

**PROPOSED ORDINANCE OF MEASURE \_\_\_\_\_**

**AN ORDINANCE REDUCING THE POST-MIDNIGHT OPERATING HOURS OF SPECIFIED BUSINESSES IN THE DOWNTOWN AREA OF HERMOSA BEACH, CALIFORNIA**

The People of the City of Hermosa Beach do ordain as follows:

SECTION 1: Title. (See above)

SECTION 2: Findings and Declarations. The People of the City of Hermosa Beach hereby find and declare all of the following:

(a) Hermosa Beach is a high quality bedroom community with no significant ten-year growth in population and no growth in land area.

(b) In the 1995 study "The Risk of Assaultive Violence and Alcohol Availability in Los Angeles County," R.A. Scribner, D.P. MacKinnon and J.H. Dwyer found that assaultive violence clustered around alcohol outlets.

(c) In its 2011 report "Reducing Alcohol-Related Harms in Los Angeles County" the Los Angeles County Public Health Department found that Hermosa Beach had more than double the rate of violent crime compared to Manhattan Beach, and that Hermosa Beach has more than four times the on-sale alcohol outlet density compared to all of Los Angeles County.

(d) In the period 2009 - 2012, the incidence of Part I Rape in Hermosa Beach was more than double that in Manhattan Beach, on a per capita basis.

(e) In response to the national economic slowdown and the City's high pension obligations, the Hermosa Beach City government reduced the staffing of its public safety departments from a peak of 98 personnel in 2005 to 74 in 2012. During the same period disturbance calls and calls for service received by the Hermosa Beach Police Department remained steady.

In both 2011 and 2012 the Hermosa Beach Police Department's Calls for Service volume was 2-1/2 times greater than the volume in Manhattan Beach, on a per capita basis.

(f) In 2012 the Hermosa Beach City Council found:

"Certain areas of the City, such as the Hermosa Beach Pier Plaza and commercial downtown, have become a nightlife destination for people all over Southern California and that nightlife has brought with it significant negative impacts. This area, for example, requires a disproportionate police presence compared to other parts of the City. Due to the high number of calls for police service, the Hermosa Beach Police Department must deploy officers to specifically patrol the Pier Plaza and downtown area, especially after midnight, and to act as a deterrent to criminal, boisterous and unruly behavior by inebriated persons."

(g) With reduced personnel, providing a disproportionate level of public safety services to the small lower downtown area has come at the cost of reduced services to the rest of the town, with an impact upon the quiet enjoyment, health and safety of the residents and of the commercial sector outside the lower downtown. Dealing with the lower downtown's emergencies has taken precedence over routine patrolling by the police. In 2012 auto theft was double the rate in 2011 and 2010.

(h) Hermosa Beach Municipal Code Section 17.70.010 allows for conditional use permits and other land use entitlement permits to be modified if, "the use for which the approval was granted was or is so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance" or if, "the conditions of approval are found to be inadequate to mitigate the impacts of the use allowed by the permit, and the public health, safety and welfare merit modification of the permit."

**SECTION 3: Purpose and Intent.** The People of the City of Hermosa Beach hereby declare their purpose and intent in enacting this measure to be as follows:

(a) To exercise their right under Article II, Section 11 of the California Constitution to submit to the voters for their approval a General Plan amendment and Zoning Ordinance amendment necessary to reduce the post-midnight operating hours of specified businesses in the downtown portion of the C-2 zone.

(b) In order to reduce the number of post-midnight hours during which persons living near the downtown portion of the C-2 zone or near the parking areas and streets utilized by late night patrons of businesses in the downtown portion of the C-2 zone are deprived of the quiet, peaceful and secure enjoyment of their homes.

(c) In order to make public safety services and other City services available to the commercial and residential areas outside the lower downtown by reducing the number of post-midnight hours during which large numbers of visitors are present in the downtown portion of the C-2 zone.

(d) In order to reduce the post-midnight operating hours of specified businesses in the downtown portion of the C-2 zone while maintaining the requirement that those businesses be subject to the City's development approval process, including all applicable planning and environmental requirements, excluding certain incentives.

**SECTION 4. General Plan Amendment**

1. The General Commercial (GC) classification on page 27 of the current Land Use Element of the General Plan is hereby amended to add:

To promote compatibility with nearby residential uses, and for the general welfare of the community, the land between 8th Street and 16th Street and between The Strand and Manhattan Avenue which is designated General Commercial in the General Plan Land Use Map as of February 20, 2013 may be restricted as to late night hours of operation.

2. The Commercial Recreation (CR) classification on page 27 of the current Land Use Element of the General Plan is hereby amended to add:

To promote compatibility with nearby residential uses, and for the general welfare of the community, the land between 8th Street and 16th Street and between The Strand and Manhattan Avenue which is designated Commercial Recreation in the General Plan Land Use Map as of February 20, 2013 may be restricted as to late night hours of operation.

**SECTION 5. Municipal Code Amendment to Establish the Time Restricted Overlay Zone (T-O)**

1. Section 17.06.010 of Chapter 17.06 of Title 17 of the Hermosa Beach Municipal Code, Names of Zones, is hereby amended to add the T-O, Time Restricted Overlay Zone, to the list of zones.

2. The Official Zoning Map is hereby amended to add the T-O Time Restricted Overlay Zone to the land which lies between 8th Street and 16th Street and between The Strand and Manhattan Avenue and is zoned Restricted Commercial (C-2) on the Zoning Map as of February 20, 2013.

3. Paragraph B of Section 17.26.020 of Chapter 17.26 of Title 17 of the Hermosa Beach Municipal Code, Specific Purposes, is hereby amended to add:

4. T-O Time Restricted Overlay Zone. To provide reduced post-midnight hours for specified businesses.

4. The matrix in Section 17.26.030 of Chapter 17.26 of Title 17 of the Hermosa Beach Municipal Code, C-1, C-2 and C-3 Land Use Regulations, is hereby amended to add to each C-2 use indicated as "P" or "U," a reference under the column titled "See Section" to see Section 17.26.055.

5. Chapter 17.26 of Title 17 of the Hermosa Beach Municipal Code is hereby amended to add Section 17.26.055.

**17.26.055 T-O Time Restricted Overlay Zone - Standards and Limitations**

In the T-O Time Restricted Overlay zone all businesses, private clubs and restaurants, with the exception of off-sale alcohol beverage establishments, and with the exception of emergency medical facilities, and with the exception of parking lots, and with the exception of business offices, and with the further exception of lodging activities at hotels or motels, shall be time-restricted and closed to the public not later than the Closing Times shown in Table 1 and shall remain closed until 5:00 a.m. The City Council may amend this section by eliminating any or all of the exceptions stated in this section.

Table 1: Closing Times

Effective date:	Sun	Mon	Tue	Wed	Thu	Fri	Sat
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Apr. 1, 2014						1:30	1:30
Oct. 1, 2014						1:00	1:00
Apr. 1, 2015	1:30				1:30	1:00	1:00
Oct. 1, 2015	1:30	1:30			1:00	1:00	1:00
Apr. 1, 2016	1:30	1:30	1:30	1:30	1:00	1:00	1:00
Oct. 1, 2016	12:30	1:30	1:30	1:30	1:00	1:00	1:00
Apr. 1, 2017	12:30	12:30	1:30	1:30	1:00	1:00	1:00
Oct. 1, 2017	12:30	12:30	1:00	1:00	1:00	1:00	1:00
Apr. 1, 2018	12:00	12:00	1:00	1:00	1:00	1:00	1:00
Oct. 1, 2018	12:00	12:00	12:30	12:30	1:00	1:00	1:00
Apr. 1, 2019	12:00	12:00	12:00	12:00	1:00	1:00	1:00

In Table 1, the times shown are midnight or in the morning of the following day.

The City Council may, after a public hearing, designate up to five days per year on which otherwise time-restricted businesses in the T-O Time Restricted Overlay zone may stay open later than the Closing Times specified in Table 1.

For the purposes of this measure, "closed to the public" shall mean that members of the public, including persons invited to a private party at the premises, shall not be permitted to enter or remain at the business premises.

6. Paragraph B of Section 17.40.080 of Chapter 17.40 of Title 17 of the Hermosa Beach Municipal Code, On Sale Alcoholic Beverage Establishment, is hereby amended to add:

4. Incentives - Ineligible Businesses. Prior to April 1, 2018, time-restricted businesses in the T-O Time Restricted Overlay zone shall not be eligible for incentives.

7. The first paragraph of Section 17.52.020 of Chapter 17.52 of Title 17 of the Hermosa Beach Municipal Code, Continuance and Maintenance, is hereby amended to read:

The nonconforming use of a building may be continued, provided any structural alteration or expansion shall comply with Section 17.52.030, subject to the exception that time-restricted businesses in the T-O Time Restricted Overlay zone shall conform to the Closing Times set forth in Section 17.26.055.

SECTION 6: Effective Date. This measure shall become effective when it is approved by the voters of Hermosa Beach.

SECTION 7: Severability. If any provision of this measure or the application thereof to any person, property or circumstances is held invalid, that invalidity shall not affect other provisions or application of this measure, and to this end the provisions herein are severable.

SECTION 8: Amendment or Repeal. The provisions of this measure may be renumbered, but otherwise, except as provided in this measure, shall not be amended or repealed by the City Council without a vote of the people.