AGENDA REPORT

Meeting Date: December 5, 2007

Item Number: F-5

To: Honorable Mayor & City Council

From: Laurence S. Wiener, City Attorney

Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS ESTABLISHING SPECIAL EVENT PERMITS AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

Attachments: Ordinance.

RECOMMENDATION

Staff recommends that the City Council adopt the ordinance.

INTRODUCTION

This ordinance provides rules and regulations for the issuance of a special events permit for temporary activities and events that impact the community.

DISCUSSION

At the City Council meeting of November 20, 2007, the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

There is no fiscal impact.

Laurence S. Wiener, City Attorney

Approved By

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
ESTABLISHING SPECIAL EVENT PERMITS AND
AMENDING THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY

ORDAINS AS FOLLOWS:

Section 1. Chapter 8 is hereby added to Title 4 of the Beverly Hills Municipal Code to read as follows:

"Chapter 8: Special Events

Section 4-8-1. Purpose.

The City Council finds that certain types of special events require specific regulation to protect the public health, safety and welfare. Special events, including, but not limited to, festivals, carnivals, street fairs, parties, store openings, and awards ceremonies, provide cultural and economic benefits to the city and its residents, but can also impact the community.

Section 4-8-2. Special Event Permit Required.

Each of the following activities shall be considered special events and shall require a special event permit issued under the provisions of this chapter:

A. An activity that requires a temporary change to a building's category of occupancy assigned pursuant to the City's Building Code;
B. An event at which the total number of guests exceeds the occupancy limit assigned to a location pursuant to the City's Building Code;
C. A temporary conversion of parking spaces to any purpose other than parking; and
D. A temporary encroachment into a public right of way that: (1) lasts fewer than forty-eight hours, and (2) occupies more than twenty square feet of the public right of way or leaves fewer than four feet of sidewalk width unobstructed for pedestrian travel.

Section 4-8-3. Special Event Permit Authorized.

A special event permit may be issued pursuant to this Article to permit temporary activity in a commercial zone that would not otherwise be permitted by this code.

Section 4-8-4. Exemptions.

Notwithstanding the provisions of Section 4-8-2, special event permits are not required for:

A. Parades or assemblies as defined in section 4-3-202 of this Code. Any person who obtains a permit for a parade or assembly pursuant to Article 2 of Chapter 3 of Title 4 of this Code need not obtain a separate special event permit for the same activity.
B. Motion picture productions or still photography as defined by section 4-3-102 of this Code. Any person who obtains a permit for motion picture productions or still photography pursuant to Article 1 of Chapter 3 of Title 4 of this Code need not obtain a separate special event permit for the same activity.

Section 4-8-5. Applications for Special Event Permits.

Applications for special event permits shall be filed with the Community Services Department and shall comply with the following requirements:

A. Applications shall be prepared on a form approved by the city and shall be signed by the applicant under penalty of perjury.
B. Applications shall be filed a minimum of ten (10) days prior to the date requested for the special event.

Section 4-8-6. Permit Authority.

The Director of Community Services, or the Director's designee shall have the authority to consider and issue or deny permits as provided in this Chapter. The Director or designee may also refer any application for a special event to the City Council for consideration by the City Council rather than the Director of designee.

Section 4-8-7. Criteria for the Issuance of a Special Event Permit.

A special event permit may be issued by the Community Services Department if the Director of Community Services or the Director's designee determines that:

A. The applicant has not made a material misrepresentation in the permit application;
B. The applicant has not materially violated conditions of a previous City permit, or the ordinances or regulations of the City;
C. The special event will not conflict with a previously approved special event;
D. The special event will not exceed the City's or applicant's ability to provide sufficient personnel to ensure the event will be conducted without any adverse impact on public health, safety, or welfare;
E. Sufficient parking and loading will be available to accommodate any special event that results in a change in occupancy classification, exceeds occupancy limits, or converts parking spaces to uses other than parking.
F. The special event will not result in substantial adverse impacts on pedestrian and vehicular circulation.
G. The special event will not have a substantial adverse impact on the public health, safety or welfare.

Section 4-8-8. Conditions Imposed on Permit.

The Director of Community Services or designee may impose conditions on any permit as the Director or designee deems appropriate to make the determinations set forth in Section 4-8-7 or otherwise protect the public health, safety or welfare. These conditions may include reimbursement to the City for the cost of assigning public safety or other personnel to ensure that the event is conducted without any adverse impact to the public safety and welfare. Any violation of the conditions of the permit shall be considered a violation of this Code.

Section 4-8-9. Notice of Denial of Permit.

Upon denial of a permit, the applicant shall be notified in writing of the denial and furnished a statement of the reasons for such denial.

Section 4-8-10. Appeals and Referrals to the City Council.

Any decision of the Director of Community Services or designee made pursuant to this Chapter may be appealed to the City Council pursuant to the provisions of Title 1, Chapter 4, Article 1 of this Code.

On appeal or upon a referral from the Director or designee, the City Council may issue a special event permit if it makes the determinations set forth in Section 4-8-7 or if it finds that the special event will bring an overriding benefit to the City of Beverly Hills.

Section 4-8-11. Assignment of Public Safety Personnel.

Any person may apply for a special assignment of public safety personnel to a special event or other occurrence which is to be held within the City including, but not limited to, such functions as motion picture showings, openings of new businesses, weddings, social gatherings, or other activity which may attract a large number of people and which may become a hazard to the public health, safety and welfare unless public safety services are provided above the normal level of service furnished by the City. The applicant shall compensate the City for the cost of any additionally assigned personnel by depositing the anticipated cost of such personnel prior to their assignment.

A. Application for the special assignment of public safety personnel shall be made to the City Manager or the City Manager's designee on a form approved by the City.

B. The City Manager or the City Manager's designee may approve the application if the City Manager or designee determines that the special assignment of public safety personnel is warranted to protect the public health, safety and welfare, that the special assignment will not unreasonably impact the availability of public safety personnel for other assignments, and that the City has adequate personnel available to staff the special assignment.

C. Any public safety officer specially assigned pursuant to this Section shall be deemed to be on regular duty, shall have all the powers and responsibilities

associated with that duty, and shall be compensated as provided in the applicable labor agreement or the City's compensation plan."

In addition, even if no application for special assignment is made, but the special event or other occurrence requires the assignment of City personnel for the purpose of controlling pedestrian or vehicular traffic, the owner of the property on which the event is held, and the organizer of the event, shall be jointly and severally liable for the personnel and other costs reasonably incurred by the City for providing traffic control services above the normal level of service provided by the City.

Section 4-8-12. Establishment of Application Fees.

The City Council may, by resolution, establish application fees for special events permits or other approvals set forth in this Article.

Section 2. A new subsection F is hereby added to Section 8.3.2 of Chapter 3 of Title 8 of the Beverly Hills Municipal Code to exempt special events from encroachment permit requirements and to read as follows:

"F. Special events for which a permit has been issued under Title 4, Chapter 8, of this Code."

Section 3. A new subsection D is hereby added to Section 8.7.3 of Chapter 7 of Title 8 of the Beverly Hills Municipal Code to exempt special events from right of way permit requirements and to read as follows:

"D. Any permit or authorization required for the privilege of conducting special events pursuant to Title 4, Chapter 8 of this Code."

Section 4. A new subsection D is hereby added to Section 4-2-1506 of Article 15 of Chapter 2 of Title 4 of the Beverly Hills Municipal Code regarding valet parking permits to read as follows:

"D. All temporary permit applications as described in subsection A shall be subject to review by the police department. If the police department determines that additional traffic control is necessary to protect the public safety and welfare due to the impacts of the permit or the event for which parking or shuttle service is being provided, then police or other appropriate personnel shall be assigned as deemed appropriate by the police department and the applicant shall compensate the City for the cost of such personnel by depositing the anticipated cost of such personnel prior to their assignment. Any specially assigned personnel shall be deemed to be on regular duty.

Section 5. Chapter 8 of Title 5 of the Beverly Hills Municipal Code regarding assignment of public safety personnel to special events is hereby repealed.

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

Section 7. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this ordinance and this certification,

together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 8. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

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JIMMY DELSHAD
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

DAVID SNOWDEN
Chief of Police

FOR
TIMOTHY J. SCRANTON
Fire Chief

STEPHEN M. MILLER
Director of Community Services