

REPORT OF GENERAL MANAGER

NO. 03-313

DATE October 1, 2003

CD 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: APPROVAL OF PUBLIC EXPRESSION PARTICIPANT PERMIT PROGRAM AT THE VENICE BEACH BOARDWALK AND ESTABLISHMENT OF APPLICATION FEE FOR PERMIT

J. Combs _____	H. Fujita _____
A. Coroalles _____	J. Kolb _____
R. Reyes _____	B. Lukehart _____
L. Barth _____	



General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board:

1. Approve and adopt the Public Expression Participant Permit Program for Venice Beach Boardwalk (attached); and,
2. Adopt an amendment to the Manual of Rates and Fees establishing an application fee of \$25 for a Public Expression permit at the Venice Boardwalk, 100% to be deposited to the Venice MRP account to supplement the cost of permit processing and identification cards; and,
3. Request the City Attorney to prepare and the City Council to adopt an ordinance amending Los Angeles Municipal Code Section 42.15 requiring that persons wishing to conduct Public Expression activities at locations on the west side of the Venice Beach Boardwalk must apply for and be issued a permit under the Public Expression Participant Permit Program and remain in compliance with Program regulations as adopted by the Board. The ordinance shall also include restrictions regulating the time periods during which activity can be conducted (no set-up or use permitted between dusk and 9:00 a.m.), and the manner of use (only by permit holder, within assigned space and in accordance with Board adopted regulations), and the size (20' x 8' for performers, and 10' x 8' for general expression) and location (designated spaces only) upon which exclusive activity can be permitted.

SUMMARY:

The Boardwalk at Venice Beach is world-renowned for an eclectic mix of street performers and retail shops and restaurants fronting a popular family beach. The Boardwalk itself, as well as recreation

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facilities such as Windward Plaza and the Skate Dance area have been enhanced, replaced, or refurbished over the past several years in a massive publicly-funded improvement project, with additional phases ahead. Even before completion of the new Boardwalk, the City had developed ordinance language which prohibited commercial vending that conflicted with legitimate retail businesses, while maintaining traditional performance and free speech activities that are part of Venice's unique character. Los Angeles Municipal Code Section 42.15 states in relevant part:

*No person shall hawk, peddle, vend or sell, or request or solicit donations for, any goods, wares, merchandise, foodstuffs or refreshments upon any public beach lands or beach properties adjoining the waterfront of the Pacific Ocean, or upon any boardwalk, sidewalk or public way immediately adjacent thereto...*

*This section shall not prohibit the sale of merchandise constituting, carrying or making a religious, political, philosophical or ideological message or statement which is inextricably intertwined with the merchandise. Nor shall the provisions of this section prohibiting sales or solicitations of donations apply to any performer or musician engaging in constitutionally protected activities, or to any painter, sculptor or photographer, provided the painter, sculptor or photographer is displaying his or her own original creations and/or limited editions.*

The Municipal Code also has restrictions on hours of activity and use of City street furniture and structures. However, in the years since completion of the new Boardwalk, the number of persons wishing to perform, show their art, or otherwise exercise their right to public expression has expanded, creating problems in noise and control on the Boardwalk. Further, in some cases the business owners on private property east of the Boardwalk have expressed concern that some persons may be using the Boardwalk and its history of public expression to engage in unlicensed business activity. There is currently no system for organizing this activity, nor a considered policy of time, place, and manner regulations to assist Department staff and law enforcement in establishing a safe environment for visitors, business operators, and persons exercising their right to expression. Upon the encouragement and guidance of Council District 11, the Department has worked with the Council staff, members of the City Attorney's Neighborhood Prosecutor and General Counsel divisions, and with the Los Angeles Police Department, to develop policies and procedures that will bring a system of order to persons assembling on the Boardwalk to exercise their right of public expression.

Summary of the key elements of the Public Expression Participant Permit Program:

- Applying for a permit: any individual may apply for a public expression permit, for a one-time charge of \$25 to defray processing costs. The permit is for life unless revoked. If lost, the person must re-apply and pay the fee again. A permit is required to obtain use of a designated location on the Boardwalk, and is not-transferable.

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- Designated spaces on the Boardwalk: 62 (10' x 8') spaces for general public expression and 44 wider spaces (20' x 8') for persons expressing themselves through performance will be marked and numbered on the Boardwalk, and persons wishing to have an exclusive right to use a space for public expression activity must be in an assigned and designated space with their permit in their possession. Spaces have been plotted out to mitigate congestion and access problems on the Boardwalk.
- Monthly lottery for space assignment: Using the permit identification cards, a lottery will be held at the end of each month to assign spaces for general expression or for performance for the coming month. If there are more permit holders in the lottery than the 62 and 44 spaces, persons unassigned after all spaces have been assigned will not be allowed to make space for themselves on the Boardwalk, but must await another chance in the next lottery.
- Boardwalk regulations: The policy includes time, place, and manner restrictions such as no set-up or activity between dusk and 9:00 a.m., no structures, furniture, canopies, tents, or umbrellas over four feet or with more than two sides, assigned areas must be free of debris, no gasoline-fueled generators, no use of or moving of City furniture, and others as listed in the attachment.
- Enforcement: Department staff will be assigned to manage the program, which will include set-up, day-end, and periodic inspections to ensure compliance with the regulations. A progressive discipline approach to enforcing the regulations stipulates that for a first violation the person will receive a warning, for the second violation suspension of the permit, and for serious or third violation, the permit can be revoked, with a one-year period before re-application. Criminal citations issued by LAPD will also constitute a violation for administrative purposes. An administrative appeal process will be available to permit holders who have received notices of violation.
- Acknowledgment of the Program: Persons applying for a permit must sign to show their understanding of and agreement with the regulations.

Implementation of this new program also requires revision of Municipal Code Section 42.15 to indicate the existence of permit requirements and to make certain conduct violating the Board's regulations a misdemeanor violation of the Code, in addition to constituting an administrative violation. With the Council office and other City staff, we believe that the Permit Program will ease tensions for persons wishing space on the Boardwalk, reduce commotions and overcrowding among persons, and enhance the ability of police officers to readily ascertain persons not conforming to the Municipal Code. Staff is hopeful that all legal matters pertaining to the ordinance can be completed so that the Program can begin and be smoothly operating well prior to the next Spring and Summer busy season.

*City of Los Angeles Department of Recreation and Parks*  
***Venice Beach Recreation Center***

**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) 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 control 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 Participant 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. 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 monthly lottery system. To conduct Public Expression activities in the spaces on the west side of the Boardwalk, you must have a valid permit.

**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. Be sure to check YES or NO on the form if you will be performing so that you are in a lottery for a space sized for performance activity. After filling out the form, return it in person to the Venice Beach Recreation Center office, along with a one-time fee of \$25.00. The one-time application fee pays for a photo identification card which is your permit. The permit has no expiration date. 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. Permit cards for persons who have indicated in the application that they will be performing will be marked accordingly.

**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 Public Expression Permit holders. The 62 spaces are 10' wide x 8' deep in size and numbered G1-G62. Mixed in the 10' x 8' spaces are 44 spaces which are 20' wide x

8' deep for performance use only, numbered P101-144. The spaces are marked and numbered on the Boardwalk. Only marked and numbered spaces may be assigned for Public Expression activities. Assignments are made through a lottery.

### **The Lottery:**

A lottery will be held on a monthly basis 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 on the last Saturday of the month at 8:30 a.m. in front of the Venice Beach Recreation Center. 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.

To enter the lottery, participants will put their ID cards in a hopper between 8:15 and 8:30 a.m. At 8:30 a.m., the Lottery committee staff will announce "Last Call for Lottery," at that time the ID cards will be drawn one at a time by a staff member. As each card is drawn, the participants will receive the next identified numbered space on the Boardwalk, as shown on the Boardwalk Plan. Persons who have indicated they are performers will receive a space designated for performance, also in number order as shown on the Boardwalk Plan. Permit cards will be handed back with a space assignment slip or sticker. A roster of assigned spaces for the coming month will be available at the Venice Beach Recreation Center Office and the Los Angeles Police Department Substation.

The space assigned in a lottery will be in effect from the first day to the last day of the subsequent month (e.g., lottery held the last Saturday of October will assign spaces for November 1 through November 30). After the total number of spaces available have been assigned, persons still left in the lottery will be without a space for that month but will have another chance in the next month's lottery.

### **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 vendor, including members of your own family.
3. You may not sell or offer an exchange with any other vendor.
4. You may not buy a space from a street artist/vendor for money or barter.

### **Boardwalk Regulations**

All Public Expression Permit Holders must comply will applicable laws and ordinances in their use of assigned spaces under this program. The Board of Commissioners has also adopted specific regulations for permitted use of assigned spaces on the Boardwalk.

1. Assigned spaces cannot be occupied before 9 a.m. and must be vacated by dusk.
2. Assigned spaces must be kept clean and litter, debris, or any marking must be removed from the assigned space by dusk.
3. Gasoline-fueled generators are not allowed. Electric cords may not be connected outside the assigned space or to any City power source.
4. Structures cannot have more than 2 sides.
5. Structures, fixtures, furniture, tents, canopies, umbrellas or displays of any kind cannot be higher than 4 feet.
6. Persons must comply with regulation of noise levels as established by the applicable sections of the Los Angeles Municipal Code (L.A.M.C.)
7. The free movement of pedestrian or emergency vehicles cannot be blocked or obstructed in any way for any period of time. Parking or unloading in red zones is not permitted.
8. Permit holders must display photo identification card at all times when in the assigned space.
9. Permit holders can only set up in the space assigned to him or her, by lottery, for a given month, and must keep all set-up within the space as outlined by marks on the Boardwalk. No items may be placed on the grass or beach.
10. Permit holders may not move public furniture, equipment, or fixtures (examples are benches and trash cans) and may not attach anything to public property.
11. Permit holders may not interfere with any staff member doing his or her job, including inspecting your display and citing for an alleged violation.
12. Permit holder may not verbally abuse or threaten a street artist, staff member, other departmental personnel, a store merchant, or any member of the public, or distract listeners by blocking views or using offensive or threatening language.
13. Falsifying or reproducing permit cards is grounds for immediate revocation of permission.

Permit holders who do not comply with City laws or the regulations above are subject to having their permit suspended or revoked.

### **Permit Revocation**

If a permit holder violates the rules of the Public Expression Participant Permit Program, he or she will receive notices and be subject to reimbursement of costs, probation, suspension of the permit, or revocation of the permit.

1. First offense of the rules will receive a written notice requesting compliance and payment of any costs for necessary repairs or clean-up, if that is nature of the infraction. He or she 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. Second offense of the rules will receive written notice, payment of any costs, and suspension of use of the assigned space for the remainder of the month, and suspension of lottery privileges for the next month if there is less than 15 days left in the month.
3. Third offense of the rules, or a single offense if serious, as a violation of law, will cause revocation of the permit.

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.

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, or if the seriousness of the offense causes revocation, the permit holder may appeal a second time if the revocation is upheld by the District Supervisor. A revocation appeal will be heard and considered by a 3-person board consisting of a representative of the Park Advisory Board, a community member at-large appointed by the Council Office, and Department management. The decision of this board will be final.

A permit holder who have 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 have agreed to abide by all rules governing the Public Expression Participant Permit Program at Venice Boardwalk. I understand that any violation of these rules, may cause my permit to be suspended or revoked.

(Signature of Applicant/Permittee) \_\_\_\_\_

Date \_\_\_\_\_