

DRAFT

ORDINANCE NO. _____

City Council Series

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ANGELES AMENDING LOS ANGELES MUNICIPAL CODE PROVISIONS RELATING TO STREET PERFORMANCE, VENDING AND THE USE OF EQUIPMENT AND AMPLIFICATION IN CERTAIN PUBLIC SPACES AND ADDING A PROVISION PROHIBITING STREET FURNITURE, CELL PHONE TOWERS AND OTHER PERMANENT-TYPE FIXTURES ON OR WITHIN *[the boundaries of Venice at Rose Avenue on the North to Marina del Rey on the South and to Lincoln Boulevard (this mirror language from the California Coastal Act of 1976)]* OF OCEAN FRONT WALK [COMMONLY KNOWN AS THE BOARDWALK AT VENICE BEACH (BOARDWALK)]

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

WHEREAS, the following findings have been made by the City of Los Angeles:

- There is a tradition of Public Expression on the Boardwalk and it is world-famous for its free performances and public expression activities; and,
- the Boardwalk is the destination in Southern California second only to Disneyland; and,
- the Boardwalk comprises an area of coastal land only a little over ___ mile, making safe circulation in these spaces an ongoing challenge; and,
- Street performers enrich the ambiance of Los Angeles' unique and stimulating public spaces and their presence in the City's most popular spaces reflects Los Angeles' commitment to the arts and to the free exchange of ideas; and
- the Boardwalk is the major performance venue for performers in the City; and
- Most, but not all, performers utilize a substantial amount of equipment which may include tables, chairs, keyboards, guitars, amps, microphones, signs, umbrellas, and costumes; and,
- For many performers, their performances at this venue constitutes their livelihood and, consequently, these performers work at this location daily, year in and year out, and
- Despite their value to the community, unregulated street performance on a crowded public thoroughfare can jeopardize public safety and welfare by blocking traffic and by

impairing Emergency ingress and egress; and

- A major component of the City's present economic vigor is its merchant community; and
- Uncontrolled street vending would threaten the public welfare by permitting unfair competition to merchants who pay substantial rents and by eroding the City's tax base; and
- In order to preserve the quality of the residents' lives and protect the City's visitor industry, which is an essential component of the City's economic vitality, the City must safeguard the visual appeal and charm of its streets and public spaces; and
- The City's experience has shown that unregulated street vending degrades the appearance, as well as the safety, of the Boardwalk and public spaces associated therein, because vendors spread their tables, blankets, chairs and paraphernalia out on the public right of way in the most crowded places; and
- The City has worked since _____ to create and refine laws governing street performance and street vending which recognize performers' and street vendors' value to the community, respect constitutional rights, protect the free flow of pedestrian traffic, the safety of residents, workers and visitors in crowded public places, shield local businesses from unfair competition, and preserve the aesthetic quality of the City's public spaces; and
- The difficulty of striking and maintaining the best possible balance between competing goals has been increased by changing conditions in the City, changing activities undertaken by performers and vendors working in public spaces and changes (or lack thereof) in judicial interpretation of First Amendment guarantees; and
- The necessity and difficulty of establishing, maintaining an enforcing regulations governing street performance and vending in the City's public spaces is exacerbated by certain of the City's characteristics, including its extreme density in the area commonly known as Venice; and
- For purposes of preserving public safety in the event of an emergency, the City's Fire Marshall has evaluated the Boardwalk as an "special district/outdoor entertainment district _____" and has calculated the maximum occupancy load as approximately _____ persons per block; and
- ~~The crowds in recent years have often exceeded this load capacity; and~~

- The Boardwalk is frequented by City's residents and is also among the primary destinations of approximately _____ visitors which flock to the City annually; and
- Performers' equipment and crowds watching these performers at these locations often impair or block ingress and/or egress making it difficult for visitors to leave and for safety personnel to access the Boardwalk during emergencies; and
- Audience members typically stand ten (10) to fifteen (15) feet from a performer or performance group and often form a dense ring around the performer; and
- The combination of extremely dense crowds and popular performers can choke pedestrian flow and severely inhibit the police and pedestrian circulation; and
- When on the Boardwalk, pedestrians who are not watching the performance must force their way between the outer rings of spectators and building walls on the East side of the Boardwalk or shove their way through the middle; and
- Maintaining public safety and quiet enjoyment for residents presents special challenges to the City's public safety personnel, particularly in times of emergency, because of very large crowds, limited and narrow paved roadways, and limited ingress and egress; and
- The City addresses these concerns by ensuring that performers and vendors are aware of the safety requirements relating to equipment, spacing, and the safety of their acts before the performers commence their performance through the use of at least four (4) town hall meetings a year coordinated by Councilmember Bill Rosendahl's office; and
- Attendance at one of these townhalls is required in order to perform or vend on public property to ensure proper education in safety awareness; and
- On October 21, 2010, a preliminary injunction was issued by Central District Court of the United States in Dowd, et al., v. City of Los Angeles; Case No. CV 09-06731 DDP effectively ruling unconstitutional a permitting system and a lottery system as well as an amplified sound ban; and
- The above-mentioned preliminary injunction also effectively removed all time restrictions, and spacing restrictions and caused the Boardwalk to function on a first-come, first-serve basis to acquire a spot to perform or vend in, on, and/or around; and,
- The above-mentioned injunction had the effect of eliminating the City's P-Zones and I-Zones; and

- The City needs some means with which to preserve public safety in such a crowded public space, as well as reduce territorial disputes between performers, deter harassment and hostile behavior by performers, and establish a mechanism by which violence and threats of violence are reduced; and
- Current law prohibits setting up tables/chairs or other equipment past a line where concrete and blacktop meet or on the grass West of this area and prohibits leaving equipment unattended for more than 45 minutes regardless of disability of the vendor or performer but thereby insuring emergency ingress and egress; and
- Current law does not prohibit using more equipment than can be removed at “one time”; and
- Adding the requirement that all equipment can be removed at “one time”, would insure timely removal of equipment in the case of emergency; and
- The “Recreation Area” between Market Street and 20th Avenue is a site that frequently holds special events. It is the location of a police substation where vehicles require the ability for unobstructed ingress and egress. It is also where many people engage in skateboarding, paddle tennis, and other sports and exercise. This recreation area, therefore, requires a special set of guidelines; and
- The City has been enjoined from banning amplified music on the boardwalk, it has not been enjoined from establishing decibel limits in order to facilitate quiet enjoyment by residents of their homes; and
- The noise level is of a particular problem when performers set up amplified music in the pagodas at the end of walkway streets leading to residents’ homes where the sound echoes within the “canyon” formed by the homes on each side of the walkways and alleys; and
- Prohibiting amplified sound which is unreasonably loud, raucous, jarring or disturbing to persons of normal sensitivities would provide an effective means of controlling unreasonably loud noise generated through amplification; and
- The provisions of this ordinance will effectuate the City’s declared policies of support and encouraging street performers and artists, protecting and enhancing the appearance and appeal of the City’s most popular public spaces, and maintaining the public safety, health and welfare, consistent with constitutional requirements, including time, place, and manner restrictions on street performances and vending.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ANGELES

DOES HERBY ORDAIN AS FOLLOWS:

To Address these findings and purposes, the City has created reasonable time, place, and manner restrictions on vending. The City has divided the available space into a total of 210 spaces from which to perform or sell expressive items that are not defined as “commercial” or “resale.”

SECTION 1. LAMC § 42.15 is hereby amended to read as follows:

42.15.100 Definitions.

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

- (a) Charge. To *require* someone to pay a fee or to set, negotiate or establish a fee for a performance. Seeking voluntary contributions through passing around a hat, leaving open an instrument case or other receptacle, or soliciting donations performance is *not* a charge.
- (b) Handcrafts. Objects made either by hand or with the help of devices used to shape or produce the objects through such methods as weaving, carving, stitching, sewing, lacing, and beading, including but not limited to objects such as jewelry, pottery, silver work, leather goods, and trinkets. Handcrafts are not likely to communicate a message, idea, or concept to others, are often mass-produced or produced with limited variation, and often have functional utility apart from any communicative value they might have. Handcrafts do not include visual art.
- (c) Perform. To engage in any of the following activities on public property: playing musical instruments, singing, dancing, acting, pantomiming, puppeteering, juggling, reciting, engaging in magic, creating visual art in it entirety, or similar artistic endeavors. “Perform” shall not include: (1) the provision of personal services such as hair weaving or massage; (2) the application of substances to others’ skin, including, but not limited to, paints, dyes, and inks; (3) the completion or other partial creation of visual art; (4) the creation of visual art which is mass produced or produced with limited variation or (5) the creation of handcrafts. This list of exclusions is not intended to be exhaustive.
- (d) Performer. An individual who “performs” on public property to provide public entertainment. Indicia of being a performer include, but are not limited to, setting

up performance equipment; staging or orienting the performance toward the public; performing in the same location for an extended period of time;

performing in the public fora over multiple days; seeking voluntary contributions through passing around a hat or leaving open an instrument case or other receptacle; and soliciting donations for a performance.

- (e) Sculpture. A three-dimensional work of art which is created through shaping solid material such as wood, stone, clay or metal by carving, modeling, or similar methods.
- (f) Body Art. Sculptures or drawings and paintings applied to an individual's body through the use of ink, dyes, and/or paints or other such similar means.
- (g) Visual Art. Sculptures or drawings and paintings, applied to paper, cardboard, canvas, or other similar or technologically equivalent medium through the use of brush, pastel, crayon, pencil, stylus, or other similar object.
- (h) Boardwalk. The blacktop area from 17th Avenue to Rose Avenue on the South and North and between the commercial buildings on the east and the line of between the concrete and blacktop on the East.
- (i) State Park. The area east of the line between the blacktop and concrete.
- (j) Public Street. Any street providing vehicular access to the Boardwalk.
- (k) Performer's Place. An area designated to hold one or more vendor(s)/performer(s) or demarked by paint by the City on the Concrete portion of the State Park.
- (l) Particularized Message. Each item the vendor sells contains the undiluted message of the vendor.
- (m) Undiluted message. A message apparent by the preponderance or the amount of 75%(?) or more items containing the same primary particularized message.
- (n) Religious items. Crosses, Buddha statues, clothing items, bearing colors of a particular religion such as the colors of Rastafarian religion.
- (o) Expressive Speech. Petitioning, newspapers, leaflet, pamphlets, bumper stickers, patches, buttons, or books created by the person actually distributing the item being presented to the public, or video and/or audio recordings of the person's own performance and being distributed by the person in said recorded performance, visual art, body art, sculpture, jewelry, and handcrafts that have not

been mass-produced with limited variation. Visual art, sculpture, jewelry and handcrafts must have a particularized message attached or as a part of each item on or around a performer or vendor's table.

- (p) Food. Food for homeless people comprising more than one bag of chips or one small item. "Food" does not include an insincere effort to place food within a space designated for food distribution for the sole purpose of being able to secure the space for distributing one's goods or performing.
- (q) Insincere. Offering as a token item.
- (r) Token. Obvious to the reasonable person that the offering is there only for the specific purpose of appearing legitimate.
- (s) Pagoda. Areas with concrete benches in a semi-circle shape at the end of various streets leading the Boardwalk.
- (t) Commercial Item. Items of clothing bearing tags indicating they were "Made in China," that do not convey a particularized message. Items that do not bear the particularized message of the vendor.
- (u) Peak Season. May 1 through November 1 annually.
- (v) Equipment. Tables, chairs, amplifiers, musical instruments, umbrellas, tents, signage, constructed booths, props, merchandise, and similar items.
- (w) Board. The City's Board of Recreation and Park Commissioners.
- (x) City. The City of Los Angeles, a municipal corporation, acting by and through any of its officers, employees or agencies, including, but not limited to, the City's Department of Recreation and Parks.

[if more definitions are added and exceed "z" the suggestion is to begin again with "aa, bb, cc, etc..."]

42.15.200 Rules and Regulations.

No performer or vendor may:

- (a) Place equipment East of the line between the concrete and the blacktop. The intent of this section is to prevent the obstruction of free and safe movement of pedestrians.
- (b) Leave their equipment unattended for longer than one (1) hour.
- (c) Set up equipment that cannot reasonably transport and removed "all at once" within 5 minutes or less.

- (d) Set up unsecured umbrellas resulting in creating a danger or menace to the public.
- (e) Open large, outdoor umbrellas upon the blacktop on the East side of the line between the concrete and blacktop on the Boardwalk thereby causing danger or menace to the public.
- (f) Threaten or intimidate another vendor/performer.
- (g) Use aggressive measures with members of the public or other vendors/performers. For purposes of this subsection (g) aggressive measures shall include: blocking or impeding the passage or another intentionally; touching another with the intent to intimidate or coerce; following, go behind, ahead or along side another with the intent of intimidation or coercion; threatening another by word or gesture, with physical harm; or abuse another with words which are offensive and inherently likely to provoke an immediate violent reaction.
- (h) No performer shall use any knife, sword, torch, flame, axe, saw, or other object that can cause serious bodily injury to any person.
- (i) No performer may litter his/her performance site.
- (j) No performer shall use any generator, wet cell battery with removable fill caps, or any other power source that poses a fire or public safety hazard. No performer shall connect or maintain an electrical cord to an adjacent building or to a City power source.
- (k) No performer shall utilize or prevent the public from utilizing any public benches, waste receptacles, or other street furniture during a performance.
- (l) No minor under the age of 16 can perform unless the minor is at all times accompanied by a responsible adult eighteen (18) years of age or older, has obtained an entertainment work permit issued by the Department of Industrial Relations of the State of California and maintains the permit in his or her possession at the time of the performance.
- (m) A performer/vendor shall not be required to obtain a vendor permit or business license. Other federal, state, and local laws may apply to the activity of sales, including without limitation, local, state, and federal tax laws. It is each performer/vendor's sole responsibility to ensure that he/she is familiar with and complies with such laws.

- (n) Place their equipment or other items on a public sidewalk, public street, or public right-of-way unattended before 9:00 a.m.
- (o) No performer shall perform in contravention of the allowable noise standards established by _____ of this Code.
- (p) No performer/vendor shall park and/or unload in red zones abutting the Boardwalk for more than 5 minutes.
- (q) Set up equipment before or after designated times as follows: 8:30 a.m. and one (1) hour after sunset. Sunset for the purposes of this section (q) is the time indicated local tide charts or time charts _____
- (r) The following formula establishes special performance hours that apply during specified holidays on the Boardwalk:
 - (1) If the holiday follows a weekend and the next day is a workday, then the holiday shall be treated as if it were Sunday and the day preceding the holiday shall be treated as if it were a Saturday.
 - (2) If the holiday precedes a weekend, then the holiday shall be treated as if it were Saturday and the preceding day shall be treated as if it were Friday.
 - (3) If the holiday occurs during midweek, and is surrounded by workdays, then the holiday shall be treated as if it were Sunday and the day preceding the holiday shall be treated as if it were Friday.
 - (4) The following list of holidays which trigger the application of this subsection (q): New Years' Day, President's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Columbus Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. The City Council may be resolution add or subtract to this list of holidays.

42.15.300 Penalties.

The following penalties shall be established for violations of this Chapter and bail shall be set transparently so as to afford the opportunity to avoid penalties and fees being added despite attempts to post bail pending arraignment:

- (a) Except as provided in subsection (b) of this Section, any person violating this Chapter shall be guilty of an infraction, which shall be punishable by a fine of not less than one hundred dollars (\$100), but not exceeding two hundred fifty dollars (\$250) per violation.

(b) Any person violating sections 42.15.200(c)(f)(g)(h) and (j), or any successor legislation thereto, shall be guilty of an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars (\$250), or a misdemeanor, which shall be punishable by a fine not exceeding one thousand dollars (\$1,000) per violation, or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(c) Non-exclusive Remedies and Penalties. The remedies provided in this Chapter are not exclusive, and nothing in this Chapter shall preclude any person from seeking other remedies, penalties or procedures provided by law.

42.15.400 Use of table or cart on the Boardwalk.

No person on the Boardwalk, shall display or distribute goods, written materials, merchandise, food, or any other items from any device or structure except on or from a portable table or cart used in accordance with the following provisions:

- (a) The table or cart shall be located:
- (b) In designated areas established by the resolution of the City Council
- (c) The table or cart shall not be larger than four feet in width by eight feet in length by three feet in height (4' x 8' x 3').
- (d) No structures shall be attached to the table or cart. The display area, including the table or cart, shall be maintained in a neat and presentable manner. None of the items shall be displayed in an area other than upon the table or cart, including, but not limited to, display racks on the sidewalks or in the hanging of items from a building or fence or other structure. Any boxes or accessory items shall be stored entirely beneath the table or cart and shall not be stored or piled alongside of, beheading or in front of the table or cart. The items may be stacked on the table or cart, provided that each stack shall not exceed the height of twelve (12) inches. Signs may be attached to the side or on top of the table or cart. No signs may extend higher than the top of the table or cart and no signs may be affixed to City facilities. The site shall be kept clean and all rubbish shall be deposited in proper receptacles regularly during the day and prior to departing the site each day.
- (e) The table, cart, and all of the person's other items shall be capable of being transported and removed all at once in 5 minutes or less.
- (f) Any person vending pursuant to this Chapter, shall be limited to three (3) chairs.

42.15.500 Allowable Noise Levels on the Boardwalk.

Individuals and businesses shall comply with all of the following noise levels and standards of this Section:

- (a) The following maximum noise level (Lmax) shall apply on the Boardwalk during the times indicated:

| | Time | Maximum Noise Level (Lmax) |
|-----------|-------------------------|---------------------------------------|
| Mon-Fri | 9:00 a.m. – 11 a.m. | 75 dBA*/97dBA** |
| Mon-Thurs | 12 p.m.- Sunset + 1 hr. | 85 dBA*/107 dBA** |
| Friday | 12 p.m. – Sunset +1 hr. | 85 dBA*/107 dBA** |
| Saturday | 9 a.m. – Sunset +1 hr. | 85 dBA*/107 dBA** |
| Sunday | 9 a.m. – Sunset +1 hr. | 85 dBA*/107dBA** |

* When measured at a minimum distance of twenty-five feet (25') from the source of the noise.

** When measured at a minimum distance of one foot (1') from the source of the noise.

- (b) No person or group shall create any noise, or allow the creation of any noise on the Boardwalk that causes the noise level to exceed Lmax standard established in this Section.
- (c) No business shall utilize any speaker or sound reproduction systems at a volume that can be hear inside the premises of another building or structure while the doors and windows to the premises are closed.
- (d) No person shall interfere with or resist the taking of any noise measurement authorized by this Section.
- (e) No person shall use a speaker on a public sidewalk, street, or right-of-way unless it is placed on the ground and is no more than three feet (3') in height.
- (f) Amplified sound shall not be unreasonably loud, raucous, jarring, or disturbing to persons of normal sensitiveness within the area of audibility.

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42.15.600 Penalties.

The following penalties shall be established for violations of this Chapter and bail shall be set transparently so as to afford the opportunity to avoid penalties and fees being added despite attempts to post bail pending arraignment:

- (a) Except as provided in subsection (b) of this Section, any person violating this Chapter shall be guilty of an infraction, which shall be punishable by a fine of not less than one hundred dollars (\$100), but not exceeding two hundred fifty (\$250) per violation.
- (b) Any person violating Sections 42.15.500(a)-(d), or any successor legislation thereto, shall be guilty of any infraction which shall be punishable by a fine not exceeding one thousand dollars (\$1,000) per violation, or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.
- (c) Any person who violates any provision of this Chapter shall be subjected to administrative fines and administrative penalties pursuant to _____ (allowable law)
- (d) Nonexclusive Remedies and Penalties. The remedies provided in this Chapter are not exclusive, and nothing in this Chapter shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

42.15.700 Exemptions.

The provisions of this Chapter shall not apply to:

- (a) Any individual vending newspapers, leaflets, pamphlets, bumper stickers or buttons;
- (b) Any approved participant in any Community Event authorized by the City;
- (c) Any approved participant in any Filming Event authorized by the City;
- (d) Any individual or organization that vends the following items which are inherently communicative **and** have been created, written, or composed by the vendor: books, recorded music, poetry, prose, sculptures, paintings, prints, or photographs.
- (e) Any individual who vends newspapers, leaflets, pamphlets, bumper stickers, or buttons, and also performs a sampling of any item promoted therein. An example

would be a spiritual reading combined with the vending of a pamphlet or other printed material composed by the vendor/performer.

42.15.800 Leaving or placing property, or other items on sidewalks, streets, streetscape, or public buildings.

Except as otherwise permitted by this Code or City contract, no person shall upon any public sidewalk, street, right-of-way, streetscape, public building, or other public facility:

- (a) Leave any property or other item unattended for a period of longer than one hour.
- (b) Place any property or other item(s) unless the item(s) can promptly and safely be transported and removed all at once in five (5) minutes or less.

42.15.900 Prohibition on Street Furniture, Cell Phone Towers, and Other Permanent or Semi-Permanent Structures on or within ___ miles of the Boardwalk.

Unless the permanent or semi-permanent fixture, structure was present before the enactment of this Chapter, the following restrictions apply:

MIRROR THE COASTAL COMMISSION ACT OF 1976 HERE—THE ACT COVERS THE AREA OF VENICE TO LINCOLN BLVD.

Fill in pertinent information here.

42.15.915 Severability. If any provision or application of this section is held invalid, the remainder of the section and application of its provisions will not be affected.

42.15.916 Opening and Closing Hours. No person shall engage in activities not otherwise prohibited by this section between the hours of _____ p.m. and 8:30 a.m.