



**City of Long Beach**

*Working Together to Serve*

**Memorandum  
3rd Council District**

**R-31**

**Date:** August 3, 2010

**To:** Honorable Mayor Foster and Members of the City Council

**From:** Gary DeLong, Councilmember, 3<sup>rd</sup> District *GD*

**Subject:** Public Walkways Occupancy Permit

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Use of a public walkway to provide for sidewalk dining, entertainment or any other purpose requires a City approved Public Walkways Occupancy Permit pursuant to Chapter 14.14 of the Long Beach Municipal Code.

A Public Walkways Occupancy Permit may be subject to restrictions on the hours of operation within the public domain. Sections 14.14.020.D and 14.14.045.B of the Long Beach Municipal Code delineate that such restrictions may be determined by the City Council and minor modifications may be made by the Director of Public Works to an existing permit in good standing. However, the City Council does not review a permit renewal unless more than minor modifications are requested, thus there is no opportunity for implementing uniform hours of operations among businesses operating under existing permits.

In an effort to standardize and establish proper timeframes for use of public walkways, the Municipal Code should be modified to provide appropriate administrative oversight.

It is recommended that the appropriate Code sections be amended to allow for either the City Council or the Director of Public Works to establish the hours of operation in the public walkways for sidewalk dining, entertainment or other purposes. Any new permit application would require the approval and vote of the City Council as currently practiced, and the Director of Public Works would have the authority to apply and modify restrictions on hours of operation on all existing permits. The recommended Code changes are attached.

**Recommended Action: Respectfully request that the City Attorney prepare an amendment to Chapter 14.14 of the Long Beach Municipal Code regarding hours of operation for Public Occupancy Permits as set forth.**

## Chapter 14.14 - OCCUPATION OF PUBLIC WALKWAYS

### 14.14.010 - Definitions.

"Minor modification of an existing permit" means a reconfiguration of the area occupied with no change to the total square footage occupied, a change in the use of the area occupied which otherwise complies with all applicable laws and regulations, or a change in the materials or equipment used within the area occupied ~~or a change in the hours or days of use deemed by the director of public works to be negligible.~~ "Minor modification of an existing permit" does not include any increase to the total square footage occupied, unless the director of public works deems such change to be negligible.

### 14.14.020 - General requirements.

- A. No person shall use or occupy the public walkway with any obstruction for any purpose without first obtaining a written permit from the city council. Permits are not transferable. This chapter shall not be applicable to any activity performed pursuant to and permitted by other chapters of this code.
- B. Permits may only be issued to owners of property directly adjoining that portion of the public walkway upon which the obstruction is to be located, or to lessees of such property with the consent of the property owner.
- C. The permit may be suspended or canceled at any time at the discretion of the director of public works, in the event that it is determined that the obstruction would interfere with street improvement activities, construction activities, cleaning efforts or other similar activities. The permit may also be suspended at any time, if, in the discretion of the city engineer or fire marshal, the obstruction threatens the public health or safety.
- D. Permits for occupancy may contain restrictions for hours of the day or days of the week during which the obstruction may occupy a public walkway, as determined by the city council, except that minor modifications, or as determined or modified by the director of public works in his discretion with respect to an existing permit ~~may be made by the director of public works.~~
- E. Permits shall be issued for a period not to exceed one year. Upon expiration, a new permit must be obtained on the basis of a new application. Notwithstanding the above, such permits may be terminated by the city upon thirty (30) days' notice of the city engineer.
- F. The director of public works is authorized to renew an existing permit in good standing for a one year period provided either: (1) the applicant is not seeking any modification of the existing permit or (2) any modification sought by either the applicant, the city engineer or the fire marshal is deemed by the director of public works to be a "minor modification of an existing permit", as defined in section 14.14.010.
- G. No permit obtained under this chapter shall excuse the permittee's obligation to obtain and comply with any other permit or license required by the city or any other regulatory agency.

**14.14.045 - Public walkways dining permits and entertainment permits.**

- A. No person may occupy or cause to be occupied any portion of the public walkway for the purpose of providing dining or entertainment except as permitted by this chapter or as elsewhere provided for in this code.
- B. Permits to occupy a portion of the public walkway for the purposes of dining or entertainment may contain restrictions for hours of the day or days of the week during which dining or entertainment may occur on the public walkway, as determined by the city council. ~~Minor, or as determined or modified by the director of public works in his discretion with respect modifications to these standards may be made by the director of public works~~ to an existing permit in good standing.
- C. In addition to the other requirements set forth in this chapter, permits to occupy a portion of the public walkway for the purpose of dining or entertainment shall conform to all of the following standards:
1. All dining or entertainment areas shall be defined by placement of sturdy barriers, not to exceed forty-eight inches (48") in height, as approved by the city engineer. Except as approved by the city engineer and the fire marshal, such barriers shall be portable. Such barriers may only be affixed to public property with the prior approval or direction of the city engineer;
  2. All accessories to dining or entertainment uses such as plants or planter boxes, umbrellas, podiums, menu boards, musical equipment and heaters must be located inside the barrier.
- D. All dining and entertainment which takes place on the public right-of-way shall conform to the requirements of Chapter 8.80 of this code regarding noise. Complaints regarding noise shall be logged by city staff and may be the basis for suspension, cancellation, or nonrenewal of a permit.
- E. The permittee shall be responsible for cleaning the public walkway occupied by a dining or entertainment area.