

REPORT OF GENERAL MANAGER

NO. 08-90

DATE April 2, 2008

C.D. 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: VENICE BEACH BOARDWALK – DRAFT ORDINANCE AMENDING LOS ANGELES MUNICIPAL CODE SECTION 42.15 AND REVISION TO PUBLIC EXPRESSION PERMIT PROGRAM RULES

R. Adams _____	J. Kolb _____
H. Fujita _____	F. Mok _____
S. Huntley _____	*K. Regan _____
V. Israel _____	M. Shull _____

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

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board:

1. Recommend that the City Council adopt an ordinance, substantially in the form on file in the Board Office, amending Los Angeles Municipal Code Section 42.15, regulating vending and noise at the Venice Beach Boardwalk, as more fully described in this report; and,
2. Approve, subject to City Council approval of the proposed ordinance, the revised Venice Beach Boardwalk Public Expression Permit Program Rules attached to this report as Exhibit A, as more fully 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 (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 Boardwalk. Designated spaces, to be assigned by a lottery, would be used by permit holders to conduct constitutionally protected expressive activities, and vending would continue to be regulated. The Board requested the City Attorney to draft an ordinance amending Los Angeles Municipal Code Section 42.15 (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 Venice Beach Boardwalk Public Expression Permit Program Rules (Program Rules) have been approved by the Board to make adjustments to the manner in which the Program has been conducted.

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In 2005, suit was brought in federal court challenging Section 42.15 and portions of Los Angeles Municipal Code Section 63.44 as an unconstitutional violation of the right to free expression. As advised by the City Attorney, several provisions of Sections 42.15 and 63.44 and of the Program Rules were temporarily suspended pending revision of those Code provisions by the City Attorney and approval by the City Council. The 2005 lawsuit was settled by the City, and on January 31, 2006, the City Council adopted Ordinance No. 177337 amending Section 42.15, making several changes affecting the Program (see Board Report No. 06-63).

Shortly after the new law took effect, another suit was brought against the City in federal court alleging that Section 42.15, as amended in 2006, is unconstitutional. During this pending litigation, the court indicated that some of the existing provisions of Section 42.15 would be found unconstitutional if the City did not voluntarily amend Section 42.15. The court held more than one dozen hearings with the litigants, their lawyers and the interested general public in guiding the parties to a settlement contingent on the City agreeing to adopt the ordinance amending Section 42.15.

The new ordinance recognizes that the Boardwalk, as a major tourist attraction known as a traditional public forum for its performance and visual artists as well as other free speech activity, is unique among all of the parks in the City, requiring its own unique regulations of expressive activities and noise to accommodate a broad variety of park uses in a very congested setting, while taking into consideration the interests of park users, law enforcement and emergency service providers, neighboring businesses and local residents. The new ordinance:

- (a) Provides for 105 spaces in areas where persons or organizations can perform, engage in traditional expressive speech and petitioning activities, and vend the following items: newspapers, leaflets, pamphlets, bumper stickers, patches, buttons, books created by the vendor and recordings of the vendor's own performances (The P-Zones, see site map attached to this report as Exhibit B). Five of the spaces are reserved for large performance acts that draw crowds in excess of 25 people; 10 spaces are unassigned and may be used on a first-come, first-served basis, 2 of which may be used only for giving away food (see Section 42.15 B);
- (b) Provides for 100 spaces in areas where persons or organizations may engage in activities permissible in the P-Zones, and also engage in vending of expressive items created by the vendor, or the vending of expressive items which are inextricably intertwined with the vendor's message (The I-Zones, see site map attached to this report as Exhibit B) (see Section 42.15 C);
- (c) Imposes restrictions on noise levels and the use of amplified sound except in specified locations (see Section 42.15 F).

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- (d) Reserves an area (the Recreation Area between Horizon Avenue and 20<sup>th</sup> Avenue including the Police Substation, Muscle Beach, paddle tennis courts and other recreational facilities) in which no vending, no amplified sound and no display tables, easels, stands, equipment, pushcarts or other vehicles, or structures are allowed, for use by individuals and groups of less than 15 persons including the crowds they attract, or by permit only for groups of 15 or more people. If permitted activities are occurring in this area, other uses may not interfere with the permitted uses (see Section 42.15 D 2).
- (e) Provides that all allowable P-Zone activity and vending of expressive items inextricably intertwined with speech is allowed on areas of the Boardwalk outside the P-Zones, I-Zones, Pagodas and Recreation Area, provided no display tables, easels, stands, equipment or other furniture, pushcarts or other vehicles are used and no item is placed on the Boardwalk, and that any permissible P-Zone activity may also occur with a table, easel or other furniture (subject to reasonable size and height restrictions) on the Westside of the Boardwalk outside the P-Zones, I-Zones, Pagodas and Recreation Area, provided such activity may not be vending and may not substantially impede or obstruct pedestrian or vehicular traffic (see Section 42.15 D 1).
- (f) Establishes an administrative enforcement process by RAP for the regulation of vending of expressive items created, written or composed by the vendor or inextricably intertwined with the message of the vendor in the I-Zones which results in permit revocation for a period of one year on commission of a third violation of Program Rules or Section 42.15 (see Section 42.15 G 1).
- (g) Establishes conduct in the P-Zones and the I-Zones that is subject to criminal penalties and enforcement by LAPD (see Section 42.15 G2) and makes first and second offense infractions, and subsequent offenses committed within 24 months misdemeanors (see Section 42.15 H).

In addition, the revised Program Rules describe:

- (a) The manner in which a Public Expression Permit can be obtained, and
- (b) The manner in which the Lottery is conducted for space assignments in the P-Zones and I-Zones.

### FISCAL IMPACT STATEMENT:

The Public Expression Program with the revised Program Rules will require administrative enforcement which is labor intensive and time consuming. The annual cost is estimated at \$82,000 for the staffing, signage, equipment, and supplies. Staff is preparing the associated

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request for a budget appropriation from City Council and subsequent requests through the annual budget process.

This report was prepared by Sophia Piña-Cortez, Superintendent of the West Region.

*City of Los Angeles Department of Recreation and Parks*  
**VENICE BEACH RECREATION CENTER**  
 (Revised – 3/--/08)

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

**A Tradition of Public Expression on the Venice Beach Boardwalk:**

The Boardwalk at Venice Beach (Boardwalk) 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 unregulated vending on the Boardwalk, but protects free speech activities. 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. The City of Los Angeles, Department of Recreation and Parks, has adopted a permit program to organize this activity.

**Public Expression Program:**

The City Council has recently adopted a new ordinance revising Section 42.15. Recognizing that the Boardwalk is a unique public space, requiring rules and regulations different from other City parks, 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 Boardwalk in the City of Los Angeles. To preserve the Boardwalk's rich history of fostering new artists, performance, and other free speech activity, while balancing the interests of the multitude of visitors and users of the public facilities on and adjacent to the Boardwalk, the merchants whose businesses are located adjacent thereto, and the residents of the neighborhood adjacent to the Venice Boardwalk, the City's has divided the available space on the Boardwalk between performers, advocates, artists, and those vending expressive items inextricably intertwined with a political, philosophical, religious or ideological message. Therefore, the City has:

- (a) Created areas where persons or organizations can perform, engage in traditional expressive speech, and petitioning activities, and vend the following expressive items: newspapers, leaflets, pamphlets, bumper stickers, patches, or buttons, or books created by the vendor or recordings of the vendor's own performances (The P-Zones);
- (b) Created areas where persons or organizations may engage in activities permissible in the P-Zones, and also engage in vending of expressive items created by the vendor, or the vending of expressive items which are inextricably intertwined with the vendor's message (The I-Zones); and
- (c) Created reasonable time, place, and manner restrictions on activities outside those areas.

## **P-Zones**

There shall be at least 105 spaces designated in the P-Zones. Of those 105 spaces, 10 will be unassigned and available on a first-come, first-serve basis for persons or organizations engaged in activity that is not vending and does not use amplified sound. Two of those ten spaces shall be made available to persons or organizations giving away food. Five of the 105 remaining spaces will be allocated for large act/performance groups. The allocation of spaces will be conducted according to the following permit system:

1. Permits are required for assigned spaces in the P-Zones during Peak Season. Peak Season is defined as the Saturday before Memorial Day through November 1 of each year. Any person or organization desiring to occupy an assigned space in the P-Zones during Peak Season shall obtain a permit. Permits shall be obtained as described on page 4. Spaces shall be assigned by a lottery as described on page 4.
2. During Peak Season, after 12:00 p.m. (noon), any person or organization, whether or not a permit holder, may use any unoccupied space in the P-Zones, provided that if the permit holder to which the space was assigned arrives after noon and asks to use his/her/their assigned space, the person/organization not assigned the space shall immediately relinquish the space to the assigned permit holder. "Walk-on" use is subject to all provisions of Section 42.15 and other program rules applicable to use of spaces. Failure to immediately vacate the space to the assigned permit holder as requested is a violation of Section 42.15 subject to the criminal penalties set forth in Section 42.15.
3. Vending any item in the P-Zones not exempted is subject to the criminal penalties set forth in Section 42.15. Exempted expressive items are: newspapers, leaflets, pamphlets, bumper stickers, patches or buttons, books created by the vendor, and audio, video or other recordings of a performer's own performances.
4. Any person or organization occupying a designated P-Zone space may give away food, goods, merchandise, services, or performances, free of charge, and may ask for a donation subject to the condition that they shall display, visible to the public, a placard provided by the City stating "Donation appreciated. No contribution required." Anyone may take any item offered for donation in the P-Zone without making any payment for the item. A person giving away items may limit the items given away to no less than one item per person per day.
5. I-Zone permits are not valid to vend items only permitted to be vended in the I-Zones in the P-Zones, but may be used to obtain a P-Zone space in the lottery and for any permissible P-Zone purpose.

## **I-Zones**

There shall be 100 spaces designated in the I-Zones. Vending of any item in the I-Zones not exempted is subject to the administrative penalties set forth in Section 42.15 and these rules as described on pages 8-10. All activities permissible in the P-Zones are also permissible in the I-Zones. Additionally, exempted are expressive items which have been created written or composed by the vendor, or expressive items inextricably intertwined with the message of the person vending the items. These items may include, but are not limited to, books cassettes, tapes, compact discs, digital video discs, paintings, photographs, and sculptures. The allocation of spaces will be conducted according to the following permit system:

1. I-Zone permits are required for the use of space in the I-Zones. Any person or organization desiring to occupy an assigned space in the I-Zones shall obtain a permit. Permits shall be obtained as described on page 5. Spaces shall be assigned by a lottery as described on page 5.
2. The I-Zone permits are not valid to vend items only permitted to be vended in the I-Zones in the P-Zone.
3. After 12:00 p.m. (noon), any I-Zones permit holder may use an unoccupied space in the I-Zones, subject to all other provisions of Section 42.15 and these rules, provided that if the permit holder to which the space was assigned arrives after noon and requests to use his/her/their assigned space, the person/organization not assigned the space shall immediately relinquish the space to the assigned permit holder. "Walk-on" use is subject to all provisions of Section 42.15 and other program rules applicable to use of spaces. Failure to immediately vacate the space to the assigned permit holder as requested is a violation of Section 42.15 subject to the criminal penalties set forth in Section 42.15.

### **Recreation Area Between Horizon Avenue and 20<sup>th</sup> Avenue**

Activities in the Recreation Area (the area that includes the Police Substation, Muscle Beach, paddle tennis courts and other recreational facilities, but not including the Westside of the Boardwalk) between Horizon Avenue and 20<sup>th</sup> Avenue are subject to the following:

1. A facility use permit is required for any activity in the Recreation Area that is engaged in by and/or attracts a crowd of 15 or more people.
2. No permit is required for any activity in the Recreation Area that is engaged in by and/or attracts a crowd of less than 15 people.
3. Such activities shall not interfere with any other activity in the Recreation Area.
4. No vending, no amplified sound, and no display tables, easels, stands, equipment, pushcarts or other vehicles, or structures shall be allowed in the Recreation Area without a permit.
5. Permits for the use of the Recreation Area are available through the Venice Beach Recreation Center on a first-come, first-serve basis.

### **Areas on the Boardwalk outside the P-Zones, I-Zones, Pagodas and Recreation Area:**

In areas on the Boardwalk outside the P-Zones, I-Zones, Recreation Area and Pagodas located at Clubhouse Avenue, Breeze Avenue, Park Avenue, Sunset Avenue and Dudley Avenue, any person or group may without a permit:

1. Vend newspapers, leaflets, pamphlets, bumper stickers, patches and books or recordings created by the vendor.
2. Vend any other expressive item that is inextricably intertwined with the message of the vendor.
3. Engage in any activity permissible in the P-Zones.

No person or group may set up a display table, easel, or other furniture, use a pushcart or other vehicle or place any item on the property in the area of the Boardwalk outside the P-Zones, I-Zones, Pagodas or Recreation Area, except as follows:

1. The activities listed in items 1-3 above are allowed with a table, easel or other furniture on the Westside (ocean-side) of the Boardwalk outside the P-Zones, I-Zones, Pagodas or Recreation Area.
2. Any activity permitted in the P-Zones is allowed, except vending. However, such activity shall not substantially impede or obstruct pedestrian or vehicular traffic.
3. Any table used in connection with the activity must be no larger than a standard card table 34" x 34" and 28" in height.
4. Any easel used in connection with the activity must be no larger than a standard easel with a height no greater than 68" and a display board no larger than 24" x 24" or an artist's easel with a height no greater than 68".
5. Any umbrella used in connection with the activity must be adequately secured with a diameter no greater than 8 feet.

**Noise Regulations:**

1. Amplified sound is permitted only in the designated spaces in the P-Zones in the locations specified in Section 42.15 between 9:00 a.m. and sunset, and is prohibited after sunset and before 9:00 a.m. Any speaker or sound reproduction system must be placed on the ground and can be no more than three feet in height. No person or business shall interfere with or resist the taking of any noise measurement authorized. All other Los Angeles Municipal Code Sections relating to noise shall also apply.
2. No noise, whether from amplified or non-amplified, sound may exceed the Lmax levels of:
  - a) 75 dBA, when measured at a minimum distance of 25 feet from the source of the noise; or,
  - b) 96 dBA, when measured at a minimum distance of one foot from the source of the noise.

**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 processing fee of \$25.00. The processing fee pays for a photo identification card, which is your permit. The permit fee is non-refundable. To replace a lost, stolen or revoked card, you must pay another \$25 fee. The permits are valid January 1 through December 31 and must be renewed annually with current contact information. The annual renewal fee is \$10. Permits are for individuals or organizations. Until December 31, 2008, permit holders under the previous Public Expression Permit Program may obtain a new permit at no charge by surrendering their obsolete permit and completing a

new application form. Each year, a new permit will be issued in a color that distinguishes it from the year(s) prior.

I-Zone permit applications will include valid contact information at which the City may provide notice to the applicant, a description of the goods or merchandise for which the applicant seeks a permit, and a declaration that the goods or merchandise for which the applicant seeks a permit are expressive items of the applicant's own creation or are inextricably intertwined with the message of the applicant. P-Zone permit applications shall only require the applicant's name. Applicants will be required to provide identification validating the application information.

**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. The P-Zone spaces are located between 17th Avenue and Clubhouse Avenue; between Wavecrest Avenue and Park Avenue; and between Sunset Avenue and Paloma Avenue. The I-Zone spaces are located between Clubhouse Avenue and Wavecrest Avenue; between Park Avenue and Sunset Avenue; and between Paloma Avenue and Navy Street. Assignments of spaces are made through a lottery system to provide a fair opportunity for everyone to have a chance to obtain the space of their choice.

**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 Westside 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 I-Zones Lottery will be conducted in two parts – beginning with a weekend drawing and followed by a weekday drawing. 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 or organization whose card is drawn will choose an identified numbered space which has not yet been selected for the time period covered by the Lottery. Permit cards will be handed back with a space assignment slip or sticker. Following the Weekend Lottery, the same procedure will be conducted for the Weekday Lottery. 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.

During Peak Season, the P-Zone lottery will be held at the same time as the I-Zone lottery in the same manner, with the exception of Large Act/Performance spaces. Only Large Act/Performance groups will be eligible to choose one of the five Large Act/Performance spaces. Large act/performance groups are those that draw an audience of more than an average of 25 persons.

Space assignments for the weekends (Saturday and Sunday) will be in effect the Saturday and Sunday following the Lottery. Space assignments for the weekdays (Monday through Friday) will be in effect the Monday through Friday the week after the Lottery. After the total number of spaces available for the P-Zones and I-Zones 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 spaces remain unassigned for the time period covered by the Lottery, any permit holder may request assignment of an unassigned space within his/her/their permitted zone from the Venice Beach Recreation Center staff for the remainder of that time period on a first come, first serve 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.

In the five Large Act/Performance spaces, the space(s) may be rotated once every hour beginning at 11:00 a.m., if more than one performer or group wants the same space. Example: if two group/performers want space D, they would alternate performances on an hourly basis beginning at 11:00 a.m.

**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.

**Public Expression Program Regulations:**

All persons/organizations must comply with applicable laws and ordinances in their use of spaces under this program. The Board of Commissioners has also adopted these regulations.

1. All vending not specifically exempted by Section 42.15 B2, C2 or D1 is prohibited.
2. Designated spaces cannot be occupied before 9:00 a.m. and must be vacated by sunset.
3. Designated 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. Designated spaces cannot be enclosed on more than two sides.
6. Items, such as, structures, fixtures, furniture, tents, equipment or displays of any kind cannot extend higher than four (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 permitted only in the designated permitted spaces of the P-Zone as specified in L.A.M.C. 42.15 between 9:00 a.m. and sunset and is prohibited before 9:00 a.m. and after sunset.
8. The free movement of pedestrian or emergency vehicles cannot be blocked or obstructed.
9. Parking or unloading in red zones is not permitted.

10. Permit holders must display the Recreation and Parks issued photo identification card at all times when in the assigned space.
11. No person/organization shall place or allow anything in any designated space that extends beyond the boundaries of the designated space.
12. Permit holders may not move public furniture, equipment, or fixtures (examples are benches and trash cans) and may not attach anything to public property.
13. Permit holders may not interfere with any City staff person, including Recreation and Parks Department, the Office of Public Safety 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.
14. 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.
15. No person/organization shall alter or reproduce any permit issued, nor shall any person/organization possess an altered, reproduced or falsified permit document.
16. No person/organization occupying a space shall leave such space for a period longer than 45 minutes without first removing all items therefrom.
17. After 12:00 p.m. daily, any permit holder may use any single 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/their 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.
18. No person/organization shall occupy more than a single space at any given time nor shall any person, business, or group solicit another person to obtain or occupy a space on their behalf.
19. No person/organization shall purchase, sell, barter, or exchanged any space with another person/organization.
20. Permit holders are responsible for keeping their contact information on file current.
21. No person shall use or obstruct access to any City-owned or maintained street furniture or structure, including any pagoda, for vending, performance, or display of anything whatsoever, including but not limited to, use of any bench, planter or trash receptacle installed on public property.

Permit holders who do not comply with City laws or the public expression program rules are subject to the penalties described in Section 42.15 and these program rules.

**Permit Suspension/Revocation:**

If a permit holder violates the rules of the public expression 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 if the violation is not immediately ceased at the time the notice is issued and is not repeated. 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, and suspension of "walk on" privileges in the I-Zones and P-Zones until the expiration of the next Lottery period.

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 or her permit card revoked. If LAPD issues a criminal citation to a permit holder while in a permitted space, it will be treated as an administrative violation under the three-step enforcement plan upon conviction or bail forfeiture.

At each step, an I-Zone 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 three-person panel, the Panel of Vending Permit Appeals, consisting of: a representative of the Park Advisory Board designated by the Board of Recreation and Park Commissioners; a community member designated by the City Councilperson; 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 and the board shall act only by a majority of all 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 staff 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 Venice Beach Recreation Center 1800 Ocean Front Walk 90291.

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.

3. A permit revocation appeal shall be heard by the three-person Panel of Vending Appeals 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.
4. 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.
5. 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 Boardwalk can re-apply for a permit one calendar year from the revocation date.

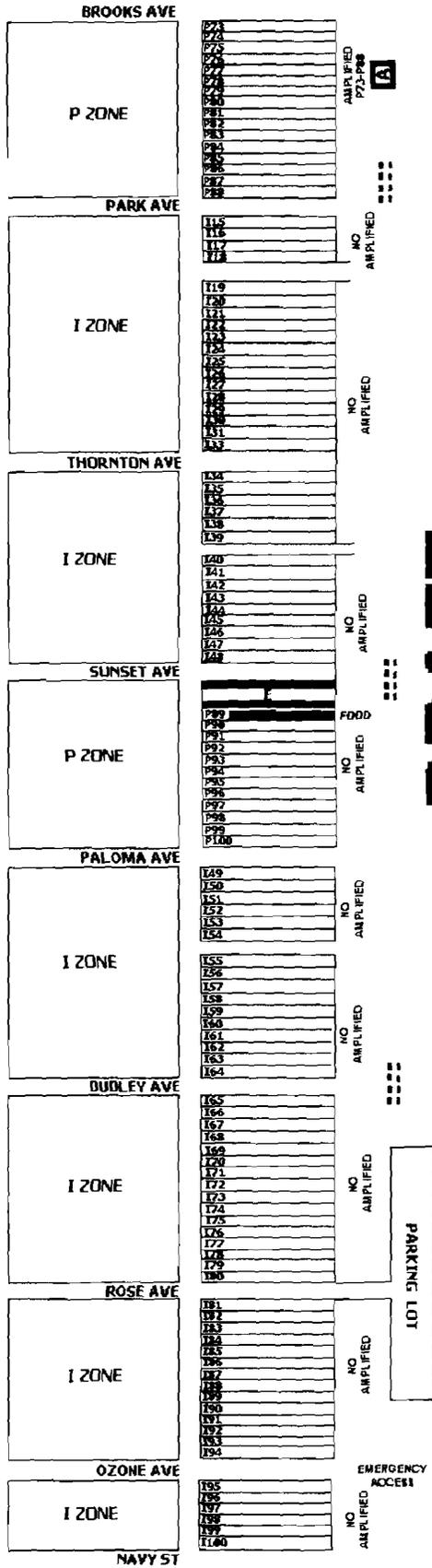
**Please Sign a Copy for our Records**

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 the 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 \_\_\_\_\_



**DRAFT**

**KEY:**

- A** Amplified Sound
- Amplified
- Not Amplified
- Food Gateway
- FASBDA
- Times 5 higher performance: 200' x 8'
- 'P' Zone: 100' x 8'
- 'I' Zone: 100' x 8'

