

1. **RESOLUTION NO. 11-6763**

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3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
4 **HERMOSA BEACH, CALIFORNIA ORDERING THE SUBMISSION TO**  
5 **THE QUALIFIED VOTERS AT THE GENERAL MUNICIPAL**  
6 **ELECTION ON TUESDAY NOVEMBER 8, 2011 AS CALLED BY CITY**  
7 **COUNCIL RESOLUTION NO. 11-6750 OF AN ORDINANCE RELATING**  
8 **TO A COMPREHENSIVE REORGANIZATION AND UPDATE OF THE**  
9 **CITY'S BUSINESS LICENSE TAX ORDINANCE AND RESCINDING**  
10 **RESOLUTION NO. 11-6758**

11 **Section 1. Recitals**

12 **A.** Pursuant to Chapter 5.04 of the Hermosa Beach Municipal Code, the City  
13 currently levies a Business Tax on businesses operating in Hermosa Beach. The tax structure has  
14 not been changed since 1988.

15 **B.** In late 2010, the City Council established a Business License Tax Review  
16 Committee and charged it with the task of reviewing and analyzing the Business Tax and making  
17 recommendations to the City Council for possible modifications to the Tax. The Committee met  
18 on many occasions over the course of seven months and took testimony from the public, including  
19 both residents and business owners. The Committee developed a mission statement that  
20 emphasized innovation and creativity in its approach and the goal of revising the Tax to advance  
21 business development and job creation.

22 **C.** The Committee approached its task guided by these principles: The tax  
23 structure should be:

24 Simple

25 Competitive with surrounding cities

26 Capped at a reasonable maximum

27 Applicable to all businesses

28 Reduced for high sales tax generating businesses

Easy to administer

1           D. The Committee presented its report to the City Council at the Council's  
2 regular meeting of July 12, 2012. The Council accepted the report and desires to present the  
3 Committee's proposed comprehensive tax restructuring with minor changes to the electorate for  
4 approval consistent with the requirements of Proposition 218. The proposed tax structure will  
5 increase the existing business tax on some businesses and reduce the tax for others.

6           E. The City Council of the City of Hermosa Beach desires to submit to the  
7 voters at the November 8, 2011 election a question relating to approval of a comprehensive  
8 reorganization and update of the City's Business License Tax Ordinance based substantially on the  
9 report prepared by the Business License Tax Review Committee.

10           F. The proposed Ordinance attached hereto and incorporated herein by reference  
11 as Attachment "A" (the "Ordinance") would implement these proposed revisions to the tax.

12           G. Under the provisions of the laws relating to general law cities in the State of  
13 California, a General Municipal Election shall be held on November 8, 2011.

14 **Section 2.** The City Council of the City of Hermosa Beach, California, does hereby resolve,  
15 declare, determine and order as follows:

16           A. The City Council finds and determines that each of the recitals set forth above  
17 are true and correct.

18           B. That pursuant to the requirements of the laws of the State of California  
19 relating to general law cities, there is called and ordered to be held in the City of Hermosa Beach,  
20 California, on Tuesday, November 8, 2011, a General Municipal Election.

21           C. The City Council proposes to impose the general tax set forth in the  
22 Ordinance, which is attached to this Resolution as Attachment A and incorporated herein by  
23 reference, and will be presented to the voters on November 8, 2011 at the General Municipal  
24 Election.

25           D. That the City Council, pursuant to its right and authority, by a two-thirds vote  
26 of its membership, does order submitted to the voters at the General Municipal Election the  
27 following question:  
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Shall an ordinance be adopted as recommended by the Business License Tax Review Committee, comprised of residents and business owners, and a unanimous City Council to simplify, update and restructure the City's business license tax Ordinance and offer incentives for new businesses?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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This question requires the approval of a majority of those casting votes.

**E.** That in all particulars not recited in this Resolution, the election shall be held and conducted as provided in Resolution No. 11-6750 and law for holding municipal elections.

**F.** That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

**G.** In the event that the Ordinance is approved by a majority vote of the electors casting ballots on November 8, 2011, the business license tax shall be collected in accordance with the revised rates in the same manner as the tax is currently collected, as set forth in Hermosa Beach Municipal Code Chapter 5.04 (Business License Tax).

**Section 3.** Upon the approval of the Ordinance by a majority vote of the electors voting on the issue and the certification of the results of the November 8, 2011 election by the City Council in the manner authorized by law, the Mayor and City Clerk are hereby authorized and directed to attest to the approval of the Business License Tax amendment by a majority vote of the electors.

**Section 4.** Resolution No. 11-6758 is hereby rescinded.


**Section 5.** The deadlines established in Resolution No. 11-6760 for the filing of the City Attorney's impartial analysis and direct arguments and in Resolution No. 11-6761 for the filing of rebuttal arguments are hereby extended one week (to Tuesday, August 16, 2011 at 6 p.m. for impartial analysis and direct arguments, and Friday, August 26, 2011 at 5 p.m. for rebuttal

1 arguments) for only the proposed Ordinance attached hereto and incorporated herein by reference  
2 as Attachment "A."

3 **Section 6.** The City Clerk is hereby directed to file a certified copy of this Resolution  
4 with the Los Angeles Board of Supervisors and the Los Angeles County Registrar/Recorder.

5 **Section 7.** The City Clerk shall certify to the passage of this Resolution by a two-thirds  
6 vote of the City Council and enter it into the book of original Resolutions.

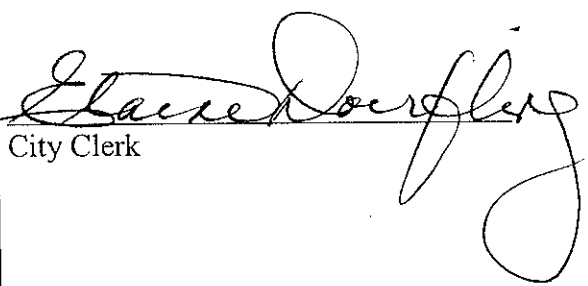
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8 **PASSED, APPROVED AND ADOPTED** by the City Council of the City of Hermosa  
9 Beach at a special meeting held this 2<sup>nd</sup> day of August, 2011.

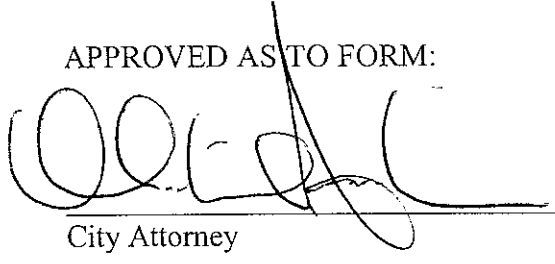
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12 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

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14 ATTEST:

14 APPROVED AS TO FORM:

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17 City Clerk

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17 City Attorney

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ATTACHMENT "A"

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

AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, ENACTING A COMPREHENSIVE RESTRUCTURING AND UPDATE OF THE BUSINESS LICENSE TAX ORDINANCE

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

**Section 1.** Section 5.04.200 of Title 5, Chapter 5.04 of the Hermosa Beach Municipal Code is amended in its entirety to read as follows:

**Section 5.04.200 Schedule of Business Taxes**

**A. Taxes.**

Every person conducting business in the city shall pay a license tax as provided below. The amount of the license tax or the method by which it is to be computed is set forth in the Schedule of Taxes. Businesses with a fixed location within the boundaries of the City other than bars and restaurants with alcohol that close after 12:00 a.m. are exempt from business license taxation for the first year the business is in operation but must nonetheless file a business license application. The City reserves the right to require documentation of gross receipts from all businesses taxed on a percentage of gross receipts. Businesses shall be taxed in accordance with the following categories:

**1. General businesses.** All businesses not expressly identified elsewhere in this Section, including but not limited to:

Private detective, watchman service with a fixed place of business in the city or rendering a service within the city; loan company; and escrow company

Dancing studio, studio of music, music lessons, bridge lessons, art studio, swim schools and nursery schools

Dance halls

Barbershops, manicuring, facial massage, beauty parlors, cosmetic skin treatment and establishments where massage services are offered by an individual as an incidental or accessory service and does not occupy more than 25% of the area of the establishment. A licensed person shall be considered an employee for this tax purpose if the employer does in fact withhold and pay federal income tax on said employee, and in addition thereto, pay to the state, as the laws may be applicable, unemployment and compensation insurance, and/or there is a contractual agreement. Otherwise, said licensed person shall be considered an independent contractor and shall pay the annual license tax for a licensed person

Auto or boat parking or storage lot except when this type of lot is part of and associated with another business activity

Confectionery, candy, popcorn concessions operated in the foyer or lobby of theaters, places of amusements or public buildings

Advertising by means of searchlight, skylight, klieg light, portable flood light or any other such lighting device, subject to special permit from Chief of Police

Bench advertising

Checkroom for storage of parcels or wearing apparel

Publishing a newspaper, newspaper agency

Special or seasonal sales, when not in connection with a fixed place of business

Laundry or similar business where the public may leave their wash to be done; launderette, laundromats or dry cleaning on the premises by individual machines, where a charge is made through a coin-operated slot or on a flat fee basis; coin-operated washer and dryer equipment not owned by the proprietor in apartment houses, hotels, motels and other similar accommodations for dwelling, sleeping or lodging

Auto wrecking and junk dealers subject to compliance with the requirements of Chapter 5.60

Trained animal show

Bowling alleys subject to compliance with the requirements of Chapter 5.68

Health and culture establishments

New or used machinery

Selling or offering for sale stocks of machinery, goods, wares or merchandise advertised as bankrupt, sheriff's, assignee's, trustee's, creditor's, receiver's or special sale of damaged goods, subject to compliance with the requirements of Chapter 5.60

Live theaters

Entertainment not in conjunction with a bar or restaurant serving alcoholic beverages, subject to prior approval of a Conditional Use Permit

Motion picture production not operating from a fixed place of business in the city, subject to compliance with the permit requirements of Section 12.28.130

Motion picture production

Pawnbrokers, subject to compliance with the requirements of Chapter 5.60

Pool and billiard parlors, subject to compliance with the licensing requirements of Chapter 5.68

Taxicabs and autos for hire, subject to compliance with Chapter 5.72

Tent shows, transient and other theatrical exhibitions of skill, physical and mental strength or ability, art or science, subject to prior approval of a Conditional Use Permit or a Special Permit issued pursuant to Section 12.12.070

Processions, parades, etc., in connection with any amusement or other enterprise operated for profit, subject to prior approval of a Special Permit issued pursuant to Section 12.12.070

Dating bureaus, compatibility matching services, counseling or advisory services

Motion picture theaters, subject to prior approval of a Conditional Use Permit

**2. Auto/Boat Dealers/Manufacturers/Wholesale**

Including but not limited to jobbers and secondhand dealers, new or used

Less than \$3,000,000 in sales

Greater than \$3,000,000 in sales

**3. Gasoline service stations**

**4. Professional and semi-professional services with a fixed place of business in the City,**  
including but not limited to:

Attorneys, income tax agents, auditors, accountants, architects, engineers, real estate brokers, chiropodists, dentists, opticians, optometrists, osteopaths, physicians, surgeons, veterinarians and any other similar professions for which a State license is required

Public stenographer, telephone services, employment agencies, advertising agencies, public relations agencies, travel agencies, consultants not qualifying as professional or semi-professional

Telephone soliciting office

A licensed person shall be considered an employee for this tax purpose if the employer does in fact withhold and pay federal income tax on said employee, and in addition thereto, pay to the state, as the laws may be applicable, unemployment and compensation insurance, and/or there is

a contractual agreement. Otherwise, said licensed person shall be considered an independent contractor and shall pay the annual license tax for a licensed person, except that a licensed real estate salesman shall be considered an employee. Unlicensed real estate canvassers shall be taxed to the broker as an employee under this section and shall further be required to comply with the provisions of Classification F of this section regulating the licensing of canvassers, solicitors, itinerant merchants, salesmen and peddlers.

**5. Lodging**

Apartments, rental of residential property (owner occupied units are exempt)

Hotels, motels, care centers

Trailer and mobile home parks

**6. Food and beverage:**

Restaurant without alcohol

Bar and restaurant with alcohol closing before 12:00 a.m.

Bar and restaurant with alcohol, closing after 12:00 a.m. three days or less per week (specific days must be identified in business tax certificate)

Bar and restaurant with alcohol, closing after 12:00 a.m. four days per week (specific days must be identified in business tax certificate)

Bar and restaurant with alcohol, closing after 12:00 a.m. five days or more per week (specific days must be identified in business tax certificate)

Food and/or beverage with drive through operation (maximum tax of \$8,000.00)

The following holidays shall not be counted towards the number of days per week limitations established above: Sunday evening preceding Martin Luther King, Jr. Day and Presidents' Day; St. Patrick's Day; Cinco de Mayo; Sunday evening preceding Memorial Day; Independence Day; Sunday evening preceding Labor Day; Thanksgiving Day; day after Thanksgiving; Christmas; and New Year's Eve.

All restaurant categories except restaurant without alcohol and restaurants with beer and wine that close by 10:00 p.m. are subject to prior approval of a conditional use permit. No tax refund is available should a restaurant with alcohol reduce the number of days it is open after 12:00 a.m. An increase in the number of days a restaurant is open after 12:00 a.m. will require payment of the additional tax.



**7. Retail**

Less than \$250,000 in sales

Greater than \$250,000 in sales (maximum tax of \$8,000)

All retail establishments not expressly listed in another category

Supermarkets, drug stores, liquor stores, off-sale alcohol

Off-sale alcohol establishments that close before 12:00 a.m. are eligible for a \$1,500 credit against license tax

**8. Building Contractors**

Contractors

Subcontractors

Owner builders who build any building or structure for the purpose of sale or as rental units (three or more units)

Each general building or engineering contractor or owner builder shall furnish the license collector with a list of all subcontractors on forms furnished by the license collector prior to obtaining inspection of the work performed by such subcontractors. It shall be the responsibility of every general building, engineering contractor and owner builder to require subcontractors under its control or direction to obtain a business license as herein provided and pay the taxes set forth in the Schedule of Taxes before permitting the subcontractor to begin or perform services for the general building, engineering contractor or owner builder. Every person engaged in the business of contracting and/or subcontracting shall be required to have a city license for doing the type of work authorized before obtaining a city building permit.

**9. Miscellaneous businesses**

Home occupations, subject to compliance with the regulations set forth in Section 17.08.020.F

Catering/food trucks, subject to compliance with Sections 10.32.170, 10.32.180, 12.20.230(A), 12.20.300, 12.24.020, 12.28.030(10)

Hospital, animal hospitals, sanitariums, mortuary, rest homes

Massage therapy, subject to compliance with the regulations set forth in Chapter 5.74 (excluding massage that is less than 25% of business activity)

Tattoo/piercing studio, subject to compliance with the regulations set forth in Section 17.26.070

Service and delivery vehicles, including but not limited to:

Trading in, selling, or offering for sale any materials, commodities, goods, wares or merchandise by means of any vehicle or delivery of same after order, or any person operating a delivery service for the delivery of any materials, commodities, goods, wares or merchandise by means of any vehicle, wholesale and retail (except when in connection with a fixed place of business in the city)

Swimming pool maintenance services

Installation and maintenance of portable toilets

Installation, servicing, maintaining alarm service

Window cleaning, building cleaning, or carpet cleaning

Television, radio repair service, or appliance repair service

Lawn service, gardening service, landscaping service

All other vehicles not specifically enumerated above

Solicitors/peddlers

Telephone companies

Utility companies without a City franchise

Vending machines, music and amusement machines. Every person required to have a license by the provisions of this chapter shall file with the license collector a list of all the coin-operated machines placed within the city by or for such person, giving the exact location, type and number of such machines.

Music and amusement machines: every person engaged in the business of operating any amusement or music machine, not otherwise specifically covered by this chapter, whether coin-operated or not, whether such operation is incidental to some other business being operated on the premises or whether such operation constitutes an amusement arcade

Vending machines: every person engaged in the business of operating any vending machine, vending any service or product, and not specifically covered by this chapter, where such operation is incidental to, or in conjunction with, some other business being operated on the particular premises.

Liability for payment of license fee and confiscation of unlicensed machines: where a coin-operated machine is subject to the licensing provisions of this chapter, any person owning

or in possession of said machine where located shall be responsible for the licensing of said machine. No person shall keep or maintain upon his premises any coin-operated machine for which no license has been obtained and upon which no license or decal has been posted. Where the person in possession of the premises upon which an unlicensed coin-operated machine is located refuses to obtain a license for the same on the basis that the machine is not owned or possessed by him, the license collector or his authorized deputy or agent shall remove said machine to the city hall and shall place the same in storage until claimed by the rightful owner thereof. Said machine shall be delivered to the rightful owner upon payment of moving, storage and accrued business license charges.

All coin-operated machines located in the city shall have prominently displayed on them the name, address and telephone number of the owner of said machine.

**B. Surcharges on Taxes.**

All businesses, excluding home occupations, located within the area bounded by Palm Drive on the east, the Strand on the west, 16<sup>th</sup> Court on the north and 8<sup>th</sup> Street on the south ("Downtown") shall pay 20% in addition to the rates established in the Schedule of Taxes.

All businesses on Pier Avenue between Hermosa Avenue and Pacific Coast Highway ("Upper Pier Avenue") shall pay 10% in addition to the rates established in the Schedule of Taxes.

All restaurants with alcohol located outside Downtown and Upper Pier Avenue shall pay 5% in addition to the applicable rates established in the Schedule of Taxes.

**Section 2.** Section 5.04.230 of Title 5, Chapter 5.04 of the Hermosa Beach Municipal Code is amended to read as follows:

**5.04.230 Annual cost of living adjustment of taxes.**

Taxes imposed in the Schedule of Taxes on a basis other than a percentage of gross receipts and the maximum tax established for businesses taxed on the basis of gross receipts shall be adjusted on an annual basis using the percentage increase in the cost of living, not to exceed three percent (3%) as calculated by the United States Bureau of Statistics for the Los Angeles—Riverside—Orange County Standard Metropolitan Statistical Area for All Urban Consumers.

**Section 3.** Title 5, Chapter 5.04 of the Hermosa Beach Municipal Code is amended by adding a new Section 5.04.255 to read as follows:

**5.04.255 Penalty for reporting false information on which tax is based**

Any person who pays a tax based on a false report of gross receipts or carries on any food/beverage business after 12:00 a.m. on nights other than those specified in the license shall pay a penalty of treble the prescribed license tax. Said penalty shall be collected and the payment

hereof shall be enforced in the same manner as other license taxes are collected and payment thereof enforced, and shall be in addition to any other remedy provided for in this Chapter, including revocation pursuant to Section 5.04.260.

**Section 4.** Severability. If any provision of this ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this ordinance to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this ordinance are severable. The people hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

**Section 5.** This ballot measure is inconsistent with and intended as an alternative to the initiative ordinance proposed for the November 8, 2011 municipal election, which would modify or increase taxes imposed on bar or restaurant establishments. If this ordinance and the initiative ordinance are both passed by a majority voting thereon then the one with the most affirmative votes shall prevail concerning imposition of any such taxes. If the initiative ordinance receives more affirmative votes, any other taxes proposed by this ordinance that do not conflict with such ordinance shall be deemed consistent and valid.

**Section 6.** Effective Date. This Chapter shall become effective immediately upon the date that this Ordinance is confirmed and approved by the voters of Hermosa Beach at the Municipal General Election of November 8, 2011. The tax rates set forth in the Schedule of Taxes shall be first imposed on issuance of a new license or upon renewal of an existing license following the effective date.

**Section 7.** Amendment or Repeal. Sections 5.04.200 and 5.04.230 of the Hermosa Beach Municipal Code may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIIC of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Ordinance.

**Section 8.** Schedule of Taxes. Exhibit A attached hereto and incorporated herein by reference sets forth the tax rates for all businesses operating in the City and is hereby adopted and approved as the Schedule of Taxes

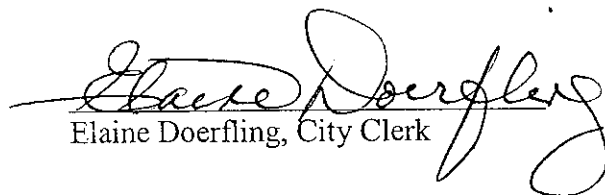
STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF HERMOSA BEACH

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Resolution No.11-6763 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a Special Meeting of said Council at the regular place thereof on August 2, 2011.

The vote was as follows:

AYES: Bobko, DiVirgilio, Duclos, Tucker, Mayor Fishman  
NOES: None  
ABSTAIN: None  
ABSENT: None

Dated: August 2, 2011

  
Elaine Doerfling, City Clerk