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**RESOLUTION NO. 12-6816**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, IMPLEMENTING MUNICIPAL CODE SECTION 17.40.080(B) PERTAINING TO LATE-NIGHT ON-SALE ALCOHOL BEVERAGE ESTABLISHMENTS BY ESTABLISHING A LIMIT ON THE NUMBER OF LATE-NIGHT ON-SALE ESTABLISHMENTS OPEN AFTER 11:00 P.M. AND PROVIDING A LIST OF THE ASSIGNED OCCUPANT LOADS FOR SUCH ESTABLISHMENTS.**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA DOES HEREBY RESOLVE AND ORDER AS FOLLOWS:**

**SECTION 1. Recitals.**

A. On July 13, 2010, the City Council adopted Resolution 10-6710a entitled "Policy Regarding City Response to California Department of Alcoholic Beverage Control (ABC) License Actions Governing On-Sale Alcoholic Beverage Establishments" setting criteria for placement on the Council agenda of notice of applications to the ABC for new alcoholic beverage licenses, transfers of licenses, or changes in license conditions.

B. On March 13, 2012, the City Council adopted Resolution 12-6789 establishing a policy entitled "No Intensification of Late-Night On-Sale Alcoholic Beverage Establishments" for the purpose of reducing the potential for adverse impacts associated with late-night alcohol beverage establishments, finding that the City has become a nightlife destination for people all over Southern California and that nightlife has brought with it significant negative impacts. Most of these establishments are permitted as restaurants, and tend to morph into bars or nightclubs in the late evening, with their associated adverse impacts. Residential areas are located proximate to late-night establishments throughout the City and noise and disorderly conduct associated with these establishments impact these residents. Pier Plaza and the downtown also require a disproportionate police presence compared to other parts of the City, especially after midnight, to

1 act as a deterrent to criminal, boisterous and unruly behavior by inebriated persons. Since 2008,  
2 the City has taken significant steps to reduce the negative impacts, by reducing operating hours of  
3 some restaurants pursuant to enforcement of their conditional use permits, increasing police  
4 presence, and rejecting applications that would intensify late night, alcohol serving establishments  
5 in the area. The Police Department's records show that the City's increased enforcement efforts  
6 and staggered closing times are beginning to reduce crime and disturbances in the area and  
7 facilitate a more orderly and safe environment as patrons leave the alcohol serving establishments  
8 in the late evening. Local businesses in the area have also been responsive to the City's efforts  
9 and have helped improve the situation and reduce disturbances on Pier Plaza and citywide.  
10

11 C. On September 27, 2012, the City Council amended Hermosa Beach Municipal Code  
12 Section 17.40.080 to incorporate certain provisions of said policy into the Code as a basis for  
13 considering conditional use permits or conditional use permit amendments for late-night alcohol-  
14 serving establishments, defined in said section as "on-sale establishments that have been granted a  
15 conditional use permit that allows the establishment to operate after 11:00 p.m., including  
16 restaurants, establishments that serve or allow alcoholic beverages as the primary use (e.g., bars),  
17 and establishments that provide live entertainment."  
18

19 D. Municipal Code Section 17.40.080(B)(2) establishes the following criteria, among  
20 others, to be considered for any conditional use permit (new or amended) for a late-night alcohol  
21 beverage establishment:  
22

23 1. Whether the total number of late-night alcohol beverage establishments will  
24 exceed the City's limit on such establishments. The limit shall be set by City Council Resolution  
25 and may, upon recommendation by the Planning Commission or its own motion, be amended by  
26 the City Council from time to time.  
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1                   2. Whether the use will intensify through increases in the assigned occupant load  
2 from owner/operator-initiated construction and/or remodeling that expand the square footage or  
3 alter the floor plan. Assigned occupant load is calculated by the City under the relevant provisions  
4 of the Building Code.

5                   E. The Council has determined there are forty-one (41) operating late-night on-sale  
6 alcohol-serving establishments citywide with conditional use permits and Department of Alcoholic  
7 Beverage Control Licenses that allow hours of operation, or sales, service or consumption, as  
8 applicable, later than 11:00 p.m. The public interest will be served by reducing the number,  
9 cumulative number of hours, concentration, and number of persons that can be accommodated at  
10 late-night establishments, and an approximately ten percent (10%) reduction in the number of such  
11 establishments citywide is a reasonable objective.  
12

13                   **SECTION 2.** Pursuant to Hermosa Beach Municipal Code Section 17.40.080(B)(2)(a),  
14 the limit (i.e., cap) on the number of late-night on-sale establishments citywide shall be thirty-six  
15 (36). The establishment of a cap shall have no effect on the right to operate, hours of operation,  
16 or other rights under any existing conditional use permit (CUP) approved prior to September 27,  
17 2012 unless or until such CUP is subsequently amended, modified or revoked.  
18

19                   **SECTION 3.** A copy of the list of late-night establishments and the corresponding  
20 occupant load in Exhibit A to this resolution shall be administratively updated by the Community  
21 Development Department to maintain a current list of late-night establishments that allow hours of  
22 operation, or sales, service or consumption, as applicable, later than 11:00 p.m. under a  
23 conditional use permit or ABC license based on actions of the Planning Commission and City  
24 Council and to reflect changes in business names.  
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1        **SECTION 4.** Notwithstanding anything in City Council Resolution 10-6710a to the  
2 contrary, any notice of application to the ABC to expand hours for sales, service or consumption  
3 of alcoholic beverages after 11:00 p.m. shall be placed on a Council agenda and may be opposed  
4 by the City.

5        **SECTION 5.** City Council Resolution 12-6789 is hereby revoked and shall be of no  
6 further force or effect.

7        **SECTION 6.** This policy shall be effective upon the effective date of Ordinance No. 12-  
8 1337, which was adopted September 27, 2012, and amends Section 17.40.080 of the Hermosa  
9 Beach Municipal Code.

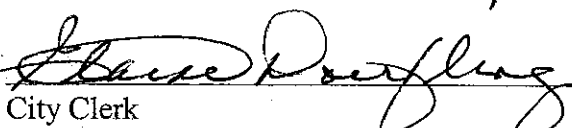
10       **SECTION 7.** The City Clerk shall certify to the passage and adoption of this Resolution,  
11 shall enter the same in the book of original Resolutions of said city; and shall make minutes of the  
12 passage and adoption thereof in the records of the proceedings of the City Council at which the  
13 same is passed and adopted.

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18       **PASSED, APPROVED and ADOPTED** this 27th day of September, 2012.

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21         
22       **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

23  
24       ATTEST:

25       APPROVED AS TO FORM:

26         
27       City Clerk

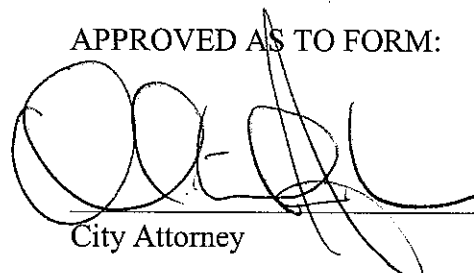
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City Attorney

Exhibit A  
**ASSIGNED OCCUPANT LOADS**

NAME		LOCATION	TOTAL OCCUPANT LOAD (Patio)
<b>DOWNTOWN AREA (PIER PLAZA)</b>			
Hennessey's Tavern	8	Pier Avenue	283 (46 upper patio/82 lower patio)
Mermaid Restaurant	11	Pier Avenue	126 (48 back dining/78 front bar)
Cantina Real	19	Pier Avenue	124 (34 patio)
Silvio's Brazilian BBQ	20	Pier Avenue	93 (44 patio)
Watermans	22	Pier Avenue	194 (35 patio)
The Lighthouse	30	Pier Avenue	178 (43 patio)
Palmilla	39	Pier Avenue	96 (21 patio)
Patrick Malloy's	50A	Pier Avenue	280 (49 patio)
Aloha Sharkeez (aka Baja Sharkeez)	52	Pier Avenue	239 (41 patio)
Fat Face Fenner's Fishack	53	Pier Avenue	195 (17 outside dining/24 patio)
American Junkie (former Sangria)	60	Pier Avenue	366 with seating in banquet room/397 without seating in banquet room (52 patio)
Mediterraneo	73	Pier Avenue	145 (59 patio)
Poop Deck	1272	The Strand	99 (33 patio)
The Beach House <sup>3</sup>	1300	The Strand	Under 50
<b>DOWNTOWN AREA (UPPER PIER AVENUE)</b>			
Club 705/Saffire	705	Pier Ave	516 (break down: 248 Club 705/158 The Ardmore/110 Sushi 705)
Abigaile & Ocean Bar	1301	Manhattan Avenue	670 (69 patio)
<b>DOWNTOWN AREA (HERMOSA AVENUE)</b>			
Hermosa Beach Yacht Club	66	Hermosa Avenue	67 (35 patio)
Barnacles Bar & Grill	837	Hermosa Avenue	132 (51 patio)
Hot's Kitchen	844	Hermosa Avenue	Under 50
La Campagna Ristorante Italiano	934	Hermosa Avenue	Under 50
Comedy & Magic Club	1018	Hermosa Avenue	250
Boardwalk Burgers (former Mama D's)	1031	Hermosa Avenue	Under 50 (24 patio)
Paisano's Pizza	1132	Hermosa Avenue	Under 50
Zane's	1150	Hermosa Avenue	49
Rok Sushi	1200	Hermosa Avenue	133
Game Changers (former Shark's Cove)	1220	Hermosa Avenue	157
Café Boogaloo	1238	Hermosa Avenue	138
Studio (former The Shore)	1320	Hermosa Avenue	201(32 patio)
Pedone's Pizza	1332	Hermosa Avenue	Under 50
Establishment (former Blue 32)	1332	Hermosa Avenue	140
London Underground Grill & Pub and Chelsea	1334	Hermosa Avenue	327
The North End (AKA Critter's)	2626	Hermosa Avenue	108
<b>ADDITIONAL LOCATIONS CITYWIDE</b>			
The Bottle Inn	26	22nd Street	Under 50
Akbar Cuisine of India	1101	Aviation Blvd.	Under 50
Suzu's Bar & Grill	1141	Aviation Blvd.	110 (8 patio)
La Penita	200	Longfellow Avenue	Under 50
La Sosta	2700	Manhattan Avenue	Under 50
Saint Rocke	142	Pacific Coast Hwy	202 Dining / 269 Standing
Hermosa Saloon	211	Pacific Coast Hwy	80
Sabra Beirut Mix	500	Pacific Coast Hwy	Under 50
Round Table Pizza	2701	Pacific Coast Hwy	284

09/17/2012

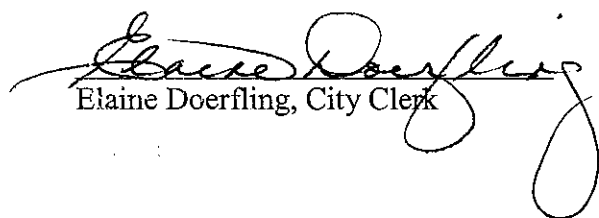
STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   )  
CITY OF HERMOSA BEACH     )

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Resolution No.12-6816 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a Regular Meeting of said Council at the regular place thereof on September 27, 2012.

The vote was as follows:

AYES:       DiVirgilio, Fishman, Tucker, Mayor Duclos  
NOES:       Bobko  
ABSTAIN:   None  
ABSENT:    None

Dated:       September 28, 2012

  
Elaine Doerfling, City Clerk