



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: January 15, 2008

TO: Mayor and Councilmembers

FROM: Police Department
City Attorney's Office

SUBJECT: Introduction Of Ordinance For Revisions To Dance Permit Ordinance

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Title Five of the Santa Barbara Municipal Code by Revising Chapter 5.20 with Respect to Dance Permits.

DISCUSSION:

On December 13, 2005, May 22, 2007, and July 17, 2007, the Council Ordinance Committee directed City staff to review and to propose necessary revisions the City's Dance Permit Ordinance. The information presented in this report is the result of this direction from the Ordinance Committee and months of discussion and research by a staff team working on this project. The staff team includes members from Police, Fire, Community Development, Finance, City Attorney's Office and City Administrator's Office. City staff believes that the proposed changes to the Dance Permit ordinance will more effectively manage the dance permit establishments, public safety and quality of life issues, especially at "nightclub" locations within the City's Entertainment District and especially with respect to excessive noise. At the same time, the revisions should simplify the process for obtaining a limited or "live-entertainment" type dance permit for those establishments which wish to offer some dancing in conjunction with their business but only wish to do so a few times a year or without amplification of the music.

Over the past 15 years, the City of Santa Barbara has experienced growth in the number of restaurants, bars and nightclubs in the downtown "Entertainment District." As defined in the City's General Plan, the Entertainment District is a corridor from approximately Sola Street south to the beach, Chapala Street to the west, and Santa Barbara Street to the east.

REVIEWED BY: _____ Finance _____ Attorney

Agenda Item No. _____

The City of Santa Barbara's existing Dance Permit Ordinance was first adopted in the 1960's and last updated in 1994. City staff, the Fire and Police Commission, and some business representatives believe that the City's current ordinance should be updated to better manage the type of vibrant Entertainment District that now exists within Santa Barbara today. In recent years, the City's downtown Entertainment District has experienced significant growth. For example, the State Alcohol and Beverage Control ("ABC") data clearly indicates that the City's Entertainment District has one of the highest concentrations of ABC liquor licenses per capita in the state of California.

Although not every establishment that has an ABC license has a dance permit, there are currently a total of twenty-six (26) valid dance permits in the city of Santa Barbara. Twenty-two (22) of these permits, or approximately 85%, are located within the Entertainment District. Moreover, 15 of the 22 Entertainment District dance permits are located in the area bounded by Chapala, Santa Barbara, Ortega, and Gutierrez Streets. Because of the high concentration of dance permits and ABC licenses within this District, it is not uncommon to have a considerable amount of the Police Department's on-duty personnel policing the Entertainment District due to call volume and crowd management on most Wednesday, Thursday, Friday, and Saturday evenings from 10:00 p.m. to 3:00 a.m. Over the last three (3) years from the hours of 10:00 pm to 3:00 am, 32% of the City's reported criminal offenses, and 49% of all alcohol-related offenses occurred in the Entertainment District. This area also accounted for 36% of the Police Department's arrests. From 2005 to 2007, the City's Entertainment District experienced a 36% reduction in reported criminal offenses, which indicates that enforcement, prevention, and education efforts can be successful in reducing some of the negative impacts.

Excessive noise from amplified music is also clearly an issue within the Entertainment District. Additionally, visitors walking to and from the area and increased vehicular traffic related to the popularity of the area contribute to high noise levels. The area residents and hotels consider noise to be one of the major concerns of the District.

In December 2005, City staff made a presentation to the Council Ordinance Committee requesting direction as it relates to the present City Dance Permit ordinance. The Ordinance Committee subsequently directed staff to update the existing ordinance, conduct public outreach, and consider options to address the concentration of dance permits in the Entertainment District.

City staff's proposed revisions are intended to address public safety and quality-of-life issues, with continued attention to program management and cost. The process utilized to establish these revisions included the following:

- Forming a multi-departmental team;
- Conducting research from ten other communities;
- Holding three community/stakeholder meetings;
- Holding 10 individual stakeholder meetings with members of the Bar and Restaurant Committee (BRC), a group of neighborhood representatives from local residences and hotels, and the Downtown Organization (DO); and
- Reviewing the proposed changes with the Fire and Police Commission.

ABC was repeatedly consulted regarding the proposed ordinance updates. ABC representatives were present at all three community meetings, as well as the Fire and Police Commission meeting.

Stakeholder input was robust throughout the process and was incorporated into many of the proposed changes. City staff believes that this methodology provided an adequate opportunity for full stakeholder involvement.

In April 2007, staff presented a revised draft Dance Permit ordinance and program changes to the Board of the Fire and Police Commissioners. At the meetings, stakeholders discussed their approval of, and their concerns with, the proposed changes. The Fire and Police Commission provided input and were supportive of the proposed ordinance changes.

SCOPE OF THE PROPOSED PROGRAM CHANGES – SUMMARY OF PROPOSED CHAPTER 5.20 AMENDMENTS:

On May 22, 2007, the Council Ordinance Committee reviewed the initial draft of a suggested program for revisions to the City's Dance Permit ordinance - Chapter 5.20. At that time, the Committee directed staff to concentrate on certain aspects of an ordinance to streamline and improve the City dance permitting process – including the types of conditions of approval to deal with noise and security complaints within the Entertainment District. The Committee suggested the following as possible revisions to the existing ordinance and these revisions have been incorporated into the attached revised draft of SBMC Chapter 5.20:

1. The proposed new Chapter 5.20 would establish 3 distinct types of City dance permits (and related processes) as follows:

- A “nightclub” dance permit which would require the full application process with public hearing review of the application by the Fire and Police Commission and for which the Commission may impose strict conditions of approval for such things as security and noise control. Nightclub permits would be renewable annually and could be renewed by the Police Department except where the Department determines that the permittee has violated the Dance Permit ordinance in the operation of the establishment or where there have been an excessive number of noise or security complaints or violations of the law with respect to how the nightclub is operated.
- A “limited” dance permit which would allow a business (such as a restaurant or a private club) to offer dancing on a limited or set number of occasions during the year. Such a permit would be subject to a simple application process with the application reviewed and issued (and, if requested, renewed annually) by the Police Department except where the permittee has operated in such a way that complaints have occurred with respect to the use of the business to offer dancing. The draft ordinance proposes to limit the number of occasions when dancing may be offered under a “limited” permit to 12 dates per year.
- A “live-entertainment” dance permit which would not be limited in terms of the numbers of occasions dancing may be offered but which would be restricted exclusively to non-amplified music and singing ending prior to midnight each day. Such a permit would also be issued and renewed on a simplified basis by the Department unless the Department found there had been violations in the operation of the dance establishment or an excessive number of noise or security complaints or an inordinate number of violations of the law at the establishment.

On July 17, 2007, City Staff returned to the Council Ordinance Committee. After a further public discussion of the provisions of the draft ordinance, the Council Ordinance Committee voted unanimously to forward the proposed ordinance to the Council for introduction with the following revisions:

1. Delete the requirement of adequate parking from the grounds to deny a dance permit application;
2. Increase the number of days per week from two days to three days for live entertainment permits; and
3. Add language to not increase the occupancy load for a live entertainment permit.

The Committee also requested that the proposed ordinance be sent to the Council with a matrix that outlines how the progressive discipline process will work, a flow chart to visually demonstrate how the three permits would be reviewed, and a commitment to quarterly status reports for pending and existing dance permits to the Fire and Police Commission. Since then, the proposed ordinance has been modified to reflect the Ordinance Committee's requests.

The draft ordinance provides that all three types of permits would be issued only on an annual basis, with a renewal application required each year. In this way, the permits would be reviewable, either initially or on renewal, by the Fire and Police Commission. However, whether such Commission review should occur would initially be determined appropriate by the Police Department. This approach should allow "Limited" and "Live-Entertainment" permit holders who do not demonstrate a pattern of violations of permit conditions or who have not been the subject of nuisance complaints to have a simplified and expedited (i.e., over-the-counter) application and annual renewal process.

The attached draft ordinance also tries to be much more specific with respect to the sort of conditions which may be imposed on a dance permit and with respect to the proper grounds for which a permit may be suspended or revoked. Finally, this draft limits the types of permit applications (and suspensions/revocations) which may be appealed to the City Council only to "nightclub" type dance permits. However, all permit holders and all permits are potentially appealable to the Fire and Police Commission. In addition, in response to a suggestion from the Council Ordinance Committee, the draft ordinance contains a requirement that, where applicable, an appeal to the City Council be preceded by an effort at private mediation between the permit holder and the person who has filed an appeal.

In addition to the foregoing, the draft dance ordinance:

- Requires background checks for new dance permits;
- Exempts specific institutions/organizations from the dance permit requirement;
- Requires new dance permit applicants to post a notice of public hearing, as well as notify all property owners within a 200' radius of the premises for which the permit is sought;
- Prohibits outdoor dancing;
- Sets forth specific and objective criteria to hold problem establishments accountable with progressively increasing penalties; and
- Creates a "pre-approval" process for those seeking a dance permit upon the purchase of an existing business where prospective buyers may go through the entire dance permit application process before the close of escrow.

BUDGET/FINANCIAL INFORMATION:

The City contracted with Public Resource Management to conduct a fee study of all City fees and service charges, which was completed in July 2004. According to the fee study, the cost of processing a dance permit in July 2004 was approximately \$1,094. This figure does not reflect salary and benefit increases since the study was conducted.

Staff is proposing a fee of \$1,200 for new (initial) nightclub and live entertainment dance club permits, and \$600 for limited permits. The proposed fees for annual renewals would be \$400 for nightclub dance permit renewals, \$200 for live entertainment permit renewals, and \$100 per year for limited dance permits. These fees will be established in guidelines which the draft ordinance authorizes the Department to develop and which will be submitted to the City Council for their approval.

CONCLUSION:

Staff's goal was to develop a Dance Permit Ordinance capable of managing the vibrant Entertainment District that exists today and into the future yet allowing flexibility and simplicity for some forms of "minor" limited (or non-nightclub) situations. Furthermore, staff believes that the proposed ordinance revisions and Departmental program changes will enhance further public safety and neighborhood quality of life within the City's Central Business District.

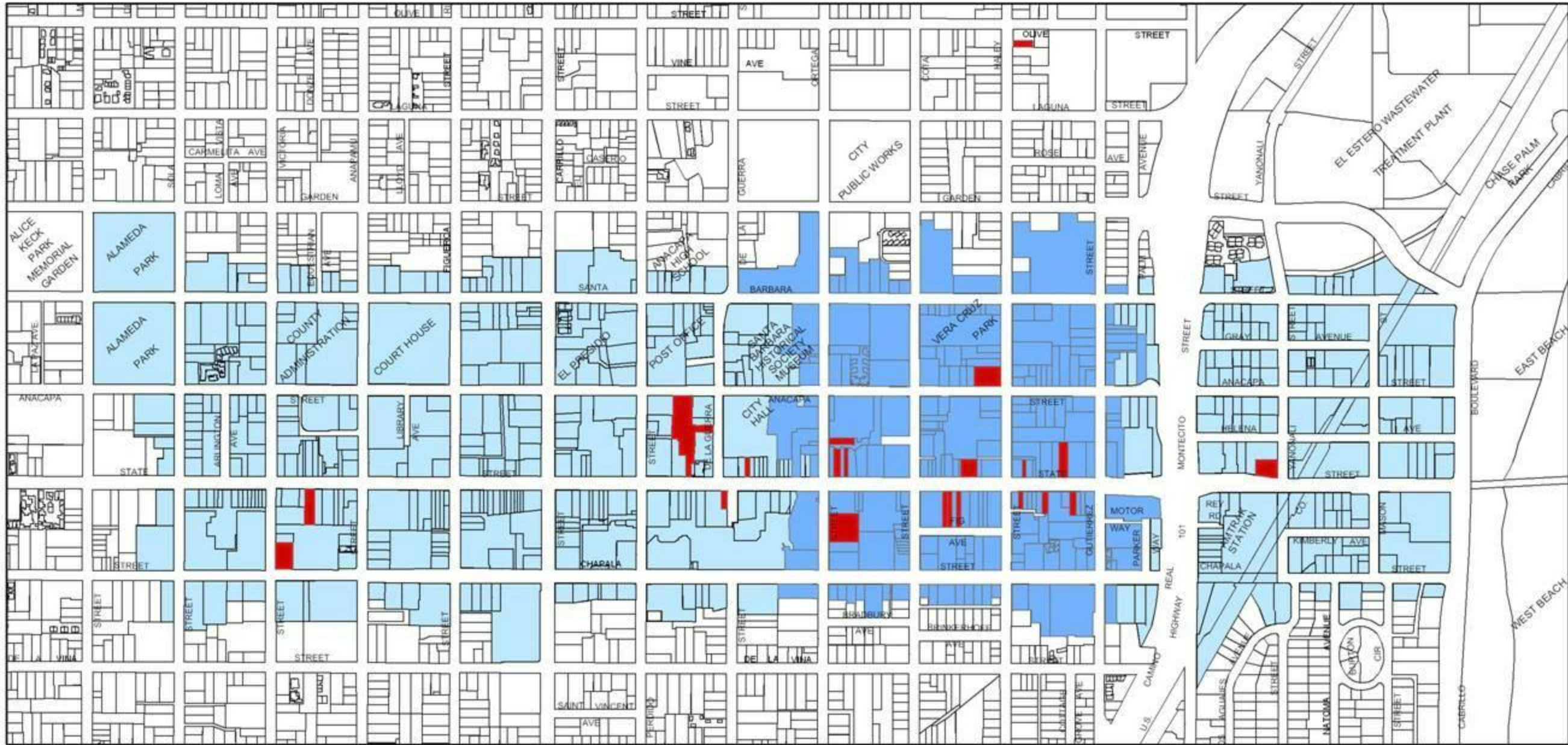
ATTACHMENTS: 1. Map – Entertainment District
 2. Dance Permit Penalty Matrix

PREPARED BY: City Attorney's Office

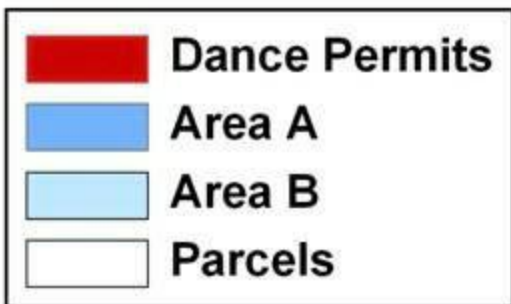
APPROVED BY: City Administrator's Office

Entertainment District

Chapala to Santa Barbara, Cabrillo to Sola



In this illustration, State Street runs horizontally



Dance Permit Penalty Matrix

VIOLATIONS		
Santa Barbara Municipal Code Violations	ABC Violations (Business & Professions Code)	Miscellaneous Violations
<ul style="list-style-type: none"> ➤ Noncompliance with Fire Code, including overcrowding (Uniform Fire Code) ➤ Noncompliance with Noise Ordinance (SBMC Chapter 9.16) ➤ Noncompliance with Dance Ordinance (SBMC Chapter 5.20) 	<ul style="list-style-type: none"> ➤ Serving minors ➤ Minors on premises ➤ Serving intoxicated patrons ➤ Other violations of B&P statutes, regulations, or conditions of ABC permit 	<ul style="list-style-type: none"> ➤ Misdemeanor or felony convictions related to the operation and management of a dance establishment

PENALTIES AND REPERCUSSIONS	
1 st Violation	- Verbal Warning
2 nd Violation	- Written reprimand and/or - Intervention meeting with interested parties
3 rd Violation	- Written reprimand, and/or - “Intervention” meeting with interested parties or - Fire & Police Commission Review <ul style="list-style-type: none"> ▪ Imposition of special conditions, and/or ▪ Suspension up to 15 days
4 th Violation	- Fire & Police Commission Review <ul style="list-style-type: none"> ▪ Imposition of special conditions, and/or ▪ Suspension up to 30 days
5 th Violation	- Fire & Police Commission Review <ul style="list-style-type: none"> ▪ Imposition of special conditions, and/or ▪ Suspension up to 6 months, and/or ▪ Revocation

- The above lists are not exhaustive and are to be regarded as guidelines. The Fire and Police Commission has the discretion to review any/all incidents and take appropriate action to ensure the public’s health, safety, and welfare.
- In assessing penalties and repercussions of violations, penalties imposed by other regulatory agencies, including fine(s), suspension(s), or revocations(s) will be considered.
- Only violations that result in a final disposition including a conviction, a plea of nolo contendere, civil compromise, or administrative action are to be considered violations.
- An “intervention” meeting shall consist of: dance permittee, Police Department representatives, including the Nightlife Enforcement Team Sergeant, a Fire and Police Commissioner, and a disinterested member of the Bar and Restaurant Committee. The purpose of this “intervention” is to work with the dance permittee to identify ways to prevent future violations and to make the dance permittee aware of the next phases in the matrix.