

TITLE AND SUMMARY
PREPARED BY THE CITY ATTORNEY

AN ORDINANCE MODIFYING THE AMOUNT OF THE BUSINESS TAX ON
RESTAURANTS AND BARS IN ORDER TO INCREASE TAX REVENUE TO THE
CITY

The purpose of this initiative is to place on the ballot a proposed ordinance that would increase the City's tax revenue by modifying the amount of the business tax imposed on restaurants and bars.

Current law imposes an annual tax on restaurants and bars in a set amount ranging from \$191 to \$2,268 per year, depending on whether alcohol is served and entertainment allowed; an additional \$460 tax is imposed if dancing is permitted. The proposed ordinance would replace this tax with a new formula. Under the new formula, the base tax would be \$6.00 multiplied by the maximum number of patrons legally allowed in the establishment (the "occupant load"). The tax would increase above the base tax if the establishment serves alcohol (more for full liquor than for just beer and wine), allows patron dancing, is within ninety feet of other alcohol-serving establishments, and is open past 10:00 p.m.

Under the proposed ordinance, the annual business tax would decrease for some establishments and increase for others, but the total amount of tax revenue to the City from restaurants and bars would increase. Applying the formula, the annual tax would range from roughly \$30 (for a very small restaurant that seats only a few patrons, does not serve alcohol and closes by 10:00 p.m.) to over \$500,000 (for a large restaurant that serves full alcohol, stays open nightly until 2:00 a.m., allows patron dancing, and is located in close vicinity to other alcohol-serving establishments).

The revenue generated from the tax could be used by the City for any municipal purpose.

A full copy of the proposed ordinance, which includes the formula by which the tax would be computed, is printed on this petition for review by any prospective signer.



THE PEOPLE OF THE CITY OF HERMOSA BEACH DO ORDAIN AS FOLLOWS:

SECTION 1: Title. AN ORDINANCE MODIFYING THE AMOUNT OF THE BUSINESS LICENSE TAX ON RESTAURANTS AND BARS IN ORDER TO INCREASE TAX REVENUE TO THE CITY

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

(a) Hermosa's public safety expenditures are taking more and more of the City's income, leaving a decreasing portion to pay for other City services. In Fiscal Year 2009 - 2010 the City's overall tax revenue dropped to \$19.5 million, while the cost of public safety increased to \$17.3 million

(b) For Fiscal Year 2010 - 2011 the City of Hermosa Beach has increased vacant staff positions citywide to fourteen, and Fire Department minimum manning was reduced from six per shift to five. Other California cities have had to close their city-run police departments or fire departments in order to balance their budgets.

(c) Some of Hermosa's restaurants and bars have been making extraordinary, and increasing, demands on City services, while the City's Business License Tax on the categories including the largest and most intensively developed restaurants and bars is a flat \$2268 annually. For many years the City Council has discussed asking the voters to approve a substantial increase in this Tax, but thus far has not put the matter on the ballot.

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

(a) To protect our City government by establishing a stable, reliable, and adequate funding source for it.

(b) To generate substantial Business License Tax revenue to the City by adjusting the Tax on those restaurants, bars, dancehalls and dance floors which permit dancing, serve alcoholic beverages, are in close proximity to multiple other businesses also serving alcoholic beverages, or which operate late at night.

SECTION 4. Section 5.04.200.B of Title 5, Chapter 5.04 of the Hermosa Beach Municipal Code is amended as follows:

A. Paragraph 2 (Classification B), Group 7 and Groups 21 through 25 are deleted, Group 20 is renumbered as 19, Group 26 is renumbered as 21, and a new Group 20 is added to read:

Group 20: Any restaurant or bar, cocktail lounge or nightclub where food and/or beverages are offered or sold for consumption on or off premises, or a dancehall or dance floor, shall pay an annual Business License Tax computed as follows:

For each person allowed to be present at the business per the City-determined maximum occupancy load, \$6 (six dollars) per annum, multiplied by:

- (a) 1.5 (one and one-half), if patron dancing is permitted, and then multiplied again by
- (b) 4 (four), if full liquor is sold, or by 1.5 (one and one-half) if only beer and/or wine is sold, and then multiplied again by
- (c) 3 (three), if alcoholic beverages are sold at the business and any part of the business is within 90 (ninety) feet of any part of three or more separately-licensed restaurants, bars, cocktail lounges, nightclubs, dancehalls and/or dance floors also selling alcoholic beverages, or by 1.5 (one and one-half) if alcoholic beverages are sold at the business and any part of the business is within 90 (ninety) feet of any part of two separately-licensed restaurants, bars, cocktail lounges nightclubs, dancehalls and/or dance floors also selling alcoholic beverages, and then multiplied again by
- (d) the multiplier as determined by the following table.

Where the actual Closing Times are the same as or earlier than the times shown in one of the columns below, the multiplier in that column shall apply. Where the business operates 24 hours a day or the actual nighttime Closing Times are later than those shown in the columns below, the multiplier shall be 24.															
Sun - Wed	10p	10p	11p	10p	11p	12m	10p	11p	12m	1:30a	10p	11p	12m	1:30a	2a
Thu - Sat	10p	11:30p	11:30p	12:30a	12:30a	12:30a	1:30a	1:30a	1:30a	1:30a	3a	3a	3a	3a	3a
Multiplier	1	1.4	4.2	1.7	5.1	6.8	2	6	8	10	3	9	12	15	18

The City Council may by annual resolution designate up to five days per year on which all businesses in this Group may stay open later than their normal Closing Times without incurring a higher multiplier.

For the purposes of this Group, distances shall be measured by airline between the closest edge of any structure or patio, excluding parking, to the closest edge of any structure or patio, excluding parking, whichever distance is shorter.

For the purposes of this Group, Closing Time shall refer to the later of the time at which the business ceases to allow new patrons to enter, or the time at which the business ceases the sales, service or consumption of alcoholic beverages.

The Business License Tax in this Group shall be billed annually, in advance. Licensees will be billed as of the first day of the Billing Cycle, with the first Billing Cycle to begin on the effective date. Payment may be made in two equal installments, with the first installment due on the last day of the first month of the Billing Cycle and the second installment due on the last day of the seventh month of the Billing Cycle. Licensees will receive an annual billing statement detailing the multipliers used to calculate the Tax. Licensees may utilize actual Closing Times earlier than those permitted by their Conditional Use Permit, the Hermosa Beach Municipal Code, or their

license issued by the Department of Alcoholic Beverage Control. Licensees altering their actual Closing Times or other aspects of their operation during the Billing Cycle may, at the sole discretion of the Finance Director, have their Tax prorated or adjusted accordingly.

Upon a person making application for a license to be issued for a newly established business, the applicant shall pay the Tax based upon a closing time of 10 p.m. seven days a week, and no dancing, both regardless of the actual closing time and whether dancing is actually permitted; provided however, the amount of the Tax so determined shall be tentative only. Such person shall, after 90 (ninety) days of operation, furnish the Finance Director information on an affidavit showing the actual operating hours during the first 90 (ninety) days of business, and whether dancing has been permitted. The Finance Director shall then determine if any additional Tax would be necessary to cover the time for which the license has been issued. The Tax for a newly established business shall be prorated to the portion of the Billing Cycle remaining at the time of application.

An established business applying for the issuance of an initial license under this ordinance, or for the renewal of a license, shall submit to the Finance Director for his or her guidance in ascertaining the amount of the Tax to be paid by the applicant, a written statement, upon a form to be provided by the Finance Department, setting forth the actual operating hours of the business and whether dancing was permitted, during the preceding twelve months. An established business shall be given pro rata credit for the unexpired portion of an annual Business License Tax paid under former provisions of this Code.

The Finance Director shall establish an administrative determination process to handle disputes stemming from the determination of individual Taxes in this Group. The Finance Director shall have final authority in any and all disputes as to the determination of the Tax for an individual licensee.

SECTION 5: Effective Date. This ordinance shall become effective upon the first day of the third calendar month following the date that this ordinance is approved by the voters of Hermosa Beach.

SECTION 6: Severability. If any provision herein 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 7: Amendment or Repeal. The provisions of this Act may be renumbered as to Group, but otherwise may not be amended or repealed by the City Council without a vote of the people.