



## Staff Report

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**Honorable Mayor and Members of the Hermosa Beach City Council  
Regular Meeting of April 27, 2021**

**CONSIDERATION OF TEMPORARY SUSPENSION OF HERMOSA  
BEACH MUNICIPAL CODE SECTIONS AND RELATED  
REGULATIONS TO ALLOW LIMITED MUSIC AT  
COMMERCIAL ESTABLISHMENTS**  
(City Manager Suja Lowenthal)

**Recommended Action:**

Staff recommends City Council adopt an Urgency Ordinance of the City of Hermosa Beach to temporarily allow limited live and recorded music outdoors, or indoors with windows and doors open, at commercial establishments between the hours of 9:00 A.M and 9:00 P.M. by temporarily suspending the following Hermosa Beach Municipal Code sections only for that purpose:

1. 8.24.040A regulating the placement of stereo speakers outdoors in windows and doorways facing outdoors;
2. 8.24.040J regulating commercial establishments on Pier Plaza property prohibiting any plainly audible sounds within 80 feet;
3. 8.24.045 requiring amplified music on Pier Plaza business establishments to close all exterior doors and windows while amplified music is being played; and
4. 8.24.060 Use of sound amplification equipment on public property requirement of permit to allow live music performances.

Further the Urgency Ordinance would allow the City Manager, or designee, to temporarily waive any existing Conditional Use Permit restriction inconsistent with this ordinance.

The Urgency Ordinance requires four votes of the City Council and, if approved, would take effect immediately.

**Executive Summary:**

On April 17, 2021, LA County released its modified health orders to correspond with the less restrictive Orange Tier, allowing limited live music and entertainment outdoors. Musicians, who have been out of work, and businesses celebrated this news and reached out to the City about including outdoor music with expanded outdoor dining and other commercial uses in the City.

Although LA County has announced that live entertainment is now allowed outdoors, live music and entertainment are currently not allowed in Hermosa Beach due to noise control sections of the Municipal Code. In cases of businesses with allowed live music through approved Conditional Use Permits, conditions restrict live entertainment to the interior only with doors and windows closed. Since live entertainment is currently not allowed indoors in the current LA County health orders and the City does not have current allowances for outdoor live entertainment, live music and entertainment is currently not permitted, unless part of a special event permit. Further, the Municipal Code does not allow pre-recorded ambient music for outdoor dining.

Staff recommends consideration of a temporary pilot program during the Covid-19 crisis, and temporary suspension of applicable Hermosa Beach Municipal Code sections to allow limited pre-recorded and live music at commercial establishments throughout the City.

### **Background:**

At the April 5, 2021, Economic Development Committee meeting, the Committee directed staff to work with the Economic Development Stakeholders Advisory Working Group to discuss pilot programs and longer-term ideas to integrate music and entertainment in the City. The stakeholders met twice in April to discuss this topic. Stakeholders made requests for the allowance of ambient music and limited live music to enhance the dining atmosphere for the expanded outdoor dining.

### **LA County Health Orders Effective April 17, 2021**

The updated LA County Public Health Orders, released April 17, 2021, include the following protocols:

Live entertainment operations are allowed outdoors only. There must be a visible demarcation to create at least 12 feet of distance between the seated customer groups and the stage or performer. Performers should use microphones for performances to the maximum extent feasible so that performers can limit voice projections, which cause more particles, aerosols, and droplets to be released and travel farther.

Restaurant Protocols Appendix I: Allow Restaurants to have live entertainment using these protocols.

Although LA County Health Orders now allow live outdoor entertainment, it is currently not allowed in the City due to restrictions in the Municipal Code, Title 8, Noise Controls.

### **Municipal Code Sections and CUP Conditions Proposed to Be Suspended:**

The following code sections are proposed to be temporarily suspended through an Urgency Ordinance:

1. Section 8.24.040 Specific prohibited noises. Notwithstanding any other provisions of this

chapter, the following acts and the causing or permitting thereof, are declared and deemed to be in violation of this chapter:

8.24.040A. Placement of Stereo Speakers. The amplification of music or any other sound on private property, through speakers located either (1) outdoors, or (2) in one (1) or more windows or doorways, when such speakers are directed towards, and such music is plainly audible on, an immediately adjacent public right-of-way.

This section would be temporarily suspended for the purpose of allowing allow pre-recorded ambient music, live music and entertainment only, but not audio or visual recordings.

2. Section 8.24.045. Amplified music on Pier Plaza. All exterior doors and windows of a business establishment located on Pier Plaza shall be closed while amplified music is being played in the establishment.

This section would be temporarily suspended to allow pre-recorded ambient music, live music and entertainment only.

3. Section 8.24.060. Use of sound amplification equipment on public property. Application and Permit required.

This section would be temporarily suspended to allow pre-recorded ambient music, live music and entertainment only.

The urgency ordinance would also authorize the City Manager, or designee, to waive any applicable Conditional Use Permit restrictions inconsistent with this ordinance and is authorized to promulgate any regulations or waive enforcement of any applicable authority to implement this ordinance.

### **Discussion:**

The temporary suspension of Noise Control sections of the Municipal Code would be limited to the three sections listed above. All other sections of the Noise Control chapter of the code would remain in effect, including:

1. Section 8.24.040 Specific prohibited noises. Notwithstanding any other provisions of this chapter, the following acts and the causing or permitting thereof, are declared and deemed to be in violation of this chapter:

Section 8.24.040I. 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.

Retaining these noise restrictions protects nearby residents and businesses from the potential spillover noise coming from outdoor dining areas.

The expanded outdoor dining and retail have added a sense of vibrancy to Hermosa Beach commercial districts during the COVID-19 pandemic that has impacted business operations. The City has heard from the business community a desire to provide opportunities to offer music in pre-recorded or live format to create a more pleasant atmosphere than the surrounding sounds of traffic and construction.

The City Council previously considered and approved a holiday pilot program allowing pre-recorded ambient holiday music for outdoor dining and retail businesses, who were limited in indoor capacity and required to ask customers to wait outside in lines at least six feet apart. However, due to the surge in COVID-19 cases in LA County at that time, outdoor dining was prohibited for most of that period. Some retail stores were able to take advantage of this pilot program, but most businesses were unable to implement the ambient music. This did not provide a good test for the introduction of music outdoors.

### ***Past Council Actions***

Meeting Date	Description
November 24, 2020	Consideration of a Temporary Suspension of Hermosa Beach Municipal Code Regulation of Outdoor Stereo Speakers at Commercial Establishments. Urgency Ordinance 20-1421U was approved as a holiday season pilot program from November 25, 2020 through January 3, 2021.

### **General Plan Consistency:**

This report and associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

#### ***Land Use Element***

**Goal 1. Create a sustainable urban form and land use patterns that support a robust economy and high quality of life for residents.**

Policies:

- **1.7 Compatibility of uses.** Ensure the placement of new uses does not create or exacerbate nuisances between different types of land uses.

**Goal 11. A proud and visible identity as an arts and cultural community.**

- **11.2 Creative expression in the built environment.** Encourage the infusion of creative

expression within the City's built environment to create a memorable urban landscape that respects the past and builds for the future.

- **11.3 Art as cultural tourism.** Recognize the value of the arts to the City's quality of life and economic stability and promote cultural tourism as an engine for economic Development.

### *Public Safety Element*

#### **Goal 7. Noise compatibility is considered in the land use planning and design process.**

Policies:

- **7.1 Noise standards.** Adopt, maintain, and enforce planning guidelines that establish the acceptable noise standards identified in Table 6.3. ·
- **7.2 Noise compatibility.** Utilize the Land Use/Noise Compatibility Matrix shown in Table 6.4 as a guide for future planning and development decisions.

#### **Fiscal Impact:**

There is no fiscal impact associated with the recommended action.

#### **Attachment:**

1. 21-1430U Urgency Ordinance Suspending Noise Provisions

**Respectfully Submitted by:** Christy Teague, Senior Planner

**Concur:** Ken Robertson, Community Development Director

**Legal Review:** Mike Jenkins, City Attorney

**Approved:** Suja Lowenthal, City Manager