

REPORT OF GENERAL MANAGER

**APPROVED**  
JUN 21 2006

NO. 06-180


DATE June 21, 2006

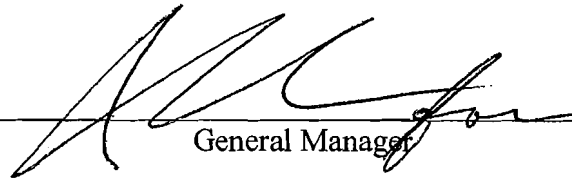
**BOARD OF RECREATION  
and PARK COMMISSIONERS**

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BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: VENICE BEACH BOARDWALK – REVISION TO PUBLIC EXPRESSION PERMIT RULES TO ADD PROCEDURE FOR LOTTERY FALLING ON CITY HOLIDAY

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

  
\_\_\_\_\_  
General Manager

Approved   /  

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board approve the revision to the Venice Beach Public Expression Permit Program Rules attached to this report (Program Rules), to specify procedures when the scheduled lottery falls on a City holiday.

SUMMARY:

On October 1, 2003, the Board of Recreation and Park Commissioners approved the Public Expression Participant Program at Venice Beach Boardwalk (Report No. 03-313). 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 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.

The approval of the attached amended Public Expression Permit Program Rules is needed to specify a procedure for when the weekly lottery drawing for permit holders falls on a City holiday. Should a holiday fall on a Tuesday, as it will this year on July 4, the lottery will be held on the immediately following Wednesday, at the regular time and place (for example, this year on July 5). There are no other changes to the rules at this time.

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FISCAL IMPACT STATEMENT:

This revision of the Venice Beach Boardwalk Public Expression Permit Program Rules will have no impact to the General Fund. If the lottery day was not adjusted to avoid a City holiday, there would be unbudgeted impacts to the General Fund for overtime.

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 – 6/21/06)

**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 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 wish to set up a display table, easel, or other furniture or place any item on the Venice Boardwalk in 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 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 204 spaces are marked and numbered on the Boardwalk. One Hundred Sixty Eight (168) general spaces, 10' wide by 8' deep in size, are for general expression. An additional 10 double spaces 20' wide by 8' deep and 26 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.

### **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. **Whenever a City holiday falls on Tuesday, the lottery will be held the following day, Wednesday at the same time and location.**

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. 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 between 8:15 a.m. and 8:30 a.m. At 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.

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 at the conclusion of the weekend lottery at approximately 9:15 a.m. At approximately 9:30 a.m., the Lottery Committee staff will announce

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“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. 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 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” 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.

1. Vending of food, goods, 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 a.m. and must be vacated by sunset.

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3. Assigned spaces must be kept clean and litter, debris, or any marking must be removed from the assigned space by 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 two sides.
6. Structures, fixtures, furniture, tents or displays of any kind cannot extend higher than four 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 sunset. Sound that can be heard at a distance greater than fifty (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 is prohibited.
8. The free movement of pedestrians 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, 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. 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 of any duty of his or her office or employment, including inspecting your display or issuing a notice of violation of the permit rules.
13. Permit holders may not 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.
14. Falsifying or reproducing permit cards is grounds for immediate revocation of permission.
15. The permit holder must be present in the space assigned at all times that expressive activity is taking place in the assigned space.
16. After 12:00 p.m. daily, 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" 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.

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.

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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.
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, her or their permit card revoked. If LAPD issues a criminal citation to a permit holder while in a permitted space, Department staff will treat 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 Senior Recreation Director II will consider and reply to any appeals from a first or second 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 to a three-person board consisting of: a representative of 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 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 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 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 West Region Headquarters, 2459 Motor Avenue, Los Angeles, CA. 90064

3. At the hearing appellant shall have the opportunity to present evidence to the 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 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 Senior Recreation Director II shall determine whether a preponderance of the evidence establishes that the violation occurred. The 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 Senior Recreation Director II that the appealed violation was committed.
4. A permit revocation appeal shall be heard by the three-person board described in Section 42.15 ("board"). A written request to appeal a third violation shall be filed with the 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 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 appellant for continuances of the hearing date shall be made in writing to the Senior Recreation Director II and shall only be granted on condition that appellant surrenders their permit to the Senior Recreation Director II pending on the outcome of the hearing. The hearing shall be held at the 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) 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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