

Attachment 3

RESOLUTION NO. 12-6789

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3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**
4 **HERMOSA BEACH, CALIFORNIA, ESTABLISHING A POLICY**
5 **SUPPORTING 'NO INTENSIFICATION OF LATE-NIGHT ON-SALE**
6 **ALCOHOLIC BEVERAGE ESTABLISHMENTS'**

7 **THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA,**
8 **DOES HEREBY RESOLVE AS FOLLOWS:**

9 **SECTION 1.** On February 28, 2012, the City Council considered the Planning
10 Commission recommendation to adopt a 'No Intensification of On-Sale Alcoholic Beverage
11 Establishments' Policy and whether the policy should apply to "late night alcohol-serving
12 establishments" open later than 10:00 p.m. or a later hour, Citywide or limited to the
13 downtown/Pier Plaza area only. The Commission rendered its recommendation after study and
14 hearings between February and October 2011 on ways to reduce impacts associated with on-sale
15 alcoholic beverages by reducing used and excess capacity of hours for on-sale establishments in
16 the City, and the relationship of occupant load to parking for on-sale establishments, as directed
17 by the Council.

18 **SECTION 2.** The Council finds that certain areas of the City, such as the Hermosa Beach
19 Pier Plaza and commercial downtown, have become a nightlife destination for people all over
20 Southern California and that nightlife has brought with it significant negative impacts. This area,
21 for example, requires a disproportionate police presence compared to other parts of the City. Due
22 to the high number of calls for police service, the Hermosa Beach Police Department must deploy
23 officers to specifically patrol the Pier Plaza and downtown area, especially after midnight, and to
24 act as a deterrent to criminal, boisterous and unruly behavior by inebriated persons.

25 Following an extended period of increased calls for police service, crime, noise, unruly
26 behavior and other impacts directly related to the overconcentration of on-sale alcohol-serving
27 businesses in this area, the Hermosa Beach City Council has made a series of decisions
28 opposing intensification of alcohol serving businesses that would exacerbate the situation. Since

1 2008, the City has taken significant steps to reduce the negative impacts in the area, by reducing
2 operating hours of some restaurants pursuant to enforcement of their conditional use permits,
3 increasing police presence, and rejecting applications that would intensify late night, alcohol
4 serving establishments in the area. The Police Department's records show that the City's
5 increased enforcement efforts and staggered closing times are beginning to reduce crime and
6 disturbances in the area and facilitate a more orderly and safe environment as patrons leave the
7 alcohol serving establishments in the late evening. Local businesses in the area have also been
8 responsive to the City's efforts and have helped improve the situation and reduce disturbances on
9 Pier Plaza and Citywide.

10 **SECTION 3.** The City Council desires to continue to maintain the trend of reduced
11 impacts from late-night, alcohol serving establishments and to prevent another escalation of
12 negative impacts caused by these establishments. A uniform and clear policy that provides a
13 rationale and guidelines for interpreting the meaning of 'intensification' and applying those
14 guidelines to requests for conditional use permits or conditional use permit amendments for on-
15 sale alcohol-serving establishments will provide more certainly and better serve the interests of the
16 City, the public and business community.

17 **NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY**
18 **OF HERMOSA BEACH, CALIFORNIA,** adopts the following "No Intensification" of On-Sale
19 Alcoholic Beverage Establishments Policy."

20 **Policy Statement:**

21 The City has considered various alternatives for reducing the negative impacts associated
22 with late night, alcohol-serving establishments in the City. The City's main goal is to ensure that
23 the number of such establishments in the City, and the negative impacts associated with these
24 uses, do not increase. The adoption of a formal policy statement will enable the Planning
25 Commission and City Council to take consistent, predictable and more objective actions on
26 matters related to the City's on-sale establishments, and will reduce the potential to implement
27 City goals on an incremental, case-by-case, and less objective manner.

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1 While the intent is to establish a consistent policy statement, given unpredictable economic
2 and market trends, the peculiarities inherent in Hermosa Beach's distinctive, tourist-serving
3 recreational business district, and the possibility of unpredictable parcel consolidations for
4 redevelopment, the discretionary authority of the Commission and Council in the implementation
5 of this policy will still necessitate individual considerations of unusual or atypical projects
6 requiring policy modifications or case-specific interpretations to ensure the continued vitality of
7 the City's development.

8 **Definitions:**

9 1. "Alcohol-serving establishments" means any restaurant or bar with a California
10 Department of Alcohol and Beverage Control (ABC) on-sale license and/or City of Hermosa
11 Beach Conditional Use Permit (CUP) allowing on-sale alcohol.

12 2. "In the City" means throughout the City of Hermosa Beach, citywide.

13 3. "Late night" means after 11:00 p.m. in the evening.

14 4. "Occupant load" means the maximum number of individuals legally permitted in an
15 establishment as determined by the City under the Building Code, Fire Code and other applicable
16 legal standards.

17 5. "Operating" means all businesses that are in business, or have a valid CUP to operate,
18 excluding properties with CUPs for alcohol-serving establishments that not been in operation
19 for at least one year and are subject to revocation or extinguishment pursuant to Chapter 17.70 of
20 the Hermosa Beach Municipal Code.

21 6. "Permitted hours" means hours of operation as stipulated by the ABC license and/or a
22 CUP.

23 **Goals:**

24 1. To prevent an increase in the total number of permitted "late night, alcohol-serving
25 establishments" over the number of such establishments currently operating Citywide.

26 2. To prevent an increase in the total number of permitted hours of all "late night alcohol-
27 serving establishments" currently operating Citywide.

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1 3. To prevent the expansion and intensification of individual "late night, alcohol-serving
2 establishments" through increases in occupant loads as a result of increases in square footage
3 and/or floor plan alterations by owner/operator-initiated new construction and/or remodeling.

4 4. To encourage the voluntary reduction in permitted hours of operation for "late night,
5 alcohol-serving establishments" in the City through negotiations to exchange permitted late-night
6 hours for other city entitlements, provided that the new entitlements do not exacerbate the
7 negative impacts sought to be reduced.

8 5. To encourage a diverse commercial sector in the City with a full-range of services for both
9 residents and visitors.

10 **Guidelines for "Late Night, Alcohol-Serving Establishments":**

11 1. The City should not approve new Conditional Use Permits, or intensification of any
12 existing CUP for "late-night, alcohol-serving establishments", subject to the following additional
13 guidelines.

14 2. Owner/operator-initiated increases in square footage, both interior and exterior, that do not
15 result in increases in occupant load are not considered to be an intensification of the use.

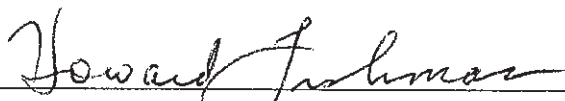
16 3. The City encourages negotiations between the City and any owner/operator of a late-night,
17 alcohol serving establishment to voluntarily reduce late night hours in exchange for additional
18 City-granted entitlements (e.g. live entertainment, dancing, etc.), provided that the new
19 entitlements do not exacerbate the negative impacts sought to be reduced. Such negotiations will
20 be facilitated and expedited by City staff whenever possible. As an incentive, City fees associated
21 with such negotiations (e.g. conditional use permit amendment) may be waived and/or reduced at
22 the discretion of the City Council.

23 4. In attempting to ensure a diverse commercial sector in the City, consideration will be given
24 to the type, quantity, and geographic concentration of "late night, alcohol-serving establishments,"
25 and the City will strive to avoid the over-concentration of these types of establishments in any
26 given area within the City.

1 5. City staff will continue to maintain records on the number of "late night, alcohol-serving
2 establishments" in the City, and will provide information on any recent changes in the number of
3 establishments and/or their permitted hours of operation prior to Planning Commission and/or the
4 City Council consideration of any application potentially impacting either the number, occupant
5 load or cumulative hours of late-night, alcohol serving establishments.

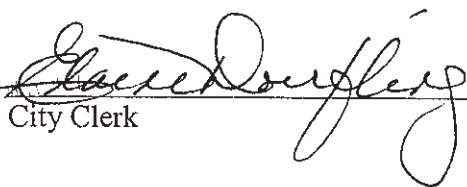
6 6. Exceptions to this policy may be made for exceptional opportunities to achieve other
7 community development goals and to improve the community, such as redevelopment of an
8 underutilized parcel or older building (e.g., redevelopment of 'Mermaid' site), to promote or
9 catalyze economic activity (e.g., large or mixed use development), or to recognize the unique
10 attributes of a new business.

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12 **PASSED, APPROVED AND ADOPTED** this 13th day of March 2012.

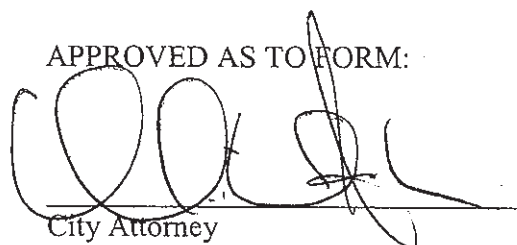
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16 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

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18 ATTEST:

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21 City Clerk

APPROVED AS TO FORM:

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City Attorney