

REPORT OF GENERAL MANAGER

NO. 05-202

DATE: July 13, 2005

C.D. 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: REVISION TO VENICE BEACH BOARDWALK PUBLIC EXPRESSION PERMIT RULES AND REQUEST FOR CORRESPONDING ORDINANCE CHANGES

S. Huntley _____	J. Kolb _____
*J. Combs _____	F. Mok _____
H. Fujita _____	K. Regan _____
B. Jensen _____	



 General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

That the Board approve the revised Venice Beach Boardwalk Public Expression Permit Program Rules attached to this report and request the City Attorney to draft and submit to the City Council an ordinance amending Los Angeles Municipal Code (LAMC) Section 42.15 to include the changes described in this report.

SUMMARY:

On October 1, 2003, the Board of Recreation and Park Commissioners approved Report No. 03-313, the Public Expression Participant Program at Venice Beach Boardwalk. This permit program establishes the policies and procedures for those individuals who wish to conduct public expression activities at the Venice Boardwalk. The Board requested the City Attorney to draft an ordinance amending LAMC Section 42.15 to authorize enforcement of the program by the Los Angeles Police Department (LAPD).

Following the adoption of the Board Report, a working group began meeting to plan the implementation and enforcement of the public expression program. This group consisted of representatives from the City Attorney, LAPD, Council District 11, and the Department. Revisions to the program rules were approved by the Board on April 7, 2004 (Report No. 04-96). Those changes included renaming the title to make it easier for the public to identify the program's purpose, clarification that violations of LAMC Section 42.15 would also constitute administrative violations of the rules, and technical changes to the program regulations regarding the one-time processing fee of \$25 and the permit revocation process.

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On October 27, 2004, the City Council adopted Ordinance No. 176270 amending LAMC Section 42.15, requiring that the public expression activities allowed by Section 42.15 be exercised in designated spaces on the Venice Beach Boardwalk and that the use of those spaces be regulated by a permit process. A technical correction to Subsection D of Section 42.15 was approved by City Council on December 7, 2004 by Ordinance No. 176358.

On February 2, 2005, the Board approved additional revisions to the rules to further define the process used to select permit holders and to authorize a semi-monthly lottery procedure (Report No. 05-44). The first lottery was held on February 26, 2005. Currently, 687 permit holders are in the program. A total of twelve lotteries have been held, with an average of 30 performers and 120 general expression assigned spaces. On average, 22 permittees have been turned away from obtaining a designated space at each lottery, due to the limited number of spaces. In some cases, permit holders have been issued spaces but have not used them at all times, leaving them periodically empty. Permit holders who have been unable to obtain spaces have complained about the unused spaces. A total of 110 written notices of violation of the program rules have been issued. A few notices have been appealed and over-turned. No permits have been revoked. The Department's purpose in citing people is to achieve compliance with LAMC Section 42.15 as implemented by the program rules adopted by the Board.

On June 1, 2005, the Board considered Board Report No. 05-146 and approved a revision to change the lottery drawings from semi-monthly to weekly, in two parts: one for weekdays and one for weekends. On June 15, 2005, the Board adopted another recommendation from Board Report No. 04-146 providing that all spaces for general expression and performers would be the same size, 10 feet by 8 feet, thereby creating approximately 46 additional spaces for public expression on the Boardwalk.

In the response to the complaint that assigned spaces on the Boardwalk were frequently unoccupied, the Board held a special agenda meeting on June 28, 2005, and approved Report No. 05-192 approving an additional rule to be added to the permit program rules allowing daily "walk-on" use of assigned but unoccupied spaces by permit holders after 12:00 p.m. each day; provided, that if the assigned permit holder arrived after 12:00 p.m. and requested the use of his/her space, the "walk-on" permit holder would immediately relinquish the space.

The attached revision to the rules incorporates all previously approved changes and will address several other problems that have become apparent since the lottery system was implemented. Several meetings of the ad hoc community committee designated by the former Councilmember have been held with residents, performers, public expression permit holders, and Council representatives to discuss suggestions and options for improving the rules and regulations. A summary of the proposed revisions is as follows:

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- In order to address the numerous "noise" complaints, staff recommends prohibiting amplified sound before 9:00 a.m. and after dusk and locating performer spaces away from street corners. Numerous noise complaints have been received from local residents and business owners. In order to rectify the problem, staff recommends limiting the distance at which a permit holder can be heard to twenty five feet from their assigned, or "walk-on" space. This regulation balances the right of the permit holder to be heard with the rights of the neighboring residents and business owners to the peaceful enjoyment of their property and community.
- Changes in Boardwalk Regulations:
 1. Add the unequivocal notification that: "Section 42.15 prohibits all commercial vending" to regulation No. 1.
 2. Add "Amplified sound is prohibited on the boardwalk before 9:00 a.m. and after dusk" to regulation No. 7.
 3. Add "Sound that can be heard at a distance greater than twenty-five (25) feet from the space occupied by the permit holder is prohibited" to regulation No.7.
 4. Add rules for processing appeals from notices of violation as indicated in the "Permit Suspension/Revocation" section of the program rules.

FISCAL IMPACT STATEMENT:

The revised rules will have no impact to the General Fund.

This report was prepared by Vicki Israel and Lydia Ritzman.

City of Los Angeles Department of Recreation and Parks
VENICE BEACH RECREATION CENTER
(Revised – (7/13/05))

**VENICE BEACH BOARDWALK PUBLIC EXPRESSION
PERMIT PROGRAM RULES**

A Tradition of Public Expression on the Venice Beach Boardwalk:

The Boardwalk at Venice Beach is world-famous for its free performances and public expression activities. This tradition of performance and free speech is maintained under the Municipal Code of the City of Los Angeles (Section 42.15, copy attached), which prohibits commercial vending on the Boardwalk, but protects free speech activities. Improvements completed to the Boardwalk and Windward Plaza in 2001 have made the Venice Beach area even more popular with visitors than before, and the number of persons wishing to perform, show their art, or otherwise exercise their right to public expression also has expanded, creating problems in noise and congestion on the Boardwalk. The City of Los Angeles, Department of Recreation and Parks, has adopted a permit program to organize this activity. The Department and the Venice Beach Recreation Center would like to express our appreciation for your cooperation in keeping Venice Beach a safe, well-maintained and enjoyable area.

Public Expression Permit Program:

The Board of Recreation and Park Commissioners has established policies and procedures for participants who wish to conduct Public Expression activities on the west side of the Venice Boardwalk in the City of Los Angeles. Those individuals who are asking for money or soliciting donations in relation to their public expression activities must have a permit. Under these policies, the Department will issue a permit to persons who wish to conduct public expression activities on the west side of the Venice Boardwalk and assign space under a weekday and weekend Lottery program.

Applying for a Permit:

To apply for a permit, please complete an application form. Application forms are available from the Venice Beach Recreation Center, 1800 Ocean Front Walk. You may come to the office to obtain a form or you may request and receive one by mail. After filling out the form, return it in person, to the Venice Beach Recreation Center office, along with a one-time processing fee of \$25.00. The one-time processing fee pays for a photo identification card, which is your permit. The permit has no expiration date and is non-refundable. It is a lifetime permit unless revoked or lost, but to get a new or replacement permit, you must reapply and pay the fee again. Permits are only for individuals.

Public Expression Spaces on the Boardwalk:

The Department has drawn a plan of spaces on the west side of the Venice Beach Boardwalk which can be assigned to public expression permit holders. A total of 164 200 spaces are marked and numbered on the Boardwalk. ~~One Hundred Eighteen (118)~~ **One Hundred Sixty (160)** spaces, 10' wide by 8' deep in size, are for general expression. An additional ~~36~~ **40** spaces, 10' wide by 8' deep are for performance use only. Only marked and numbered spaces may be assigned for public expression activities. Assignments are made through Lottery.

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The Lottery:

A Lottery will be held every Tuesday for weekdays (Monday through Friday) and weekends (Saturday and Sunday) to determine specific space assignments on the west side of the Boardwalk.

The Lottery, under the supervision of the Venice Beach Recreation Center staff, will be held every Tuesday at 8:30 a.m. at Venice Beach Recreation Center, 1800 Ocean Front Walk, Venice, CA 90291 (in front of the Los Angeles Police Department Substation). Persons needing special accommodation due to disability should bring their documentation for discussion with the Lottery staff no later than 8:00 a.m. the day of the Lottery.

The Lottery will be conducted in two parts--one for weekdays (Monday through Friday) at 8:30 a.m., and one for weekends (Saturday and Sunday) after conclusion of the weekday lottery at approximately 9:30 a.m. Persons who will be performing and want Monday through Friday spaces will put their ID cards in the "performance space" hopper and all others desiring a weekday space will put their ID cards in the "general use space" hopper between 8:15 and 8:30 a.m. At 8:30 a.m., the Lottery Committee staff will announce "Last Call for Weekday Lottery". At that time, the ID cards will be drawn, one at a time, by a staff member. As each card is drawn, the person whose card is drawn will choose an identified numbered space on the Boardwalk (as shown on the Boardwalk Plan) which has not yet been selected for the time period covered by the Lottery. Persons who will not be performing will choose a space designated for general use. Permit cards will be handed back with a space assignment slip or sticker. After the weekday Lottery is concluded, the weekend Lottery will be held.

Persons who will be performing and want Saturday--Sunday spaces will put their ID cards in the "performance space" hopper and all others desiring a space will put their ID cards in the "general use space" hopper at the conclusion of the weekday lottery at approximately 9:15 a.m. At approximately 9:30 a.m., the Lottery Committee staff will announce "Last Call for Weekend Lottery". At that time, the ID cards will be drawn, one at a time, by a staff member. As each card is drawn, the person whose card is drawn will choose an identified numbered space on the Boardwalk (as shown on the Boardwalk Plan) which has not yet been selected for the time period covered by the Lottery. Persons who will not be performing will choose a space designated for general use. Permit cards will be handed back with a space assignment slip or sticker. A roster of assigned spaces for the time period covered by the Lottery will be available at the Venice Beach Recreation Center Office and the Los Angeles Police Department Substation.

Space assignments for the weekends (Saturday and Sunday) will be in effect the Saturday and Sunday of the Lottery. Space assignments for the weekdays (Monday through Friday) will be in effect Monday through Friday after the Lottery is held. After the total number of spaces available for "performance" or "general use" has been assigned, persons not selected in the Lottery will not be assigned a space for that time period but will have another chance in the next weekly Lottery.

After completion of the Lottery, if any performance or general use spaces remain unassigned for the time period covered by the Lottery, any permit holder may request assignment of an unassigned space from the Venice Beach Recreation Center staff for the remainder of that time

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period on a first come, first served basis. The rules applicable to post-Lottery assigned spaces shall in all other respects be the same as the rules applicable to spaces assigned by the Lottery.

After 12:00 p.m. daily, any permit holder may use any single unoccupied general expression or performance space for the remainder of that day; provided, that the permit holder to whom the space was assigned by lottery arrives after 12:00 p.m. and asks to use his/her assigned space, the "walk-on" permit holder must immediately relinquish the space to the assigned permit holder. "Walk-on" use is subject to all other program rules applicable to use of spaces assigned by lottery. Failure to immediately vacate the space to the assigned permit holder as requested shall constitute a violation of the program rules.

Lottery Rules:

1. You must be physically present at the time of the drawing.
2. You may not select a space and give it to or trade it with any other person, including members of your own family.
3. You may not sell or offer an exchange with any other person.
4. You may not buy a space from a permit holder for money or barter.

Boardwalk Regulations:

All public expression permit holders must comply with applicable laws and ordinances in their use of assigned spaces under this program. The Board of Commissioners has also adopted these regulations for permitted use of assigned spaces on the Boardwalk.

1. Receiving payment or accepting any donation in connection with activities prohibited by Section 42.15, is a violation of these rules. **Section 42.15 prohibits all commercial vending.**
2. Assigned spaces cannot be occupied before 9 a.m. and must be vacated by dusk.
3. Assigned spaces must be kept clean and litter, debris, or any marking must be removed from the assigned space by dusk.
4. Gasoline-fueled generators are not allowed. Electric cords may not be connected outside the assigned space or to any City power source.
5. Assigned spaces cannot be enclosed on more than 2 sides.
6. Structures, fixtures, furniture, tents or displays of any kind cannot extend higher than 4 feet above the ground, except an umbrella or sun shade.
7. Persons must comply with regulation of noise levels as established by the applicable sections of the Los Angeles Municipal Code (L.A.M.C.) **Amplified sound is prohibited on the Boardwalk before 9:00 a.m. and after dusk. Sound that can be heard at a distance greater than twenty-five (25) feet from the space occupied by the permit holder is prohibited.**
8. The free movement of pedestrian or emergency vehicles cannot be blocked or obstructed. Parking or unloading in red zones is not permitted.
9. Permit holders must display the Recreation and Parks issued photo identification card at all times when in the assigned space.
10. A permit holder can only set up in the space assigned to him or her, for the time period covered by the Lottery and must keep all items within the space as outlined by marks on the Boardwalk. No items may be placed on the grass, beach or parking lots.

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11. Permit holders may not move public furniture, equipment, or fixtures (examples are benches and trash cans) and may not attach anything to public property.
12. Permit holders may not interfere with any City staff person, including Recreation and Parks Department or Los Angeles Police Department personnel doing his or her job, including inspecting your display or issuing a notice of violation of the permit rules.
13. Permit holders may not verbally abuse or threaten another permit holder, staff member, other departmental or City personnel, store merchant, or any member of the public, or distract listeners by blocking views or using offensive or threatening language.
14. Falsifying or reproducing permit cards is grounds for immediate revocation of permission.
15. The permit holder must be present in the space assigned to him or her at all times that expressive activity is taking place in the assigned space.
16. After 12:00 p.m. daily, any permit holder may use any single unoccupied general expression or performance space for the remainder of that day; provided, that the permit holder to whom the space was assigned by lottery arrives after 12:00 p.m. and asks to use his/her assigned space, the "walk-on" permit holder must immediately relinquish the space to the assigned permit holder. "Walk-on" use is subject to all other program rules applicable to use of spaces assigned by lottery.

Permit holders who do not comply with City laws or the public expression permit program rules are subject to revocation of their permit.

Permit Suspension/Revocation:

If a permit holder violates the rules of the public expression permit program, he or she will receive notices and be subject to reimbursement of costs, suspension of the permit, or revocation of the permit.

1. The first violation of the rules will result in a written notice being issued to the permit holder. This notice will require compliance and payment of any costs for necessary repairs or cleanup, if that is the nature of the violation. The permit holder may also be asked to leave at the time of notice. An assigned space cannot be occupied by a permit holder until any charges for clean up or damage repair are paid.
2. The second violation of the rules or of Section 42.15 or a combination thereof, will result in a written notice, which will require payment of any costs if that is the nature of the violation, and suspension of use of the assigned space for the remainder of the applicable Lottery time period and suspension of Lottery privileges for the next Lottery.
3. The third violation of the rules, or third violation of Section 42.15 or any combination thereof, will result in revocation of the permit period.
4. If a single offense constitutes both a violation of a program rule and a violation of Section 42.15, it shall be considered one offense for purposes of permit revocation.

Department staff will notify the Los Angeles Police Department of permit holders who are suspended for any period, or who have had his or her permit card revoked. If LAPD issues a criminal citation to a permit holder while in a permitted space, a copy of that citation will be given to Department staff and treated as an administrative violation under the three-step enforcement plan.

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At each step, a permit holder may appeal an administrative violation. The Recreation and Parks District Supervisor will consider and reply to any appeals. That is the final appeal for first or second offenses. On a third offense, consisting of program rule violations, Municipal Code Section 42.15 violations, or a combination of both, the permit holder may appeal. A revocation appeal will be heard and considered by a five-person board consisting of: a representative of the Park Advisory Board designated by the Board of Recreation and Park Commissioners; a community member appointed by the Council Office; a member of the Venice Neighborhood Council appointed by the Neighborhood Council; the Senior Lead Officer for the Pacific Division of the Los Angeles Police Department; and, the General Manager of the Department of Recreation and Parks or the General Manager's designee. The conclusion of the applicable appeal process shall constitute exhaustion of administrative remedies pursuant to California Code of Civil Procedure 1094.5.

1. A written request for an appeal of a first or second violation shall be filed with the District Supervisor at the Venice Beach Recreation Center by 5:00 p.m. on the second day after the notice of violation was issued. If a written request is not filed by that time, the appeal shall be deemed waived. A copy of the notice of violation shall be attached to the written request for appeal and the name, address, telephone number, and, if available, the fax number and e-mail address of the appellant shall be included.
2. Within 48 hours of receiving a request for appeal, the District Supervisor shall set the date and time of hearing and notify the appellant. The hearing shall be set within 5 days from the issuance of the notice of violation. If the hearing is not set within 5 days from issuance of the notice of violation, the violation shall be dismissed. Requests by appellant for continuances of the hearing date shall be made in writing to the District Supervisor and shall only be granted on condition that appellant surrenders their permit to the District Supervisor pending the outcome of the hearing. The hearing shall be held at the Westminster Senior Center, 1234 Pacific Avenue, Venice, CA, 90291.
3. At the hearing appellant shall have the opportunity to present evidence to the District Supervisor establishing that appellant did not commit a violation of Section 42.15 or a violation of a program rule, whichever the case may be. Appellant may be represented by counsel. The hearing shall be recorded, but a court stenographer shall not be required unless arranged and paid for by appellant. In addition to the information contained in the notice of violation, the District Supervisor shall consider any evidence submitted in rebuttal to appellant's evidence. At the conclusion of the hearing, and after considering all the evidence, the District Supervisor shall determine whether a preponderance of the evidence establishes that the violation occurred. The District Supervisor's determination shall constitute the conclusion of the appeal process for a first or second violation. The penalties imposed by the program rules for a first or second violation, as applicable, shall take effect upon the earlier of: a) the waiver of an appeal; or, b) a determination by the District Supervisor that the appealed violation was committed.
4. A permit revocation appeal shall be heard by the five-person board described in Section 42.15 ("board"). A written request to appeal a third violation shall be filed

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with the District Supervisor at the Venice Beach Recreation Center by 5:00 p.m. on the fifth day after the notice of violation was issued. If the request is not filed by that time, the appeal shall be deemed waived. A copy of the notice of violation shall be attached to the written request for appeal and the name, address, telephone number, and, if available, the fax number and e-mail address of the appellant shall be included.

5. Within 48 hours of receiving a request for a permit revocation appeal, the District Supervisor shall confer with the board members, set the date and time of hearing and notify the appellant. The hearing shall be set within 10 days from the issuance of the notice of violation. If the hearing is not set within 10 days from issuance of the notice of violation, the violation shall be dismissed. Requests by appellant for continuances of the hearing date shall be made in writing to the District Supervisor and shall only be granted on condition that appellant surrenders their permit to the District Supervisor pending the outcome of the hearing. The hearing shall be held at the Westminster Senior Center, 1234 Pacific Avenue, Venice, CA, 90291.
6. At the hearing appellant shall have the opportunity to present evidence to the board establishing that appellant did not commit a violation of Section 42.15 or a violation of a program rule, whichever the case may be. Appellant may be represented by counsel. The hearing shall be recorded, but a court stenographer shall not be required unless arranged and paid for by appellant. In addition to the information contained in the notice of violation, the board shall consider any evidence submitted in rebuttal to appellant's evidence. At the conclusion of the hearing, and after considering all the evidence, the board shall determine whether a preponderance of the evidence establishes that the violation occurred. The board's determination shall constitute the conclusion of the appeal process for a third violation. The penalties imposed by the program rules for a third violation shall take effect upon the earlier of: a) the waiver of an appeal; or, b) a determination by the board after appeal that a third violation was committed.

A permit holder who has had his or her permit finally revoked for the Venice Boardwalk can re-apply in one calendar year from the revocation date.

Please Sign a Copy for our Records

Thank you for your compliance with the rules. For questions or concerns, please call us at (310) 399-2775.

I have read the above rules and Los Angeles Municipal Code Section 42.15 (a copy is attached hereto), and agree to abide by all rules and laws governing the public expression permit program at Venice Boardwalk. I understand that any violation of these rules or laws may cause my permit to be suspended or revoked.

(Signature of Applicant/Permittee) _____

Date _____

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