



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Cohen and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Laurie B. Jester, Planning Manager

DATE: December 1, 2009

SUBJECT: Adoption of Ordinance Approving an Amendment to the Municipal Code to Allow Extended Hours of Operation for Restaurants and Bars for New Years Eve until 1:00 AM with approval of a Temporary Use Permit

RECOMMENDATION:

Staff recommends that the City Council **ADOPT ORDINANCE NO. 2130.**

FISCAL IMPLICATION:

There are no direct fiscal implications associated with the recommended action.

BACKGROUND/DISCUSSION:

On November 17, 2009 the City Council reviewed the Planning Commissions recommendations to allow businesses to apply to request approval for extended New Years hours until 1:00 AM through the administrative annual Temporary Use Permit process, and approve a reduced fee of \$100 for the application. After taking public input, reviewing and discussing the proposed revisions, the City Council introduced Ordinance No. 2130 and scheduled the second reading and adoption for tonight's meeting. The Council also adopted Resolution No. 6230 approving a reduced fee for the application.

The amendment will support local businesses in providing opportunities for local residents to celebrate New Years in town instead of having to leave the City. This year New Years Eve falls on a Thursday. It is anticipated that five to ten businesses will request the extended hours and staff will be able to process extended hours requests this New Years Eve. Community Development and Police staff will review the requests and address mitigating any potential neighborhood impacts.

CONCLUSION:

Staff recommends that the City Council adopt Ordinance No. 2130.

ATTACHMENTS:

A. Draft Ordinance No. 2130

ORDINANCE NO. 2130

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MANHATTAN BEACH APPROVING AMENDMENTS TO THE CITY
ZONING CODE (VARIOUS SECTIONS) RELATED TO TEMPORARY
USE PERMITS TO ALLOW EXTENDED NEW YEAR HOLIDAY HOURS
FOR COMMERCIAL BUSINESSES

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach, California does hereby
find, determine and declare as follows:

WHEREAS, on April 21, 2009 the City Council received a request from the Downtown
Manhattan Beach Business Association to extend the hours of operation for restaurants for certain holidays
and at that meeting the City Council requested that staff further examine the request and report back to the
City Council, and;

WHEREAS, the City Planning Division, Police Department and City Attorneys office
reviewed the proposal and made a recommendation, and;

WHEREAS, pursuant to applicable law, the City Council of the City of Manhattan Beach
conducted a public meeting on July 7, 2009, on the proposed Code Amendments related to revisions to the
holiday hours of operation for businesses, and after accepting public input, and discussing the item,
directed staff to revise draft Ordinance No. 2126, for revisions to the Businesses, Professions and Trades
and the Zoning Code, and schedule the introduction for July 21, 2009. On July 21, 2009 the Ordinance was
introduced and on August 4, 2009 Ordinance No. 2126 was adopted, and;

WHEREAS, on August 4, 2009 the Council also requested that staff and the Planning
Commission review two other holidays, the Sundays before Memorial Day and Labor Day, for possible
extended hours, as well as allowing businesses to remain open until 1:00 AM on New Years, and return to
the Council with a recommendation. For other holidays they indicated that businesses should request Use
Permit Amendments, and;

WHEREAS, on September 9, 2009 the Planning Commission held a public hearing and
discussed allowing extended hours on New Years Eve and the Sundays before Memorial Day and Labor
Day. The Commission did not support extended hours on Memorial and Labor Day, but requested that staff
bring back additional information for consideration for New Years. The public hearing was continued to
October 14th, and;

WHEREAS, on October 14, 2009 the Planning Commission public hearing was continued
to October 28, 2009, and;

WHEREAS, on October 28, 2009 the Planning Commission conducted a public hearing
and adopted Resolution No. 09-09, recommending to the City Council approval of extended hours for New
Years Eve, to allow businesses to remain open until 1:00 am, with approval of an administrative Temporary
Use Permit. The Commission also requested that the City Council consider a reduced fee of \$100 for the
application, and;

WHEREAS, pursuant to applicable law, the City Council of the City of Manhattan Beach
conducted a public hearing on November 17, 2009, on the Planning Commission recommendation on the
proposed Code Amendments related to revisions to the holiday hours of operation for businesses, and after
accepting public input, and discussing the item, introduced Ordinance No. 2130 and scheduled the adoption
for December 1, 2009. On November 17, 2009 the Ordinance was introduced and on December 1, 2009
Ordinance No. 2130 was adopted, and;

WHEREAS, the public hearings were advertised pursuant to applicable law, and testimony was invited and received at all public meetings and hearings. Public noticing included an ad published on November 5, 2009 in a newspaper of general circulation (Beach Reporter), and;

WHEREAS, the applicant for the subject project is the City of Manhattan Beach.

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibly that the activity will have a significant effect on the environment, the activity is not subject to CEQA, and;

WHEREAS, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code, and;

WHEREAS, the City Council finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code, and;

WHEREAS, the City Council made the following findings with regard to the proposed changes, and:

The proposed amendments are consistent with the City of Manhattan Beach General Plan including the following Goals and Policies.

Goal LU-5: Protect residential neighborhoods from the intrusion of inappropriate and incompatible uses.

Policy LU-5.1: Require the separation or buffering of residential areas from businesses which produce noise, odors, high traffic volumes, light or glare, and parking through the use of landscaping, setbacks, or other techniques.

Policy LU-5.7: Recognize the unique qualities of mixed-use areas and balance the needs of both the residential and commercial uses. (This Policy is also included throughout the Land Use Element in all of the Commercial sections)

Goal LU-6: Maintain the viability of the commercial areas of Manhattan Beach.

Policy LU-6.1: Support and encourage small businesses throughout the City.

Policy LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

Goal LU-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach.

Policy LU-7.1: Encourage the upgrading and growth of businesses in the Downtown area to serve as a center for the community and to meet the needs of local residents and visitors.

Goal LU-8: Maintain Sepulveda Boulevard, Rosecrans Avenue, and the commercial areas of Manhattan Village as regional-serving commercial districts.

Policy LU-8.1: Ensure that applicable zoning regulations allow for commercial uses that serve a broad market area, including visitor-serving uses.

Policy LU-8.2: Support the remodeling and upgrading needs of businesses as appropriate within these regional serving commercial districts.

Goal LU-9: Preserve the low-intensity, pedestrian-oriented character of commercial areas in the North End and El Porto.

Policy LU-9.1: Provide zoning regulations that encourage neighborhood-oriented businesses within these areas.

Goal N-2: Incorporate noise considerations into land use planning decisions.

Policy N-2.2: Ensure acceptable noise levels near residences, schools, medical facilities, and other noise-sensitive areas.

Policy N-2.5: Require that the potential for noise be considered when approving new development to reduce the possibility of adverse effects related to noise generated by new development, as well as impacts from surrounding noise generators on the new development.

Goal N-3: Minimize the impact of non-transportation noise sources.

Policy N-3.4: Recognize in the Noise Ordinance that nighttime noise levels create a greater sensitivity than do daytime noise levels.

SECTION 2. The City Council of the City of Manhattan Beach hereby amends Sections 10.08.080, 10.16.020, 10.32.020 and 10.84.110, of Title 10, of the Manhattan Beach Municipal Code, the Zoning Code, related to Temporary Use Permits as follows:

SECTION 3. The City Council of the City of Manhattan Beach hereby modifies Section 10.08.080 Temporary use classifications of the Manhattan Beach Municipal Code by adding Section 10.08.080 I., as follows:

10.08.080 Temporary use classifications.
 I. New Years Eve- Extension of hours of operation for all Restaurants, Bars, Hotels, Facilities within Hotels, and similar commercial businesses to remain open until 1:00 AM on New Years.

SECTION 4. The City Council of the City of Manhattan Beach hereby modifies Section 10.16.020 (CL, CC, CG, CD, CNE districts: land use regulations) of the Manhattan Beach Municipal Code by adding to Section 10.16.020 as follows:

10.16.20 CL, CC, CG, CD, CNE districts: land use regulations.

	CL	CC	CG	CD	CNE	ADDITIONAL REGULATIONS
Temporary Uses						(G)
New Years Eve	U	U	U	U	U	

SECTION 5. The City Council of the City of Manhattan Beach hereby modifies Section 10.32.020 Land use regulations of Chapter 10.32 PD Planned Development District of the Manhattan Beach Municipal Code by adding Section 10.32.020 C. as follows:

10.32.020 Land use regulations.

C. **Temporary Uses.** Businesses may apply for a Temporary Use Permit to request approval for temporary uses as defined in Section 10.08.080, in accordance with the provisions in Section 10.84.110.

SECTION 6. The City Council of the City of Manhattan Beach hereby modifies Section 10.84.110 Temporary use permits of the Manhattan Beach Municipal Code by modifying Section 10.84.110 E. Effective Date-Duration-Appeals. Exceptions as follows:

E. **Effective Date--Duration--Appeals.** An approved temporary use permit shall be effective on the date specified in its approval; a disapproved permit may be appealed by the applicant, as provided in Chapter 10.100 of this title. The permit shall be valid for a specified time period not to exceed thirty (30) days. A temporary use permit shall lapse if not used within the dates approved and may be revoked by

the Community Development Director effective immediately upon verbal or written notice for violation of the terms of the permit. Verbal notice shall be confirmed by written notice mailed to the permit holder within a reasonable time. The Community Development Director may approve changes in a temporary use permit.

Exceptions:

- 1. A Christmas tree/pumpkin sales temporary use permit may exceed thirty (30) days but shall be valid only during the time period in which the activity is taking place.
- 2. New Years Eve hours of operation extensions shall only be valid until 1:00 am for the one time/day requested. The applicant may apply annually for a temporary use permit to request extended New Years hours.

SECTION 7. All other provisions of the City of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 8. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 9. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be unconstitutional or otherwise invalid, by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portion be declared unconstitutional or otherwise invalid.

SECTION 10. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 11. The City Clerk shall certify to the passage and adoption of this ordinance shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting of said Council at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published once in a weekly newspaper of general circulation, printed, published and circulated within the City of Manhattan Beach, California and which is hereby designated for that purpose.

PASSED, APPROVED AND ADOPTED this 1st day of December, 2009.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Mayor of the City of Manhattan Beach, California

ATTEST:

City Clerk