



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Wilson and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Gill, Director of Parks and Recreation

DATE: February 15, 2005

SUBJECT: Consideration of an Ordinance Allowing the Sampling of Products on the Beach with Prior City Council Approval.

RECOMMENDATION:

Staff recommends that the City Council waive further reading and introduce Ordinance No. 2073 amending section 12.08.260 of Chapter 12.08 of Title 12 of the Manhattan Beach Municipal Code, allowing the sampling of products on the beach with prior City Council approval.

FISCAL IMPLICATION:

There are no fiscal impacts associated with this request.

BACKGROUND:

During the December 7, 2004 City Council Meeting, the City Council requested the City Attorney draft and amend Section 12.08.260 of Chapter 12.08 of Title 12 of the Manhattan Beach municipal code, allowing the sampling of products on the beach with City Council approval.

Upon adoption, this ordinance will become effective in 30 days. If approved, this municipal code change will allow sampling on the beach at special events with prior City Council approval.

DISCUSSION:

Currently the municipal code prohibits the sales or sampling of products on the beach. There are several City special events that have allowed the sales and sampling of products such as the Manhattan Beach Open and 6-Man Volleyball Tournament.

During the December 7, 2004 City Council meeting, the City Council, City staff and the Association of Volleyball Professionals discussed the issue of sampling on the beach. The sales and sampling of products is vital to the success of certain beach events such as the Manhattan Beach Open. The City Council agreed that sales and sampling could be allowed for certain special events with their prior approval.

The attached ordinance allows the sampling of products on the beach with prior City Council approval.

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Staff recommends that the City Council adopt Ordinance No. 2073 amending Section 12.08.260 of Chapter 12.08 of Title 12 of the Manhattan Beach municipal code.

Attachments:

- A. Ordinance No.2073

ORDINANCE NO. 2073

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING SECTION 12.08.260 OF CHAPTER 12.08 OF TITLE 12 OF THE MANHATTAN BEACH MUNICIPAL CODE REGARDING PERMITTING SAMPLING ON THE BEACH

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

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. Presently solicitation and peddling on the beach is prohibited.
- B. The term "solicitation" includes giving away free samples.
- C. During certain special events on the beach sponsors of those events desire the opportunity to give away free samples of their product to the public.
- D. Allowing free samples to be given away on the beach during special events with appropriate controls and conditions will not be injurious to the general public health, safety and welfare.

SECTION 2. Section 12.08.260 of Chapter 12.08 of Title 12 of the Manhattan Beach Municipal Code is hereby amended in its entirety to read as follows:

12.08.260 Solicitation or Peddling

- A. No person shall solicit, peddle, sell, or offer for sale any goods, wares or merchandise in any portion of the City lying westerly of the easterly line of The Strand except upon the pier or wharf and in the pavilion building thereon, provided however that, with the approval of the City Council sampling shall be permitted.
- B. No person shall solicit, peddle, sell or offer for sale any goods, wares or merchandise on the pier at the foot of Manhattan Beach Boulevard in the City without first having obtained a permit therefore from the Council.
- C. During major volleyball tournaments on the beach at the Manhattan Beach pier, when recommended by the Department of Recreation of the City, food sales will be allowed with Council permit, but subject to the following conditions:
 - 1. Sales will be allowed on sand only from established booths located within one hundred (100) yards of the south edge of the pier, and only on the south side. No vendor shall conduct any sales or dispense merchandise from a location outside of a booth.
 - 2. Liability insurance must be provided with the City named as also insured and to the limits recommended by the City Risk Manager.
 - 3. The City's hold harmless and contract endorsement forms must be signed by the seller.
 - 4. Any booth shall consist of a ten foot by ten foot (10' x 10') structure (approved by the Fire Department). Any booth shall be dismantled and completely removed from the beach within two (2) hours of the conclusion of the event.
 - 5. All vendors shall have a valid City of Manhattan Beach business license.

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The

City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. 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 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 1st day of March, 2005.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk