

ORDINANCE NO. 95-450

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD ESTABLISHING THE AVENUES OF ART AND DESIGN 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 Improvement Area Law of 1989, California Streets and Highway Code sections 36500 et seq. (The "Act") the City Council adopted Resolution 95-1508, dated November 6, 1995, entitled "A Resolution of the City Council of the City of West Hollywood Declaring its Intention to Establish the Avenues of Art and Design Business Improvement District and to Levy an Assessment Against Businesses in the District for Fiscal Year 1995-1996, and setting a Time and Place for Hearing Objections Thereto "

(B) The City caused notice of a public meeting and a public hearing concerning the proposed establishment of the Avenues of Art and Design Business Improvement District and the proposed levy of an assessment against businesses within the proposed District for fiscal year 1995-1996 to be duly published and mailed as provided by law.

(C) A public meeting and a public hearing concerning the proposed establishment of the Avenues of Art and Design Business Improvement District and the proposed levy of an assessment against businesses within the proposed District for fiscal year 1995-1996 were held on November 6, 1995, and December 4, 1995, respectively, at the hour of 7:00 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 Avenues of Art and Design Business Improvement District, the extent of the proposed District, or the furnishing of specified types of improvements and activities within the proposed District, and regarding the levy of an assessment against businesses within the proposed District for fiscal year 1995-1996 was heard and considered, and a full, fair and complete meeting and hearing were held.

(E) 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

(F) The public interest, convenience and necessity require the establishment of the proposed Avenues of Art and Design Business Improvement District

(G) In the opinion of the City Council, the businesses and the property within the proposed Avenues of Art and Design Business Improvement District (the "District") will be

benefited by the improvements and activities to be funded by the assessments. Businesses within the District will specifically benefit from improvements and activities promoting the District. The goal of such improvements and activities is to promote economic vitality of the District through the attraction of more customers and consumers to the District who will patronize District businesses. The system of assessments set forth in Section 4 below recognizes that businesses will receive varying levels of benefit depending on their classification. The highest level of benefit will be recovered by retail businesses and restaurants since such businesses will be impacted the most by improvements and activities which increase the amount of pedestrian traffic on streets within the proposed District, thereby enhancing the visibility, consumer awareness and professional design awareness of such businesses and increasing the opportunity for walk-in business. Improvements and activities which promote economic vitality and which attract pedestrians to the District will also benefit all other nonexempt businesses in the District through providing increased visibility. All nonexempt businesses and property in the District will benefit from improvements and activities which prevent economic deterioration and promote economic vitality.

SECTION 2. ESTABLISHMENT OF DISTRICT. Pursuant to the Act, a business improvement area designated as the Avenues of Art and Design Business Improvement District (the "District") is hereby created and established.

SECTION 3. DESCRIPTION OF DISTRICT. The boundaries of District are generally described as Santa Monica Boulevard on the north, Beverly Boulevard on the south, La Cienega Boulevard on the east and Doheny Drive on the west. A list of addresses which are included in the District is included 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 improvements and activities to be provided within the District, commencing with fiscal year 1995-1996.

(B) The 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 levied for fiscal year 1995-1996 shall be for the period commencing January 1, 1996 and ending June 30, 1996 and assessments for fiscal year 1995-96 shall be prorated with businesses within the District assessed one-half of the amount shown on Exhibit B. The assessment for fiscal year 1995-1996 shall be due and payable on February 1, 1996 and shall become delinquent 90 days thereafter. Prior to February 1, 1996 and prior to each June 30th for subsequent fiscal years, the City shall provide the business owners within the District with written notice of the amount of the assessment which is owed.

(D) The assessment shall be subjected 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 received 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.

(E) New businesses established in District after the effective date of this Ordinance shall be exempt from the levy of the assessments for fiscal year 1995-96. Businesses established in the District on or after July 1 in any subsequent fiscal year shall be exempt from the assessment for that fiscal year. The transfer of a business from one owner to another shall not constitute the establishment of a new business for purposes of this Ordinance. 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 Department of Community Development (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

SECTION 5. FUND There is created a special fund designated as "Avenues of Art and Design 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

Revenues derived from the system of charges shall be used to promote the Avenues of Art and Design as a vibrant and unique shopping and dining destination The City shall

allocate the revenue generated under the provisions of this Ordinance to an organization selected by the City to provide the service. Such organization shall be required to use the revenue as follows.

- (A) Promotion of public events which benefit businesses in the District and which take place on or in public places within the District; and
- (C) Activities and improvements which benefit businesses located and operating in the District


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 the funds in trust for purposes related to the contract shall, at no expense to the City, provide an annual independent 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 Parking and Business Improvement Area Law of 1989, California Streets and Highways Code Sections 36500 et seq.

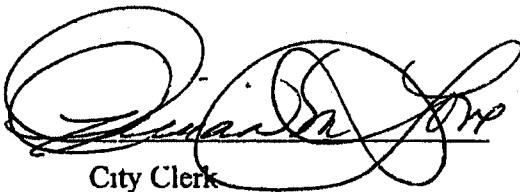
SECTION 9. CERTIFICATION. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in the manner by law

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 pass the 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 this 2nd day of January, 1996.



Mayor



City Clerk

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

I, VIVIAN M LOVE, CMC, City Clerk of the City of West Hollywood, California, hereby certify that the foregoing Ordinance No. 95-450 was duly re-introduced by the City Council at their regular meeting held on the 2nd day of January, 1996, and was duly passed, approved and adopted at the regular meeting held on the 16th day of January, 1996, by the following vote.

AYES: Councilmember-Land, Martin, Koretz, Mayor Heilman
NOES: Councilmember-Guarriello
ABSENT. Councilmember-None

I further certify that this ordinance was posted in three public places as provided for in Resolution No 5, adopted the 29th day of November, 1984

WITNESS MY HAND AND OFFICIAL SEAL THIS 17TH DAY OF JANUARY, 1996.

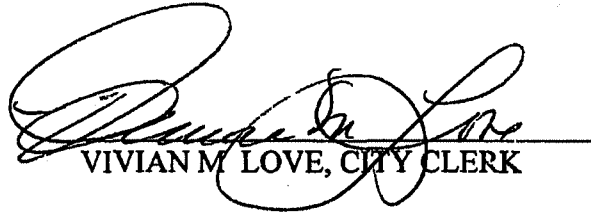

VIVIAN M LOVE, CITY CLERK

EXHIBIT A

The boundaries of the Avenues of Art and Design Business Improvement District include the following addresses:

North Almont Dr	150-199, 600-633
West Ashcroft Ave	8760-8817
West Beverly Blvd.	8600-8839, 8841-9059
West Beverly Place	8560-8568 even
West Bonner Dr.	8767-8793
North Clark Dr	140-199
North Doheny Dr	450-600 even
West Dorrington Ave.	8760-8817
North Huntley Dr	300-308, 560-610
North La Peer Dr	150-199, 600-646
West Melrose Ave	8500-8686, 8688-9095
North Norwich Dr	546-552 even, 553-559
West Rangely Ave.	8760-8816, 9031-9039
North Robertson Blvd	140-666 1/2
West Rosewood Ave	8757-8760, 8804-8811,
North San Vicente Blvd	300-599
North Swall Dr.	150-199
North Westbourne	301-309 odd, 310-318 even, 560-610
North West Knoll	550-610
North Westmount	550-610
North Wetherly Dr	148-152

EXHIBIT B

Proposed Assessment

The proposed assessment formula is designed to generate income from the businesses within the boundaries of the assessment area. Assessments are a combination of a base assessment (based on business category) and a sliding scale assessment (based on categories of annual gross sales using the prior year's gross sales). For fiscal year 1995-1996, the minimum annual assessment is \$60.00 and the maximum annual assessment is \$1180.00. Those businesses which receive the most benefit from the proposed activities and improvements pay a higher assessment than those businesses which will receive less benefit from the proposed activities. In addition, those businesses that have higher annual gross sales will pay a higher assessment than businesses with lower annual gross sales. New businesses will only have to pay the base assessment for their category. They will not be assessed based on their gross sales for their first year in operation.

BUSINESS CATEGORIES

Businesses within the boundaries of the proposed district have been classified into five categories

CATEGORY 1 BUSINESSES represent those businesses that will serve as the "destination" points for visitors to the Avenues of Art and Design. These businesses will receive the most benefit from the proposed activities and improvements which are geared toward bringing people into the area to shop and dine. Businesses in this category include, but are not limited to:

Antique Shops, Bakeries, Bars, Bookstores, Coffee Houses, Delis, Clothing Stores, Electronic Stores, Florist, Gift Shops, Jewelry Stores, Carpet & Rug Stores, Restaurants, Design Showrooms (retail)

CATEGORY 2 BUSINESSES are not necessarily destination businesses, but will derive significant benefit from the proposed activities and improvements which are designed to bring people into the area to shop and dine and secondarily to conduct personal businesses. Businesses in this category include, but are not limited to:

Art Galleries, Barber Shops, Banks, Beauty Salons, Gyms, Interior Designers/Decorators, Laundry/Cleaners, Liquor Stores, Parking Management Companies, Pet Stores, Pharmacies, Photo Developing, Photography Studios, Print and Copy Stores, Professional Schools, Shoe Repair, Tailors, Travel Agents

CATEGORY 3 BUSINESSES will derive moderate benefit from the proposed activities and improvements because by making the area a vibrant and unique shopping and dining destination, more people will be in the general area doing business. In addition many of these businesses cater to other businesses located in the area. Businesses in this category include, but are not limited to:

Architects, Attorneys, Bookkeeper/Accountant/CPA, Corporate Headquarters, Grocery Stores, Financial Consultants, Hardware Stores, Insurance, Manufacturers, Public

Relations, Real Estate Brokers, Showrooms open to wholesale trade only, Talent Agencies, general office uses

CATEGORY 4 BUSINESSES consist of owner/operators who will derive nominal benefit from the proposed activities and improvements because by making the area a vibrant and unique shopping and dining destination, more people will be in the general area doing business. Owner/operators will benefit from these activities and improvements on a smaller scale than larger establishments. Businesses in this category include, but are not limited to:

Personal service owner/operator without employees

CATEGORY 5 BUSINESSES includes businesses that will not receive benefit from the proposed activities and improvements and therefore will be exempt from the assessment. Business in this category include, but are not limited to.

- Medical-related professionals who are mainly in the area because of its proximity to Cedar Sinai Hospital They derive business because the hospital is a well-known health service institution and they do not identify with the Avenues of Art and Design.
- Pacific Design Center - The businesses within the PDC benefit from their own marketing, promotion and identity campaign.
- Antiquarian Mall - The Antiquarian has its own marketing and promotion plan.
- Non-Profit Organizations, and Governmental agencies and other businesses including property management firms, pet hospitals, pharmacies and veterinarians that will not receive benefit from the proposed activities and improvements.

ASSESSMENT FORMULA

In addition to the base fee discussed above, businesses will be assessed an additional amount based on their annual gross sales. Businesses that have larger annual gross sales will be assessed more than businesses that have smaller annual gross sales. Businesses in Category 1 with \$100,000 or less in gross sales will not be assessed an additional amount. Businesses in Category 2 with \$100,000 in gross sales or less will not be assessed an additional amount.

CATEGORY 1 BUSINESSES

Annual Gross Sales for prior year	Base Fee	Increment Increase	Total Assessment
\$0 - 100,000	\$180.00	\$0	\$180.00
\$100,001 - 250,000	\$180.00	\$100.00	\$280 00
\$250,001 - 500,000	\$180.00	\$200.00	\$380 00
\$500,001 - 750,000	\$180.00	\$300 00	\$480.00
\$750,001 - 1,000,000	\$180.00	\$400.00	\$580 00
\$1,000,001 - 1,500,000	\$180.00	\$600.00	\$780.00
\$1,500,001 -2,000,000	\$180.00	\$800 00	\$980.00
\$2,000,001+	\$180 00	\$1,000.00	\$1,180.00

CATEGORY 2 BUSINESSES

Annual Gross Sales for prior year	Base Fee	Increment Increase	Total Assessment
\$0 - 100,000	\$120.00	\$0	\$120 00
\$100,001 - 200,000	\$120.00	\$100.00	\$220 00
\$200,001 - 400,000	\$120 00	\$200.00	\$320 00
\$400,001 - 700,000	\$120.00	\$300 00	\$420 00
\$700,001 - 1,000,000	\$120.00	\$400.00	\$520 00
\$1,000,001 +	\$120.00	\$500.00	\$620 00

CATEGORY 3 BUSINESSES

Base Assessment \$100.00
Increment Increase None

CATEGORY 4 BUSINESSES

Base Assessment: \$60 00
Increment Increase: None

CATEGORY 5 BUSINESSES

Base Assessment None
Increment Increase: None