

ORDINANCE NO. U20-XX

AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH TO TEMPORARILY SUSPEND SECTION 8.24.040A OF THE HERMOSA BEACH MUNICIPAL CODE REGULATING THE PLACEMENT OF STEREO SPEAKERS OUTDOORS OR IN WINDOWS/DOORWAYS FACING OUTDOORS FROM NOVEMBER 25, 2020 THROUGH JANUARY 3, 2021 AT RESTAURANTS THAT OFFER OUTDOOR DINING ONSITE 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 Los Angeles County Public Health Officer Order currently in effect prohibits restaurants in the City of Hermosa Beach from serving dine-in customers indoors, shifting all onsite dining to outdoor spaces. This will be the first year that restaurants will be hosting dine-in customers outdoors during the holiday months to comply with the Order.
- B. Many restaurants within the City have seen a significant drop in revenue this year as a result of the restrictions on their operations and physical distancing measures imposed by State and County directives to curb the spread of COVID-19.
- C. Before the COVID-19 pandemic, many restaurants enhanced the dining experience by playing holiday music from stereo equipment located indoors.
- D. The Hermosa Beach Municipal Code currently prohibits the placement of stereo speakers outdoors or in windows or doorways facing outdoors or toward the public right-of-way.
- E. The City has been working closely with local businesses during the local emergency to support them as they continue to adjust their operations to comply with County Public Health Orders and reduce spread of COVID-19.
- F. To support local businesses, the City Council finds that it is in the public interest to temporarily suspend the City's prohibition on the placement of stereo speakers outdoors or in windows and doorways facing outdoors through the end of the holiday season for restaurants that offer outdoor onsite dining. Ambient music during this time could enhance the outdoor atmosphere and uplift spirits during difficult and unprecedented times.
- G. This Ordinance is adopted pursuant to the City's police powers and powers afforded to the City in the time of a national, state, county and local emergency during a dire economic downturn during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and HBMC Chapter 2.56 to protect the peace, health, and safety of the public. The Hermosa Beach City Council finds that this ordinance is necessary 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. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of health, life and property.

SECTION 2. From November 25, 2020 through January 3, 2021, the following applies to any restaurant that offers onsite outdoor dining:

- A. Subsection A of Section 8.24.040 of the Hermosa Beach Municipal Code is suspended.
- B. All other noise restrictions set forth in Section 8.24.040 remain in effect, including without limitation, violation of Subsection I or J, restated in full below:
 - I. Commercial establishments adjacent to residential property. Notwithstanding any provision of this code to the contrary, continuous, repeated or sustained noise from the premises of any commercial establishment which is adjacent to one or more residential dwelling units, including any outdoor area part of or under the control of the establishment, between the hours of 10:00 p.m. and 8:00 a.m. that is plainly audible from the residential dwelling unit's property line.
 - J. Commercial establishments on Pier Plaza. property. Sustained amplified music from the premises of any commercial establishment on Pier Plaza that is plainly audible eighty (80) feet from the property line of the establishment.

SECTION 3. 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 because noise limits have not changed. 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 4. 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 and as the City and public would potentially suffer further loss of revenue during the City's severe economic downturn caused by the COVID-19 crisis. During this ongoing local emergency, and in the interest of protecting life and property, it is essential to support the outdoor operations of restaurants in the City to stabilize the local economy and their compliance with County Public Health Orders. Under Government Code Section 8634 and HBMC Chapter 2.56, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted

as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council

SECTION 5. 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 ____ day of November 2020.

Mayor

ATTEST:

City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

City Attorney