). The ordinance is enacted pursuant to the City's police powers to abate nuisances occurring on premises licensed to sell alcoholic beverages; as such, it is largely administrative in nature and designed to improve and not degrade environmental quality by mitigating nuisance activities that threaten the public health, safety, and welfare. Therefore, it can be seen with certainty that adopting this ordinance would not have a significant adverse effect on the environment under CEQA Guideline 15061(b)(3). Staff is directed to file a notice of exemption within five (5) days of the adoption of this ordinance.

Section 6. Effective Date. Pursuant to California Government Code section 36937, this ordinance shall take effect thirty (30) days after its final passage. Businesses that are already in operation on the effective date of this ordinance shall have 90 days from the effective date of the ordinance to apply for and obtain the license.

Section 7. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Hermosa Beach's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and cause it to be published or posted in accordance with California law.

Section 8. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion or the Ordinance would be subsequently declared invalid or unconstitutional.

PASSED, APPROVED and ADOPTED this ____ day of _____ 2021.

VOTE: AYES:
 NOES:
 ABSTAIN:
 ABSENT:

MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney