

ORDINANCE NO. 02-621

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD
ESTABLISHING THE SUNSET STRIP BUSINESS
IMPROVEMENT DISTRICT IN THE CITY OF WEST
HOLLYWOOD

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. Findings.

- (a) Pursuant to the Parking and Business Area Law of 1989, California Streets and Highways Code Sections 36500 et seq. (the "Act"), the City Council adopted Resolution No.02-2626, dated January 7, 2002, entitled " A Resolution Of The City Council Of The City Of West Hollywood Confirming The Report Of The Advisory Board In Connection With The Establishment Of The Proposed Sunset Strip Business Improvement District, Declaring Its Intention To Establish The Sunset Strip Business Improvement District, Declaring Its Intention To Levy An Assessment On Businesses Within The Sunset Strip Business Improvement District For Fiscal Year 2001-2002, and Setting A Time And Place For A Public Hearing On The Establishment Of The District And The Levy Of The Assessment For Fiscal Year 2001-2002. "
- (b) The City caused notice of a public meeting and a public hearing concerning the proposed establishment of the Sunset Strip Business Improvement District and the proposed levy of an assessment against businesses for fiscal year 2001-2002 within the proposed District (the "Joint Notice of Public Meeting and Public Hearing") to be duly published and mailed as provided by law. Pursuant to Section 54954.6(c)(2)(G) of the California Government Code, this notice included the proposed assessment formula for an annual assessment.
- (c) A public meeting and a public hearing concerning the proposed establishment of the Sunset Strip Business Improvement District and the proposed levy of an assessment against businesses within the proposed District for fiscal year 2001-2002 were held on January 7, 2002, and February 4, 2002, respectively, at the hour of 6:30 p.m. in the West Hollywood Park Auditorium, 647 N. San Vicente Boulevard, West Hollywood, California.

- (d) At the public meeting and the public hearing, the testimony of all interested persons for or against the establishment of the proposed Sunset Strip Business Improvement District, the extent of the proposed District, or the furnishing of specified types of activities within the proposed District, and regarding the levy of an assessment against businesses within the proposed District for fiscal year 2001-2002 was heard and considered, and a full, fair and complete meeting and hearing were held.
- (e) In order to reduce the likelihood of classification appeals due to uncertain business classification, and in order to better reflect the levels of benefit derived by different businesses from the activities and improvements to be funded by the assessments, the City Council has elected to modify and clarify the definition of "retail business" used in the assessment formula. The clarified formula is reflected in this resolution. Such clarification will reduce the assessment against certain businesses. It will not increase the assessment against any business.
- (f) In the opinion of the City Council, the businesses and the property within the Sunset Strip Business Improvement District will be benefited by the activities and improvements to be funded by the assessments.

The District is one of the region's premier destinations for evening entertainment, dining and shopping. West Hollywood residents, residents of other Los Angeles area communities, and tourists from around the world visit the Sunset Strip as a result of its lively atmosphere. The activities and improvements funded by the District will seek to maintain and improve the atmosphere of the District through programs that enhance the District's cleanliness and safety.

The activities and improvements to be funded by the assessments will benefit District businesses by maintaining and improving the unique environment which draws customers to the District from throughout the world. Certain businesses, including restaurants, bars, nightclubs, hotels, liquor retailers, and valet parking businesses, will derive a high level of benefit from these activities and improvements, since these businesses are highly dependant on customers drawn to the unique environment of the District. Other retail sales businesses will also benefit, though to a lesser extent, due to the increased customer traffic associated with an economically vital retail district.

The system of assessments set forth and clarified in Section 4 below recognizes that different sizes and types of businesses receive different benefits from the activities and improvements, and therefore should be assessed at different levels. Therefore, a higher assessment is levied upon restaurants, bars, nightclubs, hotels, and liquor retailers than upon other retail sales businesses. Within each of these categories of highly benefited businesses, larger businesses, which are able to serve more customers, are assessed at a higher amount. Because restaurants which do not have liquor licenses tend to draw from a more local customer base, such restaurants are assessed at a lower level than restaurants with liquor licenses. Valet parking businesses are assessed because they generally provide services to customers of restaurants, bars, nightclubs, and hotels and therefore benefit from activities and improvements which increase the patronage of these businesses.

All nonexempt businesses and property in the District will benefit from activities and improvements which prevent economic deterioration and promote economic vitality.

Businesses which are not retail sales businesses, such as professional offices, service businesses, and other businesses that do not predominately sell merchandise to the public, are exempted from the assessment because such businesses generally do not serve casual visitors to the District and therefore receive only de minimus benefits from the proposed improvements and activities.

- (g) The City Council finds that the public interest, convenience and necessity require the establishment of the proposed Sunset Strip Business Improvement District. However, in consideration of the financial hardships that many Sunset Strip businesses have suffered during fiscal year 2001-2002 (July 1, 2001 through June 30, 2002), the City Council desires to delay the levy of assessments against businesses until fiscal year 2002-2003, which begins on July 1, 2002.
- (h) The City Council intends to conduct further proceedings, pursuant to the Act, to levy an assessment for Fiscal Year 2002-2003 and subsequent fiscal years which does not exceed the assessment formula previously specified in the Joint Notice of Public Meeting and Public Hearing and adopted by the City Council in this Ordinance.

- (i) At the Public Hearing, the City Council heard and considered all protests, and all protests, both written and oral, were duly overruled. The City Council hereby determines that there was not a majority protest within the meaning of Section 36525 of the Act.

SECTION 2. Establishment of District.

Pursuant to the Act, a business improvement area designated as the "Sunset Strip Business Improvement District" (the "District") is hereby created and established.

SECTION 3. Description of District.

The boundaries of the District shall include all of the territory described in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 4. System of Assessments.

- (a) Except where funds are otherwise available, an assessment will be levied annually to pay for all the activities and improvements to be provided within the District, commencing with fiscal year 2002-2003.
- (b) The modified and clarified method and basis of levying the assessment is set forth in Exhibit B, attached hereto and incorporated herein by reference.
- (c) For purposes of the levying and collecting assessments within the District, a fiscal year shall commence on each July 1st and end on the following June 30th. The assessment for each fiscal year shall be due and payable on July 1 of that fiscal year and shall become delinquent 90 days thereafter. Prior to each July 1st, the City shall provide the business owners within the District with written notice of the amount of the assessment which is owed for that fiscal year.
- (d) The assessment shall be subject to the same penalties for nonpayment as the business license tax. In addition to the penalties imposed, the assessment shall be subject to interest at the rate of one-half of one percent per month for each month or portion of a month that the assessment shall be delinquent on the amount of the assessment, exclusive of penalties, from the date on which the assessment first became delinquent until paid. The interest shall be computed on a monthly basis and shall not be subject to proration for any portion of a month. A payment made by mail shall be deemed

received on the date shown on a postage cancellation stamp imprinted on the envelope in which the payment is received, or if payment is made by means other than through the United States Mail, payment shall be deemed received on the date the payment is stamped "received" by the Director of the City's Finance Department or his or her designee.

- (e) New businesses established in the District and registered with the City on or after July 1 of any fiscal year shall be exempt from the assessment for that fiscal year. No new businesses shall be exempt from the levy of the assessments for a period exceeding one year from the date the business commences operating in the District.
- (f) In the event a business owner disagrees with the classification assigned to his or her business, the business owner may file an application for reclassification with the Director of the City's Economic Development Department (the "Director"). This application shall set forth with specificity the facts upon which it is based. Upon receipt of such an application, the Director shall investigate and review the matter and shall either affirm the original classification or assign a new classification and shall notify the business owner of the decision in writing. The Director may refuse to accept an application for reclassification from a business owner who has applied for reclassification within the previous 12 months if the application fails to state material and relevant facts which were not, and could not have been, presented in the previous reclassification application. The decision of the Director on an application for reclassification shall be final.
- (g) The amount of assessment, penalty and interest imposed by the provisions of this Ordinance shall be deemed a debt to the City. An action may be commenced in any court of competent jurisdiction in the name of the City for the amount of such debt. The conviction and punishment of any person for failure to comply with the provisions of this Ordinance shall not relieve such person from paying any assessment, penalty or interest due and unpaid at the time of such conviction nor shall payment prevent prosecution of a violation of any of the provisions of this Ordinance. All remedies shall be cumulative, and the use of one or more remedies by the City to enforce this Ordinance shall not bar the use of any other remedy.

- (h) The assessment formula set forth in Exhibit B is hereby adopted by the City Council.

SECTION 5. Fund.

There is created a special fund designated as "Sunset Strip Business Improvement District Fund" into which all revenue derived from assessments levied pursuant to this Ordinance shall be placed, and such funds shall be used only for the purposes specified in this Ordinance. This fund shall be subject to an annual independent audit.

SECTION 6. Use of Revenues.

The improvements that will be funded by the levy of an assessment against businesses within the District are the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more, including, but not limited to, the following: (i) parking facilities, (ii) benches, (iii) trash receptacles, (iv) street lighting, (v) decorations, (vi) parks, and (vii) fountains.

The activities that will be funded by the levy of an assessment against businesses within the District are (i) promotion of public events which benefit businesses in the District and which take place on or in public places within the District, (ii) furnishing of music in any public place in the District, (iii) promotion of tourism within the District, and (iv) activities which benefit businesses located in and operating in the District.

The revenue derived from the levy of the assessments shall not be used to provide activities outside the District or for any purpose other than the purposes specified in Resolution No. 02-2626.

SECTION 7. Contract Services.

The City may contract with a separate private agency to administer the improvements and activities described in Section 6 above. Any agency that holds funds in trust for purposes related to the contract shall, at no expense to the City, provide an annual independent audit report by a Certified Public Accountant of these funds. The audit may be funded from assessment proceeds as part of the general administration of the District. At all times the City shall reserve full rights of accounting of these funds.

SECTION 8. Amendments.

Businesses within the District established by this Ordinance shall be subject to any amendments to the Act

SECTION 9. Certification.

The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published or posted in the manner prescribed by law.

SECTION 10. Severability.

If any section, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of West Hollywood hereby declares that it would have passed and does hereby pass this Ordinance and each section, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 19 day of February, 2002 by the following vote:

AYES: Councilmember: Duran, Martin, Prang, Mayor Pro Tempore Guarriello and Mayor Heilman.

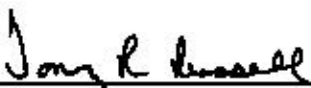
NOES: Councilmember: None.

ABSENT: Councilmember: None.

ABSTAIN: Councilmember: None.


JOHN HEILMAN, MAYOR

ATTEST:


TONY RUSSELL, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, TONY RUSSELL, City Clerk of the City of West Hollywood, do hereby certify that the foregoing ORDINANCE NO. 02-621 was duly passed, approved and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 19th day of February, 2002, after having its first reading at the regular meeting of said City Council on the 4th day of February, 2002.


TONY RUSSELL, CITY CLERK

Exhibit A
District Boundaries

Boundaries of the Sunset Strip BID

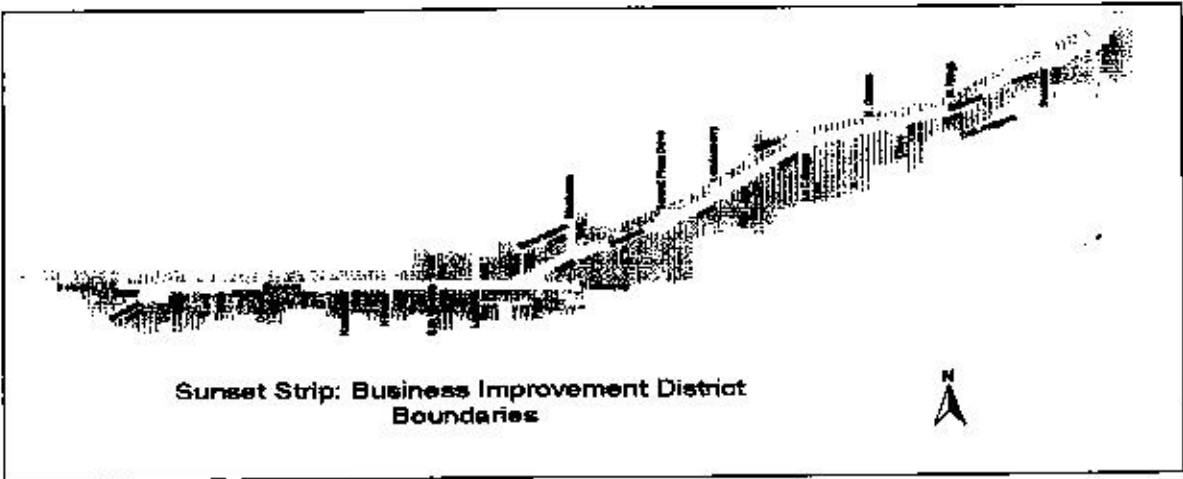
The City of West Hollywood is surrounded by the City of Los Angeles on the north, south and east and the City of Beverly Hills on the west. The Sunset Strip Business Improvement District is primarily centered along a 1.2-mile stretch along the portion of Sunset Boulevard known as "The Strip." The district is comprised of one zone.

The specific addresses included in the BID boundaries are as follows:

Alta Loma Rd.	1190-1232
Carol Dr.	1030-1058
Clark Dr.	142-150
Cory Ave.	1004-1010
Doheny Dr.	1060-1111
Doheny Rd.	9201-9337
Hammond St.	1016-1026
Harper Ave.	1420-1454
Hilldale Ave.	1000-1036
Holloway Dr.	8731-8766
Horn Ave.	1100-1120
La Cienega Blvd.	1200-1234
Larrabee St.	1010-1050
Miller Dr.	1320
Olive Dr.	1300-1339 1/2
Palm Ave	1012-1022 1/2
San Vicente Blvd.	1000-1031
Sherbourne Dr.	1104-1114
Sunset Blvd.	8222-9220 and 9229 9255 (odd only)
Sweitzer Ave.	1400-1422

The service area includes approximately 200+ businesses. The map below illustrates the entire district.

Sunset Strip BD Map



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international firms, television broadcasting, dental laboratories, outdoor advertising

services, manufacturing industries, non-classifiable establishments, legal counsel and prosecutors, legal services, music recording, insurance agents/brokers, entertainers, general medical and surgical services, physical fitness facilities, commercial photography, executive offices, miscellaneous publishing, museums, management investment, nonprofit service establishments; radio broadcasting, adjustment and collection, accounting/auditing, engineering services, and travel agencies.