

ORDINANCE NO. 22-\_\_\_\_

**AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH,  
CALIFORNIA, EXTENDING A TEMPORARY PERMIT PROGRAM FOR  
OUTDOOR DINING/SEATING AND OUTDOOR RETAIL DISPLAY TO  
ASSIST RESTAURANTS, FOOD, AND RETAIL ESTABLISHMENTS  
DURING COVID-19; AND EXTENDING TEMPORARY LANE CLOSURES  
TO ACCOMMODATE OUTDOOR PERMITS; 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. The findings set forth in Ordinance No. 20-1410U, an urgency ordinance 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COVID-19, and Ordinance No. 20-1413U, an urgency ordinance which extended Ordinance No. 20-1410U until terminated or superseded by ordinance (together, the “Outdoor Permit Program”), are still relevant and incorporated herein by reference.
- B. On July 14, 2020, the City Council directed staff to develop options for closing parking spaces and vehicle lanes on the downtown sections of Hermosa and Pier Avenues that would encourage foot traffic and expand socially distanced outdoor dining and retail opportunities in the public right-of-way in furtherance of the Outdoor Permit Program (the “Downtown Lane Reconfiguration”).
- C. On August 11, 2020, the City Council, by minute order, authorized the City Manager to close one lane in each direction on Hermosa Avenue (between 8<sup>th</sup> and 14<sup>th</sup>) and implement traffic control plans to facilitate outdoor economic activity made possible by the Outdoor Permit Program. Council directed the lane closures on Hermosa Avenue to remain in place for at least six months beginning on the day the project was fully completed and businesses could utilize the set up.
- D. On August 20, 2020, in accordance with City Council’s direction from August 11, 2020, the City Manager acting as Director of Emergency Services issued Executive Order 2020-11, temporarily closing to vehicular traffic the northbound and southbound #2 lanes (closest to the curb) on Hermosa Avenue from the 800 block at 8<sup>th</sup> Street to the 1300 block at 14<sup>th</sup> Street for at least six months, subject to extension or termination by City Council or the Director of Emergency Services.
- E. Starting August 20, 2020, Executive Order 2020-11 also temporarily closed to vehicular traffic the right turn lanes from westbound Greenwich Village to northbound Hermosa Avenue and a part of Hermosa Avenue immediately adjacent to 2626 Avenue until January 13, 2021, subject to extension or termination by City Council.

- 1 F. On August 25, 2020, the City Council ratified Executive Order 2020-11 and authorized  
2 staff to extend outdoor permits issued under the Outdoor Permit Program, consistent  
3 with the approved time for the lane closures.
- 4 G. On September 8, 2020, the City Council authorized staff to implement the temporary  
5 closure of parking spaces and vehicles lanes on Pier Avenue between Valley Drive and  
6 Hermosa Ave as shown in Concept #1 presented to City Council, which was to remain  
7 in place for at least six months beginning on the day the project was fully completed and  
8 operable.
- 9 H. On June 22, 2021, by minute order, Council approved the extension of the Outdoor  
10 Permit Program through December 31, 2021 and authorized implementation of a  
11 reapplication process for outdoor dining and retail permits, including a new requirement  
12 for deck operators to provide a surety bond or deposit.
- 13 I. On July 13, 2021, by Resolution No. 21-7290, the City Council extended through  
14 December 31, 2021 the closure of certain portions of the following streets to allow for  
15 open air dining and other business purposes:
- 16 • Hermosa Avenue between 8<sup>th</sup> Street and 14<sup>th</sup> Street (maximum of one lane closed  
17 in each direction so that through lanes open in both directions)
  - 18 • Pier Avenue between Valley Drive and Hermosa Ave (maximum of one lane  
19 closed in each direction so that through lanes open in both directions)
  - 20 • Small section of Hermosa Avenue immediately north of the intersection with  
21 Greenwich Village used to make a right turn to northbound Hermosa Avenue
- 22 J. On May 24, 2022 the City Council approved the extension of the Temporary Permit  
23 Program for Outdoor Dining and Retail and above mentioned lane configurations in the  
24 City through January 1, 2023.
- 25 K. Unlike when the Outdoor Permit Program and Downtown Lane Reconfiguration were  
26 first implemented, Los Angeles County businesses may now allow indoor dining and  
27 shopping. However, COVID-19 has not been eradicated. The risk of COVID-19  
28 transmission (existing and possible new variants) as well as the perceived threat of  
COVID-19 to visitors, residents and businesses continues to be a threat. City businesses  
have become reliant on these new features as part of their business and residents and  
visitors have similarly expressed positive feedback on the use of these spaces as outdoor  
areas.
- L. State health officials and health orders continue to impose certain restrictions and  
requirements in relation to the COVID-19 pandemic.
- M. City staff, in preparing to make this Outdoor Permit Program and Downtown Lane  
Configuration permanent, had to conduct certain traffic counts/studies (during times that  
population and use would not be depressed due to COVID) and contact other State  
permitting agencies to create a program that could be approved. This process took  
considerable time and modification due to ever changing factors and direction from other  
permitting agencies.

1 N. The City Council desires to extend the Outdoor Permit Program and Downtown Lane  
2 Reconfiguration to continue to assist businesses' economic recovery and ease public  
3 concerns about infection while dining and shopping. This extension will allow City staff  
4 to bring back a more permanent program for City Council review without requiring the  
5 various businesses that have invested in these outdoor areas to entirely remove them and  
6 then pay for the costs of reinstallation at a later date if a permanent program is adopted.  
7 During any extension, fees will be charged in accordance with City Council direction  
8 for the use of the public right-of-way.

9 O. This Ordinance is adopted pursuant to Government Code section 36937, for the  
10 preservation of the public peace, health, and safety of residents living within the City,  
11 and finds urgency to approve this ordinance immediately based on the facts described  
12 herein and detailed in the staff report.

13 **SECTION 2. Temporary Permit Program for Outdoor Dining and Retail.** The  
14 provisions of Hermosa Beach Municipal Code Sections 17.26.050 (B), (C), 17.44.030,  
15 17.38.550 (B), 12.16.090 and 12.16.100, regarding outdoor dining/outdoor retail displays, and  
16 off-street parking requirements for commercial and business uses continue to be temporarily  
17 suspended, to the extent they conflict with this Urgency Ordinance, to allow for implementation  
18 of items A and B, below, through July 1, 2023.

19 A. A "Temporary Permit Program" for Outdoor Dining/Seating to assist in the economic  
20 recovery of restaurant and food establishments during the continuing COVID-19  
21 pandemic as set forth in **Exhibit A** attached hereto and incorporated herein by reference.

22 B. A "Temporary Permit Program" for businesses to display merchandise to assist in the  
23 the economic recovery of retail establishments during the continuing COVID-19  
24 pandemic as set forth in **Exhibit B** attached hereto and incorporated herein by reference.

25 **SECTION 3. Temporary Downtown Lane Reconfiguration.** Portions of the  
26 following streets shall continue to be closed to vehicular traffic through January 1, 2023 to allow  
27 for open air dining and other business purposes intended to allow the public to patronize local  
28 businesses and dine outdoors in a manner that is safe and allows businesses to provide services  
in a way that eases concerns regarding the spread of COVID-19.

A. Hermosa Avenue between 8th Street and 14th Street (maximum of one lane closed in  
each direction so that through lanes open in both directions)

B. Pier Avenue between Valley Drive and Hermosa Ave (maximum of one lane closed in  
each direction so that through lanes open in both directions)

C. Small section of Hermosa Avenue immediately north of the intersection with Greenwich  
Village used to make a right turn to northbound Hermosa Avenue

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase or word of  
this ordinance is found to be unconstitutional or otherwise invalid by any court of competent  
jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

1 **SECTION 5. Environmental Review.** The City Council finds that adoption and  
2 implementation of this ordinance is not a “project” for purposes of the California Environmental  
3 Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections  
4 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the  
5 status quo. No new development will result from the proposed action. No impact to the physical  
6 environment will result. The City Council also alternatively finds that the adoption and  
7 implementation of this ordinance is exempt from the provisions of CEQA as an administrative  
8 activity by the City of Hermosa Beach, in furtherance of its police power, that will not result in  
9 any direct or indirect physical change in the environment, per sections 15061(b)(3), and  
10 15378(b)(5) of the CEQA , Guidelines, as well as CEQA Guidelines section 15064(e) (economic  
11 regulations). The lane closures and outdoor dining and retail program effectuated by this  
12 ordinance are necessary to facilitate outdoor economic and recreational activity to recover from  
the economic damage caused by COVID-19 in a way that curbs any further spread of COVID-  
19. Implementation of the ordinance is thus exempt from the CEQA under the statutory  
exemption for actions necessary to prevent or mitigate an emergency (Public Resources Code §  
21080(b)(4); CEQA Guideline § 15269(c)) and the categorical exemption for minor temporary  
use of land (CEQA Guideline § 15304(e)). The lane reconfigurations for the Hermosa Avenue  
and Pier Avenue are temporary measures created in direct response to the COVID-19  
emergency. Finally, as this is a temporary measure and the improvements can be removed, there  
is no possibility that the lane closures will have a permanent effect on the environment.

13 **SECTION 6. Urgency Declaration; Effective Date.** The City Council finds and declares  
14 that the adoption and implementation of this ordinance is necessary for the immediate  
15 preservation and protection of the public peace, health and safety as detailed above by the City,  
16 pursuant to Government Code section 36937. As a result of prior state and local stay at home  
17 orders, a significant number of local restaurants and businesses were forced to close for an  
18 extended period. The rapid, immediate and unexpected loss of revenue from closure was  
19 devastating to local businesses, and businesses that survived the most restrictive phase of the  
20 pandemic are still struggling to make up that lost revenue. Continuing to relax local zoning  
21 requirements to temporarily allow outdoor dining and retail for six months will assist in the  
22 economic recovery of local businesses and allow City staff much needed time to refine a  
23 permanent program based on changing environmental factors and direction from other  
24 permitting agencies. This ordinance is also conducive to the public health because it will  
promote social distancing and make it easier to dine and patronize local business outdoors where  
some residents feel more comfortable due to COVID-19 transmission. The public has already  
begun to travel more, to gather in groups more frequently, and feel more comfortable to shop  
and dine. Based on these facts, coupled with continually evolving COVID-19 impact in the City,  
this ordinance is necessary for the immediate preservation and protection of the public peace,  
health and safety. This ordinance must be passed by four-fifths of the City Council and shall  
take effect immediately after passage.

25 **SECTION 7. Certification.** The City Clerk shall certify to the passage and adoption of  
26 this Ordinance and shall cause the same, or the summary thereof, to be published or posted in  
the manner required by law.  
27  
28

**PASSED, APPROVED, AND ADOPTED this 25th day of October, 2022.**

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

**ATTEST:**

**APPROVED AS TO FORM:**

**Myra Maravilla, City Clerk**

**Michael Jenkins, City Attorney**