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ORDINANCE NO. 05-1253

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
HERMOSA BEACH, CALIFORNIA, AMENDING THE
BUILDING CODE (CHAPTER 15.04) TO REQUIRE THE
EXECUTION OF A WAIVER FOR CONSTRUCTION BELOW
GRADE AND AMENDING THE HERMOSA BEACH
MUNICIPAL CODE**

The City Council of the City of Hermosa Beach does hereby ordain as follows:

SECTION 1. Findings. The City Council hereby finds as follows: (1) Subterranean construction increases the risk of flooding from storm water, ground water or sewage back-ups; and, (2) Property owners and developers desire to build below grade in order to maximize development of lots in the City, notwithstanding these risks. The purpose of this Ordinance is to assure that property owners and developers who choose to build below grade acknowledge and assume the risk of flooding attendant to such construction.

SECTION 2. The City Council held a duly-noticed public hearing on September 13, 2005 to consider the amendment to the California Building Code relative to adoption of this Ordinance requiring assumption of risk for below grade construction at which the Council took testimony from interested persons prior to deliberating and taking action.

SECTION 3. Chapter 15.04 of Title 15 of the Hermosa Beach Municipal Code is amended by adding thereto a new Section 15.04.035 to read as follows:

15.04.035. Assumption of Risk for Below Grade Construction.

Notwithstanding the provisions of Section 15.04.010, Section 106.4.1 of the Building Code is amended by adding thereto a new final paragraph to read as follows:

The building official shall require execution of a waiver before issuing a permit for construction of buildings or structures of any occupancy any portion of which is below street grade.

SECTION 4. Chapter 15.04 of Title 15 of the Hermosa Beach Municipal Code is amended by adding thereto a new Section 15.04.130 to read as follows:

15.04.130. Assumption of Risk for Below Grade Construction.

Notwithstanding the provisions of Section 15.04.010, Appendix Chapter 31, Division 1, of the Building Code is amended by adding thereto a new Section 3107.6 to read as follows:

1 **3107.6 Waiver Required for Below Grade Construction.** The building official shall
2 require execution of a waiver before issuing a permit for construction of buildings or structures of any
3 occupancy any portion of which is below street grade and/or does not meet the elevation requirements
4 of Section 3107.2.

5 **SECTION 5.** Adoption of this Ordinance is not a project within the meaning of the
6 California Environmental Quality Act (CEQA) pursuant to Section 15378 of the State CEQA
7 Guidelines.

8 **SECTION 6.** This ordinance shall become effective and be in full force and effect from
9 and after thirty (30) days of its final passage and adoption.

10 **SECTION 7.** Prior to the expiration of fifteen (15) days after the date of its adoption, the
11 City Clerk shall cause this ordinance to be published in the "Easy Reader", a weekly newspaper of
12 general circulation published and circulated in the City of Hermosa Beach, in the manner provided
13 by law.

14 **SECTION 8.** The City Clerk shall certify to the passage and adoption of this ordinance,
15 shall enter the same in the book of original ordinances of said city, and shall make minutes of the
16 passage and adoption thereof in the records of the proceedings of the City Council at which the
17 same is passed and adopted.

18 **PASSED, APPROVED and ADOPTED** on 27th of September 2005 by the following vote:

19 AYES:
20 NOES:
21 ABSENT:
21 ABSTAIN:

22
23 _____
23 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

24
25 ATTEST:

25 APPROVED AS TO FORM:

26
27 _____
28 City Clerk

26 _____
27 City Attorney