

APPROVED

REPORT OF GENERAL MANAGER

MAR 15 2006

NO. 06-63

DATE March 15, 2006

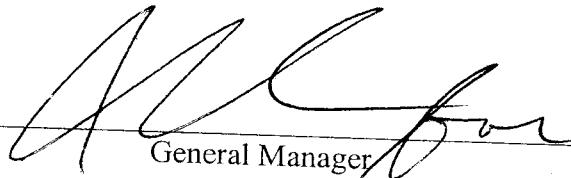
BOARD OF RECREATION
and PARK COMMISSIONERS

C.D. 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: VENICE BEACH BOARDWALK - REVISION TO PUBLIC EXPRESSION PERMIT RULES

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


General Manager

Approved *As Amended*

Disapproved _____

Withdrawn _____

RECOMMENDATION:

That the Board approve the revision to the Venice Beach Public Expression Permit Program Rules (Program Rules) attached to this report, to conform the Program Rules to Ordinance No. 177337 (copy attached) as further 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 established the policies and procedures for those individuals who wished to conduct public expression activities on the public portion of the Venice Beach 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). Since approval of the ordinance and the program's inception, several revisions to the Program Rules have been approved by the Board to make adjustments to the manner in which the Program has been conducted.

On July 8, 2005, suit was filed in Federal Court (Venice Food Not Bombs, et al v. City of Los Angeles, CV 05-4998 DDP (SSx)), seeking declaratory and injunctive relief and damages on behalf of associations and individuals who alleged that portions of LAMC Sections 63.44 and 42.15 are unconstitutional violations of their right to free expression. As advised by the City Attorney, pending re-drafting of the Code Sections and Program Rules, several provisions were temporarily suspended on August 9, 2005 (Board Report 05-220), pending revisions of portions of LAMC Sections 63.44 and 42.15 by the City Attorney and approval by City Council.

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On January 31, 2006, the City Council approved Ordinance No. 177337 amending LAMC Section 42.15, making several changes to the law that affect the public expression program. The ordinance will become effective on March 25, 2006, and staff will be responsible for enforcing the rules in a manner consistent with the new law. A summary of the revisions is as follows:

Prohibits vending with the following exemptions:

1. Any individual or organization vending newspapers, leaflets, pamphlets, bumper stickers or buttons; and
2. Any individual or organization that vends the following items, which have been created or composed by the vendor: books, cassette tapes, compact discs, digital video discs, paintings, photographs, sculptures or any other item that is inherently communicative and has nominal utility apart from its communication.

3. Performances by performing artists and musicians.
Items that may have some expressive purpose will be deemed to have more than nominal utility apart from their communication if they have a common and dominant non-expressive purpose, and will therefore be illegal to vend on the Boardwalk.

Any person or organization, whether or not a permit holder, may use any designated but unoccupied space after 12:00 p.m. daily, but must relinquish the space to the assigned permit holder upon request by the permit holder.

Revocation of a permit may be appealed to a three-person board consisting of: a representative from the Park Advisory Board, a member of the Venice Neighborhood Council, and the General Manager of the Department of Recreation and Parks or the General Manager's designee.

Prohibits noise that can be heard at a distance greater than 50 feet from its source or that can be heard inside the premises of an adjacent building or structure with the doors and windows closed. Prohibits amplified sound before 9:00 a.m., or after sunset.

Designates opening hour at 9:00 a.m., closing hour at 10:30 p.m.

The approval of the amended public expression permit rules is needed so that program implementation and law enforcement may commence as allowed by Ordinance No. 177337.

Revisions to the regulations are as follows:

1. Regulation No. 1 is amended as "Vending of food, goods ^{or services} of merchandise, not exempted by Section 42.15(c) is a violation of these rules, as well as a violation of law."

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2. In Regulation No. 2, "dusk" is amended to "sunset."
3. In Regulation No. 7, "25 feet from the space occupied by the permit holder" is amended to "50 feet from its source or that can be heard inside the premises of an adjacent building or structure while the doors and windows to the premises are closed."
4. Regulation No. 12 is amended as "Permit holders may not willfully resist, delay or obstruct any City staff person, including Recreation and Parks Department, the Office of Public Safety or Los Angeles Police Department personnel in the discharge or attempt to discharge any duty of his or her office or employment, including inspecting your display or issuing a notice of violation of the permit rules."
5. In Regulation No. 13, "verbally abuse" is amended as "assault" and "with intent to cause great bodily injury" is added.
6. In Regulation No. 16, "any permit holder may use any single unoccupied general expression or performance space" is amended as "any person or organization whether or not a permit holder, may use any designated but unoccupied space" and "permit holder" is amended as "person or organization."

FISCAL IMPACT STATEMENT:

This revision of the Venice Beach Boardwalk Public Expression Permit Program Rules will have no impact to the General Fund.

This report was prepared by Debby Rolland, Superintendent of the West Region.

City of Los Angeles Department of Recreation and Parks
VENICE BEACH RECREATION CENTER
(Revised – (3/15/06))

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 **of any items having nominal utility apart from their communication** on the Boardwalk, but protects free speech activities **including performances by performing artists and musicians**. 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 ACTIVITY ALLOWED BY LOS ANGELES MUNICIPAL CODE, SECTION 42.15:

Under the City's ordinance regulating vending on public beach lands and adjacent properties such as the Venice Boardwalk, vending of food, goods and merchandise is prohibited, except as specifically exempted. Section 42.15(c) allows vending of items that are inherently communicative and have nominal utility, such as: newspapers, leaflets, pamphlets, bumper stickers, or buttons; and, items which have been created, written or composed by the vendor, such as: books, cassette tapes, compact discs, digital video discs, paintings, photographs, sculptures or any other item that is inherently communicative and has nominal utility. Examples of items that have more than nominal utility and that may not be vended include, but are not limited to: housewares, appliances, articles of clothing, sunglasses, auto parts, oils, incense, perfume, lotions, candles, jewelry, toys and stuffed animals.

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 **as allowed by Section 42.15(c)** on the west side of the Venice Boardwalk in the City of Los Angeles. Those individuals **or organizations** who are ~~asking for money or soliciting donations~~ **wish to set up a display table, easel, or other furniture or place any item on the Venice Boardwalk** in ~~relation to~~ **connection with** their public expression activities must have a permit. Under these policies, the Department will issue a permit to persons **or organizations** who wish to conduct public expression activities on the west side of the Venice Boardwalk, and **will** assign space under a weekday and weekend Lottery program.

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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 **or organizations**.

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 ~~486~~ **204** spaces are marked and numbered on the Boardwalk. ~~One Hundred Fifty (150)~~ **One Hundred Sixty Eight (168)** general spaces, 10' wide by 8' deep in size, are for general expression. An additional ~~36~~ **10 double spaces 20' wide by 8' deep** and **26** 10' wide by 8' deep spaces are for performance use only. Only marked and numbered spaces may be assigned for public expression activities. Assignments are made through Lottery.

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- **weekends, first and weekdays, second.** ~~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 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~~ **between 8:15 and 8:30** a.m. ~~At approximately 9~~ **8:30** 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.~~

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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 the conclusion of the weekend Lottery, at approximately 9:15 a.m.** At ~~8:30~~ **approximately 9:30 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.~~ **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 **or organizations** 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 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~~ **any person or organization whether or not a permit holder** may use any single unoccupied general expression or performance space for the remainder of that day; provided, that **if** 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~~ **person or organization** 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 **the** 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.

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1. ~~TEMPORARILY SUSPENDED: 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.~~ **Vending of food, goods or merchandise, ^{or services} not exempted by Section 42.15(c) is a violation of these rules, as well as a violation of law.**
2. Assigned spaces cannot be occupied before 9:00 a.m., and must be vacated by dusk **sunset**.
3. Assigned spaces must be kept clean and litter, debris, or any marking must be removed from the assigned space by dusk **sunset**.
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 **sunset**. Sound that can be heard at a distance greater than ~~twenty-five (25)~~ **fifty (50)** feet from the space occupied by the permit holder **its source or that can be heard inside the premises of an adjacent building or structure while the doors and windows to the premises are closed** 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.
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. ~~TEMPORARILY SUSPENDED: Permit holders may not interfere with~~ **willfully resist, delay or obstruct** any City staff person, including Recreation and Parks Department, the **Office of Public Safety** or Los Angeles Police Department personnel **doing in the discharge or attempt to discharge any duty of his or her job office or employment**, including inspecting your display or issuing a notice of violation of the permit rules.
13. ~~TEMPORARILY SUSPENDED: Permit holders may not verbally abuse~~ **assault** or threaten **with intent to cause great bodily injury** 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/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~~ **any person or organization whether or not a permit holder, may use any designated but unoccupied space** for the remainder of that day; provided, that if 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 **person or organization** 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.

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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 **or of Section 42.15** 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 **if full compliance cannot otherwise be achieved**. 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 **compliance and** 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 **or their** 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 will be treated it as an administrative violation under the three-step enforcement plan. **Department staff will review the log of citations at LAPD on a periodic basis.**

At each step, a permit holder may appeal an administrative violation. The Recreation and Parks ~~District Supervisor~~ **Senior Recreation Director II** will consider and reply to any appeals. ~~That is the final appeal for~~ **from a first or second offenses** offense. 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~~ **to a five three-** 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. **A majority of the three-person board shall constitute a quorum. No action of the three-person board may be taken by less than a majority of its members.** The conclusion of the applicable appeal process shall constitute exhaustion of administrative remedies pursuant to California Code of Civil Procedure 1094.5.

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1. A written request for an appeal of a first or second violation shall be filed with the ~~District Supervisor~~ **Senior Recreation Director II** 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~~ **Senior Recreation Director II** 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, 90294.~~ **West Region Headquarters, 2459 Motor Avenue, Los Angeles, CA 90064.**
3. At the hearing, appellant shall have the opportunity to present evidence to the ~~District Supervisor~~ **Senior Recreation Director II** 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~~ **Senior Recreation Director II** 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~~ **Senior Recreation Director II** shall determine whether a preponderance of the evidence establishes that the violation occurred. The ~~District Supervisor's~~ **Senior Recreation Director II'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~~ **Senior Recreation Director II** that the appealed violation was committed.
4. A permit revocation appeal shall be heard by the ~~five-~~ **three-**person board described in Section 42.15 (board). A written request to appeal a third violation shall be filed with the ~~District Supervisor~~ **staff** 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~~ **Senior Recreation Director II** 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

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appellant for continuances of the hearing date shall be made in writing to the ~~District Supervisor~~ **Senior Recreation Director II** and shall only be granted on condition that appellant surrenders their permit to the ~~District Supervisor~~ **Senior Recreation Director II** pending the outcome of the hearing. The hearing shall be held at the ~~Westminster Senior Center, 1234 Pacific Avenue, Venice, CA, 90291.~~ **West Region Headquarters, 2459 Motor Avenue, Los Angeles, CA 90064**

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.~~ **(310) 396-6764.**

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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ORDINANCE NO. 177337

An ordinance amending Los Angeles Municipal Code Section 42.15 to prohibit vending on public beach lands and adjacent public properties, and to impose time, place and manner regulations on expressive activities exempted from the ban.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 42.15 of the Los Angeles Municipal Code is amended to read:

SEC. 42.15 Vending on Beaches Prohibited.

No person shall engage in vending activity upon any public beach lands or beach properties adjoining the waterfront of the Pacific Ocean, or upon any immediately adjacent boardwalk, sidewalk or public way between the southerly boundary of the City of Santa Monica and the northerly boundary of the City of El Segundo and between the northwesterly boundary of the City of Santa Monica and the northwesterly boundary of the City of Los Angeles.

(a) Findings and Purpose.

The City Council of the City of Los Angeles finds and declares as follows:

- (1) The Venice Beach Boardwalk is a major tourist attraction in the City of Los Angeles, historically significant for its performance and visual artists as well as free speech advocates. Unregulated vending adversely affects the historic character of the Venice Beach Boardwalk by deterring tourists from visiting and shopping along the Boardwalk resulting in an economic and cultural loss to City;
- (2) Unregulated vending along the Venice Beach Boardwalk from tables, pushcarts, stands, or by persons impedes the orderly movement of pedestrian traffic and may make the Boardwalk unsafe for pedestrians by limiting the City's ability to effect crowd management and control;
- (3) Unregulated vending along the Venice Beach Boardwalk may impede the ingress and egress of emergency and public safety vehicles by creating physical obstacles to emergency response and administration of aid to those in need of immediate medical attention and to victims of criminal activity;
- (4) Revitalization of the Venice Beach Boardwalk requires a vibrant and stable merchant, artist, performer and free speech advocacy community. Unregulated vending could serve to undermine the Boardwalk's commercial life by

reducing sales from local merchants thereby eroding the City's tax revenues due to unfair competition, and by offering additional opportunity for the sale of stolen, defective or counterfeit merchandise;

(5) Unregulated vending causes visual clutter/blight along the Boardwalk, impeding views of the beach and the Pacific Ocean threatening the City's ability to attract tourists and preserve businesses along the Boardwalk;

(6) Unnecessary, excessive and annoying noise detrimental to the public health, welfare and safety, and contrary to the public interest, on the Venice Beach Boardwalk harms residents, businesses, and the historic character of the Boardwalk, diminishing the quality of life for those who visit, live or work on or near the Boardwalk;

(7) The amount of space on the Venice Beach Boardwalk that is available for performing and visual artists and for political advocacy is limited due to the size of the Boardwalk and the large crowds of visitors that the Boardwalk attracts. Prior to the City's Board of Recreation and Parks Commission establishing a program for assignment of spaces, there were numerous altercations over the locations and amounts of space that any one person or organization could use. Frequently, the altercations became violent requiring law enforcement response to preserve the public peace. Persons wishing to secure spaces often arrived at the Boardwalk prior to dawn and created loud noises in setting up their displays, thereby disturbing the public peace and requiring law enforcement response. Unregulated, the Boardwalk became a lawless area, where only the strongest and earliest arrivals could secure space to exercise their rights of free expression without threat of intimidation. It is, therefore, necessary to regulate the use of the limited space on the Boardwalk to prevent breaches of the public peace and to allocate the limited space available fairly to all who desire to use it for lawful purposes.

(b) Definitions.

For purposes of this section, the following words or phrases shall have the following meanings:

- (1) **Food or Food Products.** Any type of edible substance or beverage.
- (2) **Goods or Merchandise.** Any items that are not a food product.
- (3) **Vend or Vending.** To sell, offer for sale, expose for sale, solicit offers to purchase, or to barter food, goods, merchandise or services in any area from a stand, table, pushcart, motor vehicle, bicycle, or by a person with or without the use of any other device or other method of transportation, or to require someone

to pay a fee or to set, negotiate, or establish a fee before providing goods or services. Requests for donations in exchange for food, goods, merchandise or services also constitute vending.

(4) **Vendor.** A person who vends. This includes a vendor who is an employee or agent of another.

(5) **Pushcart.** Any non-motorized mobile device used to vend.

(c) Exemptions.

The provisions of this section shall not apply to:

(1) Any individual or organization vending newspapers, leaflets, pamphlets, bumper stickers or buttons;

(2) Any individual or organization that vends the following items, which have been created, written or composed by the vendor: books, cassette tapes, compact discs, digital video discs, paintings, photographs, sculptures or any other item that is inherently communicative and has nominal utility apart from its communication;

Although an item may have some expressive purpose, it will be deemed to have more than nominal utility apart from its communication if it has a common and dominant non-expressive purpose. Examples of items that have more than nominal utility apart from their communication and thus may not be vended under the provisions of this section, include, but are not limited to, the following: housewares, appliances, articles of clothing, sunglasses, auto parts, oils, incense, perfume, lotions, candles, jewelry, toys, and stuffed animals;

(3) Performances by performing artists and musicians.

(d) Use of City Property Prohibited.

No person shall use any City-owned or maintained street furniture or structure, including but not limited to, any bench, planter or trash receptacle installed on public property, in connection with their artistic performance or for the display of anything whatsoever not otherwise prohibited by this section.

(e) Permit Required for Exempted Activities.

No person or organization engaging in activities specifically exempted from this section by Subsection C shall set up a display table, easel or other furniture or place any item to be used in connection with the exempted activity on the property described

in this section unless that person or organization holds a valid "Public Expression Participant Permit" issued pursuant to the program adopted by the Board of Recreation and Park Commissioners on October 1, 2003, as that program may be amended from time to time. The permit is not transferrable and the permittee must be present in the permitted space at all times that the permitted activity is occurring. No person shall place or allow anything in the permitted space that extends beyond the boundaries of the permitted space, nor shall the permittee conduct any activities requiring a permit outside the boundaries of the permitted space. No person shall set up or take down or use a permitted space between sunset and 9:00 a.m. No person shall place or allow any item (except an umbrella or other sun shade) exceeding four feet above ground in the permitted space, nor shall any person cause or allow a permitted space to be enclosed on more than two sides. No person shall alter or reproduce any permit issued pursuant to the program, nor shall any person possess an altered, reproduced or falsified permit document.

EXCEPTION: Any person or organization, whether or not a permit holder, may use any designated but unoccupied space for activities specifically exempted from this section by Subsection C, after 12:00 p.m. daily for the remainder of that day; provided, that if the permittee to whom the space was assigned pursuant to the program rules established by the Board of Recreation and Park Commissioners for the "Public Expression Participant Permit" program arrives after 12:00 p.m. and asks to use the assigned space, the person or organization not assigned to the space must immediately relinquish the space to the assigned permittee. The program rules established by the Board of Recreation and Park Commissioners for the "Public Expression Participant Permit" program, as they may be amended from time to time, are incorporated here by this reference and no person or organization occupying a designated but unoccupied space shall violate a program rule.

A permit may be revoked in accordance with the program adopted by the Board of Recreation and Park Commissioners for violations of the program rules. Revocation shall occur upon a third violation of a program rule, a third violation of the conditions set forth in this section, or a combination of any three violations of the program rules or conditions set forth in this section. A notice of violation of the program rules may be appealed to the Department of Recreation and Parks District Supervisor. Revocation of a permit may be appealed to a three-person board consisting of: a representative from the Park Advisory Board designated by the Board of Recreation and Park Commissioners; a member of the Venice Neighborhood Council appointed by the Neighborhood Council; and, the General Manager of the Department of Recreation and Parks or the General Manager's designee. A majority of the three-person board shall constitute a quorum. No action of the three-person board may be taken by less than a majority of its members. The conclusion of the applicable appeal process shall constitute an exhaustion of administrative remedies pursuant to California Code of Civil Procedure Section 1094.5.

(f) Noise Regulations.

No person on property described in this section shall make or cause any noise that can be heard at a distance greater than 50 feet from its source or that can be heard inside the premises of an adjacent building or structure while the doors and windows to the premises are closed. No person on property adjacent to the property described in this section shall make or cause any noise that can be heard on property described in this section at a distance greater than 50 feet from its source or that can be heard inside the premises of any building or structure located within 50 feet from the property described in this section while the doors and windows to the premises are closed. No person shall use amplified sound before 9:00 a.m. or after sunset.

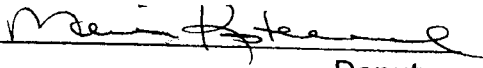
(g) Opening and Closing Hours.

No person shall engage in activities not otherwise prohibited by this section between the hours of 10:30 p.m and 9:00 a.m.


Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of JAN 31 2006.

FRANK T. MARTINEZ, City Clerk

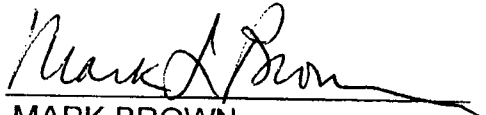
By 
Deputy

Approved FEB 10 2006


Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By 
MARK BROWN
Senior Assistant City Attorney

Date 1-20-06

File No. 04-1568

#115706

DECLARATION OF POSTING ORDINANCE

I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 177337 - Amending Los Angeles Municipal Code Section 42.15 to prohibit vending on public beach lands and adjacent public properties, and to impose time, place and manner regulations on expressive activities exempted from the ban - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on Jan. 31, 2006, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on Feb. 13, 2006, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the Main Street entrance to Los Angeles City Hall East; 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on Feb. 13, 2006 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 13th day of February 2006 at Los Angeles, California.


Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: March 25, 2006 Council File No. 04-1568