



Staff Report

File #: REPORT 20-0339, Version: 1

Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of June 9, 2020

**ADOPTION OF 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
CERTIFYING THE CITY MANAGER/DIRECTOR OF EMERGENCY
SERVICES EXECUTIVE ORDER NO. 2020-05 PERMITTING
THE SAME MEASURES**

(City Attorney Michael Jenkins)

Recommended Action:

Staff recommends that the City Council:

1. Ratify City Manager/Director of Emergency Services Order No. 2020-05, 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 (**Attachment 1**); and
2. Adopt an Urgency Ordinance No.1410U of the City of Hermosa Beach, 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. (**Attachment 2**)

The urgency ordinance requires four-fifths vote of the city council and if approved, will take effect immediately.

Background:

On March 16, 2020, the City Council of the City of Hermosa Beach ("City") declared a state of local emergency in response to the global pandemic caused by a respiratory disease which has been named "COVID-19". Also, 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.

Many local businesses were forced to close as a result of state and local stay at home orders, or limit their food service to pick up and delivery only. The unexpected and immediate closure resulted in a

significant loss of revenue to local businesses.

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.

On May 13, 2020, the Los Angeles County Public Health Officer issued an Order titled “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 (i) allows specified “Lower Risk Retail Businesses” to reopen for curbside, doorside, outdoor or outside pick-up, (ii) partially and conditionally re-opens public beaches for certain types of active recreation, and (iii) re-opens additional recreational opportunities.

In line with the state and county’s phased reopening, and to provide some relief to struggling businesses, on May 26, 2020, the City Manager/Director of Emergency Services issued Executive Order No. 2020-05, to implement a temporary permit program for outdoor dining/seating and outdoor retail display, to assist in the reopening of restaurants, food and retail establishments during COVID-19.

More recently, on May 29, 2020, the Los Angeles County Public Health Officer issued a health order titled “Reopening Safer at Work and in the Community for Control of COVID-19” (“May 209 Order”) that, among other things, permits restaurants and food facilities to remain open and offer limited in dine-in seating subject to social distancing requirements. The Order also encourages restaurants to expand outdoor seating where possible in compliance with local zoning codes to comply with social distancing measures.

As more businesses begin to reopen, businesses should heed state and local health directives to prevent the spread of COVID-19. Community transmission of COVID-19 continues to present a substantial and significant threat to the health and safety of City residents. There is no vaccine available, or proven treatment to combat the disease. At the time of writing this report, there were 54,996 confirmed cases in the County and 2,362 deaths.

In line with the Los Angeles County’s May 29 Order, the proposed ordinance is necessary to supplement the City Manager’s Executive Order No. 2020-05, to temporarily suspend City of Hermosa Beach Municipal Code Sections 17.26.050 (B),(C), 17.44.030, 17.38.550 (B), 12.16.090 and 12.16.100 regarding outdoor dining\outdoor retail displays, and off-street parking requirements for commercial and business uses, to the extent they conflict with this Urgency Ordinance. The temporary suspension of the aforementioned provisions will provide City restaurants much needed assistance to serve more customers under the new dine-in seating modifications in a safe manner,

and in accordance with social distancing requirements to prevent the further spread of the disease.

Analysis

The local economic recovery will be challenging as businesses are unable to operate at full capacity under state and county reopening requirements. Relaxing local zoning requirements to temporarily allow outdoor dining and retail will assist in the economy recovery of local businesses.

In light of the foregoing, the proposed ordinance should be adopted on an urgency basis, to temporarily suspend City of Hermosa Beach Municipal Code Sections 17.26.050 (B), 17.44.030, 17.38.550 (B), 12.16.090 and 12.16.100 regarding outdoor dining/outdoor retail displays, and off-street parking requirements for commercial and business uses, to the extent they conflict with this Urgency Ordinance, taking effect immediately pursuant to Government Code section 36937, for the preservation of the public peace, health, and safety of residents living within the City, based on the facts described herein and set forth in the Ordinance:

1. Ratify the City Manager/Director of Emergency Services Order No. 2020-05; and
2. Adopt Urgency Ordinance No. 1410U related to implementing “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.”

Fiscal Impact:

The City of Hermosa Beach initially incurs all costs related to the City’s response to the COVID-19 Pandemic, but will submit requests for cost recovery to the California Office of Emergency Services (CalOES), either directly, or through the Los Angeles County Office of Emergency Management, (LACoOEM), the local reporting agent.

Permit costs of \$166 for an Administrative Permit and \$300 for the Initial Encroachment Permit were established at the City Council meeting of May 26, 2020. No estimate of revenue is projected at this time since the number of permits is not known.

Attachments:

1. Executive Order No. 2020-05.
2. Urgency Ordinance No.1410U

Respectfully Submitted by: Michael Jenkins, City Attorney

Concur: Ken Robertson, Community Development Director

Noted for Fiscal Impact: Viki Copeland, Finance Director

Approved: Suja Lowenthal, City Manager