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ORDINANCE NO. 20-1410U

**AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH,
CALIFORNIA, TO IMPLEMENT 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, AND SETTING FORTH THE
FACTS CONSTITUTING SUCH URGENCY**

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

SECTION 1. Findings.

- A. On March 15, 2020, City of Hermosa Beach (“City”) Mayor Mary Campbell, declared a local emergency to ensure an effective City response to a respiratory disease which has been named “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.
- B. On March 19, 2020, the Governor of the State of California, issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors.
- C. Evidence demonstrates that state and local orders have slowed the increase of community transfer of the disease by limiting interactions amongst people. As a result, on May 7, 2020, Governor Newsom, announced a four-staged framework, titled “Resilience Roadmap” that is intended to guide the state’s gradual modification of its Safer at Home Order to reopen California. The state also issued industry guidance to help specified businesses reopen under new restrictions, which require businesses to, among other things, implement social distancing measures.
- D. On May 13, 2020, the Los Angeles County Public Health Officer issued a Revised Order entitled “Continuation of Safer at Home Order that begins to move the County of Los Angeles into Stage 2 of the County’s Roadmap to Recovery” that (1) allows specified “Lower Risk Retail Businesses” to reopen for curbside, doorside, outdoor or outside pick-up, (2) partially and conditionally re-opens public beaches for certain types of active recreation, and (3) re-opens additional recreational opportunities.
- E. The California Department of Alcohol Beverage Control (“ABC”) has issued various “Regulatory Relief” notices designed to support the alcoholic beverage industry in its efforts to assist California in slowing the spread of the virus while assisting the industry in dealing with the economic challenges it is facing as a result. On May 15, 2020, ABC issued its fourth and fifth of Regulatory Relief Notices providing the following: (1) temporary relief for licensees to expand licensed footprints in order to serve more people outside where it is safer while the COVID-19 pandemic continues, through an inexpensive ABC permit requiring authorization from local jurisdictions; and (2) to permit on a

1 temporary basis, licensees that do not operate kitchen facilities and do not prepare bona
2 fide meals on the licensed premises to partner with businesses that do offer meals to sell
3 bona fide meals in conjunction with to-go containers of alcoholic beverages

- 4 F. As California businesses begin to reopen under Stage 2 of the State’s “Resilience
5 Roadmap”, businesses are expected to heed state and local health directives, such as social
6 distancing requirements, to prevent the spread of COVID-19. To comply with state local
7 health directives, restaurants will need to limit dine-in seating, and in-door shopping,
8 resulting in reduced revenue, making financial recovery difficult for many businesses.
- 9 G. On May 26, 2020, the City Manager\Director of Emergency Services issued Executive
10 Order No. 2020-05, Implementing a Temporary Permit of Outdoor Dining\Seating and
11 Outdoor Retail Display to Assist in the Reopening of Restaurants, Food, and Retail
12 Establishments During COVID-19.
- 13 H. More recently, on May 29, 2020, the Los Angeles County Public Health Officer issued a
14 health order titled “Reopening Safer at Work and in the Community for Control of COVID-
15 19” (“May 29 Order”) that, among other things, permits restaurants and food facilities to
16 remain open and offer limited in dine-in seating subject to social distancing requirements.
17 The Order also encourages restaurants to expand outdoor seating where possible in
18 compliance with local zoning codes to comply with social distancing measures.
- 19 I. In line with the Los Angeles County’s May 29 Order, the proposed ordinance is necessary
20 to supplement the City Manager’s Executive Order No. 2020-05, to temporarily suspend
21 City of Hermosa Beach Municipal Code Sections 17.26.050 (B), (C), 17.44.030, 17.38.550
22 (B), 12.16.090 and 12.16.100, regarding outdoor dining\outdoor retail displays, and off-
23 street parking requirements for commercial and business uses, to the extent they conflict
24 with this Urgency Ordinance. The temporary suspension of the aforementioned provisions
25 will provide City restaurants much needed assistance to serve more customers under the new
26 dine-in seating modifications in a safe manner, and in accordance with social distancing
27 requirements to prevent the further spread of the disease.
- 28 J. This Ordinance is adopted under Government Code section 36937, for the preservation of
the public peace, health, and safety of residents living within the City, and finds urgency to
approve this ordinance immediately based on the facts described herein and detailed in the
staff report.

23 **SECTION 2.** The provisions of Hermosa Beach Municipal Code Sections 17.26.050 (B),
24 (C), 17.44.030, 17.38.550 (B), 12.16.090 and 12.16.100, regarding outdoor dining\outdoor retail
25 displays, and off-street parking requirements for commercial and business uses are hereby
26 temporarily suspended, to the extent they conflict with this Urgency Ordinance, to allow for
27 implementation of items A and B below on a on a temporary basis during the term of the City
28 State and Los Angeles County COVID-19 emergency orders.

- 27 A. A “Temporary Permit Program” for Outdoor Dining/Seating to assist in the reopening of
28 restaurant and food establishments during the time of limited capacities and social distancing

1 requirements for restaurants as a result of California and Los Angeles County Health orders
2 in response to COVID-19 is hereby established as set forth in **Exhibit A** attached hereto and
incorporated herein by reference.

- 3 B. A “Temporary Permit Program” for businesses to display merchandise to assist in the
4 reopening of retail establishments during the time of limited capacities and social
5 distancing requirements for businesses as a result of California and Los Angeles County
6 orders in response to COVID-19 is hereby established as set forth in **Exhibit B** attached
7 hereto and incorporated herein by reference.

8 **SECTION 3. Severability.**

9 If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be
10 unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision
11 shall not affect the remaining provisions of this Ordinance.

12 **SECTION 4. Environmental Review.**

13 The City Council finds that adoption and implementation of this ordinance is not a “project”
14 for purposes of the California Environmental Quality Act (CEQA), as that term is defined
15 by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the
16 proposed amendment will be to maintain the status quo. No new development will result
17 from the proposed action. No impact to the physical environment will result. The City
18 Council also alternatively finds that the adoption and implementation of this ordinance is
19 exempt from the provisions of CEQA as an administrative activity by the City of Hermosa
20 Beach, in furtherance of its police power, that will not result in any direct or indirect physical
21 change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA
22 Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

23 **SECTION 5. Urgency Declaration; Effective Date.**

24 The City Council finds and declares that the adoption and implementation of this ordinance
25 is necessary for the immediate preservation and protection of the public peace, health and
26 safety as detailed above by the City, pursuant to Government Code section 36937. As a
27 result of state and local stay at home orders, a significant number of local restaurants and
28 businesses were forced to close. The rapid, immediate and unexpected loss of revenue from
closure is devastating to local businesses. The local economic recovery will be challenging
as businesses are unable to operate at full capacity with the new reopening requirements.
Relaxing local zoning requirements to temporarily allow outdoor dining and retail will assist
in the economy recovery of local businesses. This ordinance is also conducive to the public
health because it requires businesses to follow the directives of State and County public
health officials to prevent the further spread of the disease. This ordinance must be passed
by four-fifths of the City Council and shall take effect immediately after passage.

SECTION 6. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 9th day of June, 2020.

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

Eduardo Sarmiento, City Clerk

Michael Jenkins, City Attorney

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