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ORDINANCE NO. 20-1415U

**AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH,
CALIFORNIA, TEMPORARILY SUSPENDING LOCAL ZONING TO
PERMIT SPECIFIED BUSINESSES TO OPERATE OUTDOORS, PERMIT
CERTAIN HOME OCCUPATIONS TO OPERATE WITHOUT A
COMMERCIAL BUSINESS LOCATION AND REQUIRE MEMBERS OF
THE PUBLIC TO WEAR A FACE COVERING DURING THE COVID-19
CRISIS, 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 confirming 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 in late April and early May demonstrated that state and local orders 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 was intended to guide the state’s gradual modification of its Safer at Home Order to reopen California. The state also issued sector specific guidance to help specified businesses reopen under new restrictions, which require businesses to, among other things, implement social distancing measures.
- D. In line with the State’s health guidance, the Los Angeles County Public Health Officer issued a revised order on May 13, 2020 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 authorized some limited retail and outdoor recreation venues to reopen subject to among other things, social distancing measures to prevent the further spread of COVID-19. The Order was updated again on May 26th, May 29th, June 11th and June 18th, 2020 to continue to allow the gradual reopening of additional sectors including bars, hair salons, personal care services, gyms and fitness facilities subject to social distancing measures.
- E. The May 29th Order for example, permitted restaurants and food facilities to remain open and offer limited dine-in seating. The Order also encouraged restaurants to

1 expand outdoor seating where possible in compliance with local zoning codes to
2 comply with social distancing requirements.

- 3 F. On June 18, 2020, Governor Newsom along with the State Health Officer released
4 mandatory health guidance that requires Californians, subject to limited exceptions to
5 wear face coverings when outside the home. In line with the mandatory guidance, the
6 Los Angeles County Health Officer issued a revised order on the same date to require
7 all persons to wear a face covering over both the nose and mouth whenever they leave
8 their place of residence and are or can be in contact with or walking near or past others
9 who are non-household members in both public and private places whether indoors or
10 outdoors. According to State and County Health officials, wearing face coverings
11 reduces the risk of transmission to others who do not have symptoms and do not know
12 that they're infected.
- 13 G. To assist in the economic recovery of local businesses and restaurants, on May 26,
14 2020, the City Manager issued Executive No. 2020-05 to temporarily suspend City of
15 Hermosa Beach Municipal Code Sections 17.26.050 (B), (C) and 17.44.030 regarding
16 off-street parking requirements for commercial and business uses. Many surrounding
17 cities, including Los Angeles, Pasadena, and Long Beach also implemented similar
18 rules and regulations to assist in the economic recovery of these businesses during the
19 COVID-19 crisis.
- 20 H. Since that time, the State and County have seen a sharp increase in confirmed COVID-
21 19 cases and hospitalizations, and the timing of these increases is in line with the
22 reopening of "high risk" businesses where individuals may congregate with members
23 who are not part of the same household and remove their face coverings to eat and
24 drink. As a result, the County Health Officer issued a revised Order on July 1, 2020 to
25 backtrack on the County's gradual reopening to prohibit indoor dining and order the
26 immediate closure of bars, wineries and winery tasting rooms.
- 27 I. On July 13, 2020, the State Public Health Officer issued a state-wide order to require
28 the immediate closure of: (1) indoor and outdoor operations of bars, pubs, brewpubs
and breweries; and (2) indoor operation of restaurant dining, movie theatres, zoos,
museums, cardrooms, wineries and tasting rooms. The order also imposes more
stringent requirements on specified counties, including Los Angeles County that have
appeared on the State's Monitoring List for three consecutive days to order the
immediate closure of indoor operations of the following sectors: gyms and fitness
facilities, places of worship, indoor protests, offices for non-critical infrastructure
sectors, personal care establishments, hair salons, barbershops, and malls.
- J. The following day, on July 14, 2020, the County Health Officer issued a revised Order
to coincide with Governor's July 13th Order and requiring the closure of indoor
operations of the following establishments: malls, shopping centers, hair salons,
barbershops, fitness facilities, and personal care establishments.
- K. Under the recent State and County Health Orders, local gyms, fitness centers, hair
salons, barbershops, and personal care establishments that are unable to shift their
operations outdoors have been forced to shut down for the second time during the

COVID-19 pandemic. Many of these businesses were struggling to financially recover following the first mandatory closure in March, and some may not be able to survive a second closure. This Order is intended to assist the economic recovery of these establishments and to permit them to continue to operate outdoors under State and County Health Orders by temporarily suspending local zoning regulations during the COVID-19 crisis.

- L. California Business and Professions Code section 7317 requires that all barbershops, hair salons and cosmetology services including specified personal care services, must be performed in a licensed establishment. This Ordinance is further intended to permit the outdoor operation of these establishments as may be permitted by the State Board of Barbering and Cosmetology.
- M. On July 17, 2020, the City Manager issued Executive Order No. 2020-09 to temporarily suspend specified City of Hermosa Beach zoning regulations to permit gyms and fitness facilities to operate outdoors. The Order also permitted hair salons and barbershops to operate outdoors as permitted by the State Board of Barbering and Cosmetology.
- N. To assist in the safe outdoor operation of hair salons, barbershops, and personal care establishments, on July 20, 2020, Governor Newsom along with the State Health Officer released mandatory guidance on the safe outdoor operation of these establishments as permitted under its July 13th Order. Consistent with this updated State Guidance, the County Health Officer also updated its reopening protocol for personal care establishments, hair salons and barbershops in Appendices R and H of its order, respectively.
- O. As a result of State and County Stay-At-Home Orders, all non-essential office work spaces were ordered to close in an effort to slow the spread of COVID-19. City of Hermosa Beach Municipal Code section 17.08.020(D)(14) prohibits professional offices in residential zones, that include but are not limited to: the healing arts, law, accounting, real estate, clergy, insurance and similar professional or semi-professional offices, unless the person engaged in such home occupation maintains a principal licensed office in an area permitting such activity as a principal use. Section 17.08.020(D)(14) clearly impedes on these businesses' ability to continue their home occupations in light of State and County Stay-At-Home-Orders that have forced them to close their commercial office spaces.
- P. This Ordinance is necessary to supplement the City Manager's Executive Order No. 2020-09, to (1) temporarily suspend City of Hermosa Beach Municipal Code Sections 17.26.050(B), 17.44.030, 17.38.550(B) and 17.08.020(D)(14) regarding uses permitted within commercial zones, off-street parking requirements for commercial and business use, and home occupation permits to the extent they conflict with this Ordinance.
- Q. This Ordinance also adopts additional measures to require members of the public to wear face coverings whenever they leave their place of residence.

1 R. This Ordinance is adopted pursuant to Government Code section 36937, for the
2 preservation of the public peace, health, and safety of residents living within the City,
3 and finds urgency to approve this Ordinance immediately based on the facts described
4 herein and detailed in the staff report.

5 **SECTION 2.** The provisions of Hermosa Beach Municipal Code Sections 17.26.050 (B),
6 17.44.030, 17.38.550(B) and 17.08.020(D)(14) regarding uses permitted within commercial
7 zones, off-street parking requirements for commercial and business uses within commercial
8 zones, and home occupation permits are hereby temporarily suspended, to the extent they
9 conflict with this Ordinance, to allow for the implementation of items A and B below on a
10 temporary basis during the term of the City, State and Los Angeles County COVID-19
11 emergency orders:

- 12 A. Gyms, fitness centers, hair salons, barbershops and personal care establishments (to the
13 extent permitted by the State Board of Barbering and Cosmetology) may operate
14 outdoors to assist in their economic recovery in accordance with the “Outdoor
15 Commercial Uses Operational Standards” attached hereto as Exhibit A and
16 incorporated herein by reference.
- 17 B. Consistent with the Los Angeles County Health Officer Reopening Protocol for
18 Personal Care Establishment in Appendix R, “personal care services” shall include:
19 nail salons, tanning salons, esthetician, skin care, cosmetology services and massage
20 therapy (in a non-healthcare setting). Electrology, tattooing, microblading, permanent
21 make-up and piercing may not operate outdoors because they are invasive procedures
22 that require a controlled hygienic environment to be performed safely. Mobile or in-
23 home personal care services are not allowed.
- 24 C. Professional offices, including but not limited to the healing arts, law, accounting, real
25 estate, clergy, insurance and similar professional or semiprofessional offices may render
26 their services from their residence with a home occupation permit regardless if they
27 comply with Municipal Code section 17.08.020(D)(14), to allow them to continue to
28 operate and pursue their livelihoods while complying with California and Los Angeles
County Health orders in response to COVID-19.

29 **SECTION 3.** The following emergency measures are adopted:

- 30 A. All persons shall wear a face covering over both the nose and mouth whenever they leave
31 their place of residence, except for:
- 32 a. Persons younger than two years old;
 - 33 b. Persons who have been instructed by a medical provider not to wear a face
34 covering due to a medical condition, mental health condition, or disability that
35 prevents wearing a face covering;
 - 36 c. Persons who are hearing impaired, or communicating with a person who is
37 hearing impaired, where the ability to see the mouth is essential for
38 communication;
 - 39 d. Persons who are swimming or engaged in other water-based activities; and

e. Healthcare workers, first responders, and others whose work requires close contact with people who are ill.

B. For purposes of this Ordinance, “face covering” shall mean: fabric coverings, such as cloth masks, scarves, bandanas, tightly woven fabric such as cotton t-shirt, and some types of towels that cover the nose and mouth. Medical-grade masks and N-95 respirators are not required.

C. Persons who are seated at a restaurant or other establishment that offers food or beverage service shall wear a cloth face covering over both the nose and mouth unless they are eating or drinking.

D. With respect to persons on the beach, this Ordinance supersedes Section 2(c)(ii) of City Manager Executive Order No. 2020-06.

SECTION 4. In addition to enforcement remedies available to the City as provided in the Hermosa Beach Municipal Code, emergency executive orders issued by the City Manager/Director of Emergency Services and confirmed by City Council, and emergency ordinances, orders and resolutions adopted by the City Council shall be enforceable by way of:

A. Imposing an administrative citation pursuant to HBMC Chapter 1.10.

B. Prosecuting a misdemeanor, punishable by a fine of not to exceed one thousand (\$1,000) dollars or by imprisonment for not to exceed six months, or both.

SECTION 5 **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.

SECTION 6 **Environmental Review.** The City Council finds that adoption and implementation of this ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Hermosa Beach, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA , Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

SECTION 7 **Urgency Declaration; Effective Date.** The City Council finds and declares that the adoption and implementation of this Ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above by the City, pursuant to Government Code section 36937. As a result of State and County stay at home orders, local gyms, fitness facilities, hair salons and barbershops were forced to close. The rapid,

1 immediate and unexpected loss of revenue following the first wave of mandatory closures was
2 devastating to these local businesses. Many of these businesses are still struggling to financially
3 recover, and some may not be able to survive a second closure. Additionally, home occupations
4 that render certain professional services, are unable to pursue their livelihoods while complying
5 with local zoning regulations and State and County health orders. The recent increase in
6 confirmed cases and hospitalizations demonstrates how easily and rapidly the disease can spread
7 from person-to person. By requiring members of the public to wear face coverings while outside
8 of their places of residence helps reduce the risk of community transfer of the disease. This
9 Ordinance is intended to assist the economic recovery of these establishments and to permit
10 them to continue to operate under State and County health orders by temporarily suspending
11 specified local zoning regulations during the COVID-19 crisis. This Ordinance is also
12 conducive to the public health because it requires businesses to follow the directives of State
13 and County public health officials to prevent the further spread of the disease. This Ordinance
14 must be passed by four-fifths of the City Council and shall take effect immediately after passage.

15 **SECTION 8.** **Certification.** The City Clerk shall certify to the passage and adoption of
16 this Ordinance and shall cause the same, or the summary thereof, to be published or posted in
17 the manner required by law.

18 **PASSED, APPROVED, AND ADOPTED this __th day of July, 2020.**

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

21 **ATTEST:**

22 **APPROVED AS TO FORM:**

23 _____
24 Eduardo Sarmiento, City Clerk

25 _____
26 Michael Jenkins, City Attorney