

Park and Recreation Board Meeting

September 21, 2023

Information Item 201:

Expressive Activity Guidelines

Michael Ruiz, Chief Park Ranger
Parks & Recreation Department

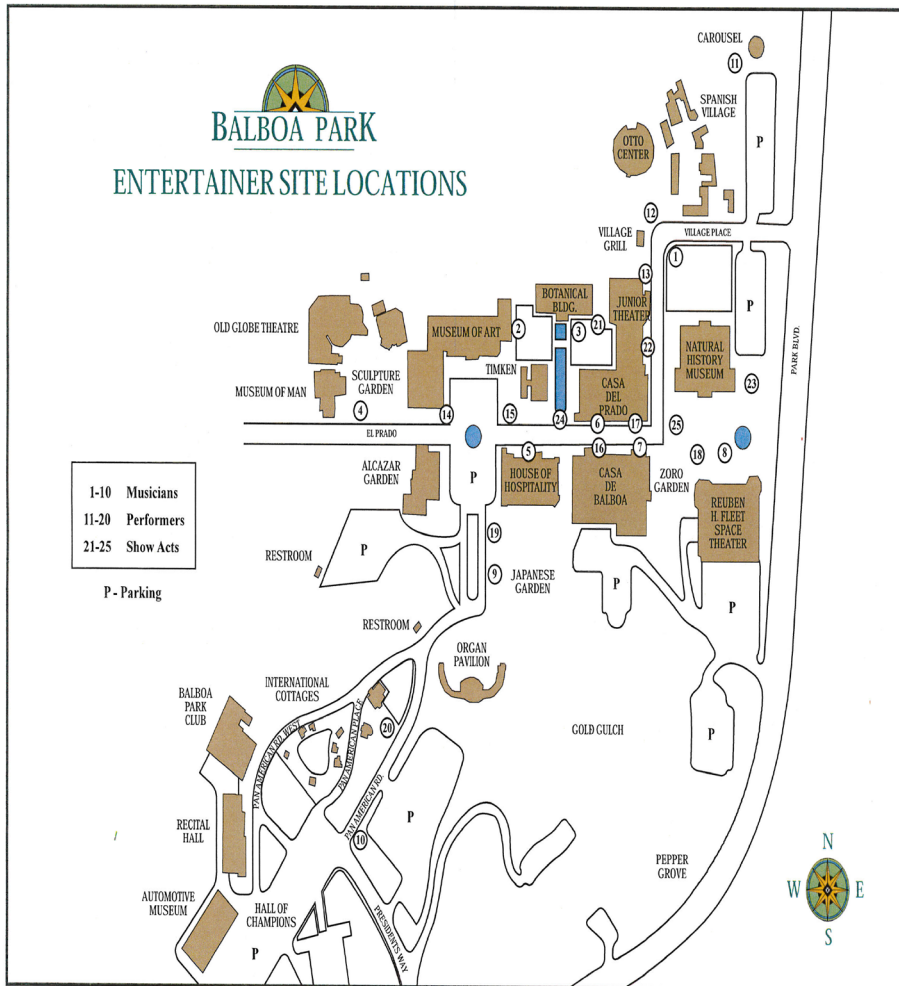
Background

- Expressive Activity has existed in park areas like Balboa Park and along the coast for many years. The activity was paused due to Covid in 2020.
- In Balboa Park, expressive activity was called the “entertainer program” providing musicians, jugglers and other performers with designated spaces through a free monthly lottery system.
- In reviewing the entertainer program as the City came out of the pandemic, the Parks and Recreation Department discontinued the program pending review of the current Municipal Code.

Background (cont)

- The Department plans to propose amendments to the current Municipal Code to clarify when solicitation, performances, and merchandise sales on public property are protected by the First Amendment.
- In addition, the amendments would allow the public to use our parks without activity that unreasonably interferes with health, safety, and its scenic and natural character.
- While the Department is actively reviewing the current Municipal Code, it will provide ample locations Balboa Park and the Beach Park area for artistic expressive activity to continue. We are proposing 2 to 3 sites in each beach community and 26 sites in Balboa Park.

Former Entertainer Program



- 25 total sites were available

Former Entertainer Program

Entertainer Categories:

There are entertainer site locations designated in the park for each entertainer category.

Musician: Vocal and acoustic music Ten Sites, 1-10

Performers: Clowns, balloonists, and portrait artists, etc. Ten Sites, 11-20

Show Acts: Audience interaction (e.g. magicians, jugglers, dance, improv., etc.) Five Sites, 21-25



▶ The Entertainer Program rules and regulations are enclosed in this brochure. These rules and regulations govern the use of the Entertainer Permits. Please read them carefully.

How to Obtain an Entertainer Permit:

✓ Balboa Park entertainer permits are issued during the lottery (random drawing) for a site selection. Please see the lottery schedule below.

✓ Lottery location:

Balboa Park Administration Building
Rear of building, outside door #1
2125 Park Boulevard
San Diego, CA 92101
(Thomas Bros. Pg. 1289, C-2)

✓ What to bring:

- Valid photo identification (eg. State Driver's License, or Passport)
- Ink pen



Lottery Schedule:

The lottery for site selection is conducted promptly at 10:00 am every first Saturday of the month.

Note: dates may change due to large events in the park.

BALBOA PARK ENTERTAINER PROGRAM



Mission:
To provide Balboa Park visitors with a wide variety of cultural entertainment!

City of San Diego
Park and Recreation Department
Developed Regional Parks Division
Park Ranger's Office: (619) 236-1122



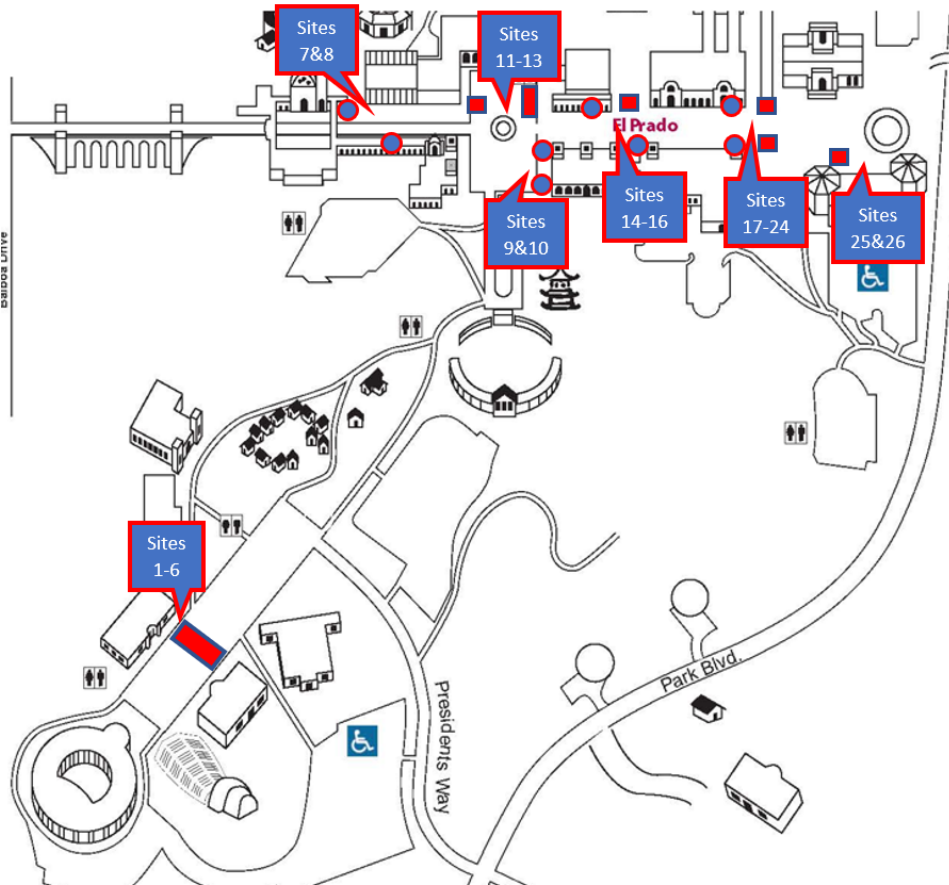
BALBOA PARK ENTERTAINER RULES & REGULATIONS

1. Entertainers must possess his or her permit while on site, and shall allow inspection of the permit by any City Police, Fire Official or Park and Recreation staff.
2. Balboa Park entertainer permits are valid only for the person to whom it was issued. Said permit can not be transferred, assigned, loaned, copied, altered, or exchanged.
3. Entertainers are expected to familiarize themselves with the site locations, and rules and regulations. Entertainer site locations are limited to a 10' x 10' area maximum.
4. Entertainers with a valid and current permit may share their designated site with another entertainer permittee within the same entertainer category (musician, performer, or show act). However, can not utilize the designated site concurrently unless the permittees/entertainers are performing/entertaining together as part of a group*. The Entertainer whom is assigned the particular designated site has precedence over any other permitted Entertainer. Entertainers can utilize the sites only between the hours of 10:00 a.m. and sunset.
5. The permittee takes full responsibility for the Entertainer(s) who is/are under the age of 18, and is required to be on the permitted site with them at all times.
6. *Entertainer groups are limited to 5 persons. Any group member of the permittee can not utilize a site or perform as entertainment without the permittee on site and actively participating in providing the entertainment to the public. Any group member of the said permittee can not perform as separate entertainment.
7. No entertainer shall utilize a site during scheduled special events or park maintenance which impacts the area.
8. Boisterous, indecent, riotous or threatening behavior is prohibited 63.0102(b) (16) SDMC.
9. One sign no larger than "8.5 x 11" clearly stating "Donations accepted" must be displayed while on site, and is the responsibility of the permittee to supply one. One additional sign no larger than 24" x 36" may be displayed only to state the nature of the entertainment provided.
10. Solicitation is prohibited. It is unlawful to practice, carry on, conduct, or solicit for trade, occupation, business or profession 63.0102(b) (14) SDMC.
11. Do not damage city property, including but not limited to, turf, shrubbery, or irrigation system 63.0102(b) (4) SDMC and 63.0102(b) (5) SDMC. Entertainers, please stay off of the park turf during weekdays.
12. Do not impede park visitor traffic. Do not obstruct the free travel of any vehicle or pedestrian over any of the walks, roads, or avenues of the park 63.0102(b) (25) SDMC.
13. The City of San Diego prohibits the use of any water, equipment, electric power, benches or chairs, etc. to be used for the entertainer's act 63.0102(b) (28) SDMC.
14. Posting of any items upon any tree, shrub, or any other city structure is not allowed 63.0102(b) (1) SDMC. Littering is not allowed 63.0102(b) (8) SDMC.
15. Entertainment involving fire, sharp objects, or any other dangerous items are prohibited 63.0102(b) (11) SDMC.
16. Sound amplification of any kind is not permitted including instruments, voice, background or accompanying music etc. Reduction of volume levels is at City Police, Fire Official or Park and Recreation staff's discretion.
17. Helium or mylar balloons are not permitted.
18. Possession or being under the influence of alcohol or narcotics is strictly prohibited.
19. No entertainer shall perform with more instruments, props, equipment, or other items than that entertainer can reasonably transport or remove at one time.



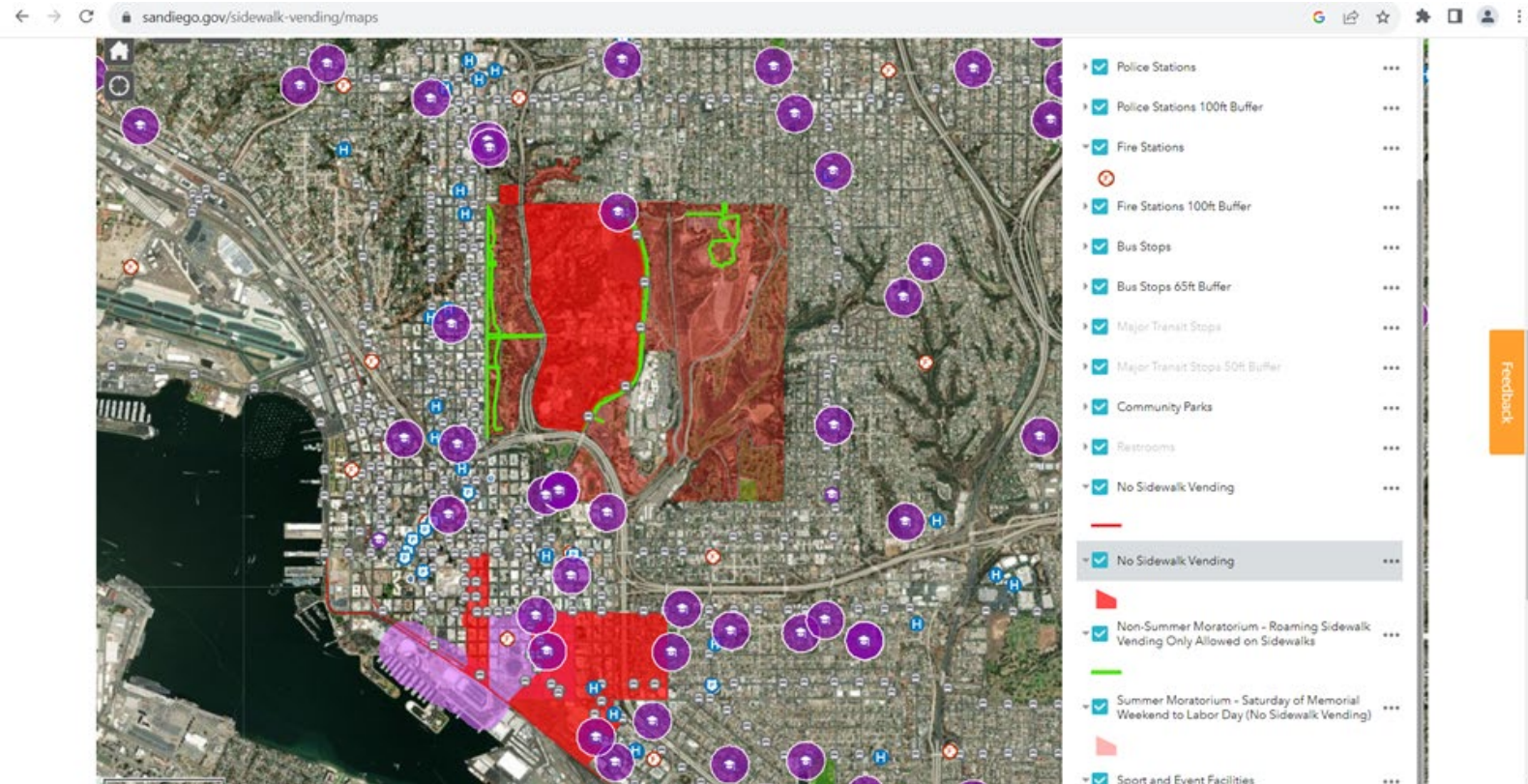
- City of San Diego Charter Section 55 provides authority to create programs and guidelines in parks.

Expressive Activity Guidelines



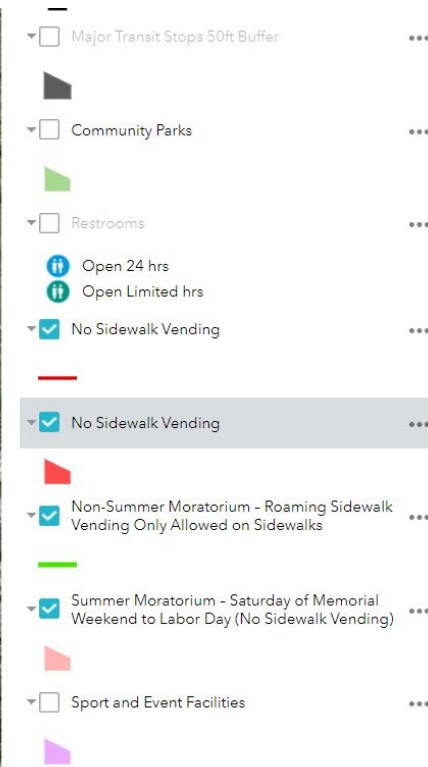
- 26 total sites now available

Balboa Park Sidewalk Vending Map



- Sidewalk Vending is not allowed in the Central Mesa – Red Zone

Beach Area Sidewalk Vending Map



- Sidewalk Vending is not allowed in the Red Zone

Expressive Activity – Muni Code

§36.0113 Non-Applicability “Sidewalk Vending Ordinance”

(a) The following persons, entities or activities are exempt from the requirements of this Division:

- (1) Any vendor or individual engaged solely in artistic performances, free speech, political or petitioning activities, or engaged solely in *vending* of items constituting expressive activity protected by the First Amendment, such as newspapers, leaflets, pamphlets, bumper stickers, or buttons;
- (2) Agencies of any federal, state or local governments;
- (3) Any vendor of *services* that are otherwise permitted or authorized by the City of San Diego; and
- (4) Any lessee or permittee of the City *vending* on City-owned property where *vending* is authorized under a City lease or permit.

Expressive Activity Guidelines

BALBOA PARK RULES & REGULATIONS

“Expressive Activity” protected by the First Amendment is meant to include all non-commercial speech and expressive conduct, including performances, petitioning activity, political activity, and the distribution of information by such means as newspapers, leaflets, and pamphlets.

In order to protect public safety, park maintenance, and deliveries to institutions within Balboa Park will take place before 10:00 AM. Expressive Activity is allowed between the hours of 10:00 AM and 7:00 PM.

1. Non-arcade sites*: These sites are limited to 4 feet X 8 feet & two 8 feet X 8 feet sites. Tables, canopies, or umbrellas must fit within the 4 feet X 8 feet area. There are 18 non-arcade sites available throughout Balboa Park. SDMC § 63.0102 (b)(25)
2. Arcade Sites**: These sites are designated for individuals either standing or sitting without anything that will block or obstruct traffic. There are 8 arcade sites available throughout Balboa Park. SDMC § 63.0102 (b)(25)
3. Individuals conducting expressive activities must familiarize themselves with the locations identified for expressive activities. Individuals will be required

to relocate if they are obstructing walkways, fire lanes, vehicle, or pedestrian access.

4. Any Expressive Activity that obstructs the free travel of any vehicle or pedestrian over any of the walks, roads, or avenues of any park or plaza property is prohibited. SDMC § 63.0102 (b)(25)
5. Locations are designated by signage and the provided map. Each location is based on a first come, first served basis.
6. Expressive activities are prohibited during scheduled special events and during other events that require a permit.
7. These locations are not designated for sidewalk vending or sales and are strictly for expressive activities.
8. It is unlawful to practice, carry on, conduct, offer for trade any occupation, business or profession. SDMC § 63.0102(b)(14)
9. It is unlawful to possess any cup, jar, or container made of glass and used to carry or contain liquid. SDMC § 63.0102 (b)(7)

10. Posting of any items upon any tree, shrub, or plant is prohibited. SDMC § 62.0606
11. Boisterous, indecent, riotous, or threatening behavior is prohibited. SDMC § 63.0102(b)(16) and SDMC § 56.27
12. Littering is prohibited. SDMC § 63.0102(b)(8)
13. Sound amplification of any kind is prohibited. SDMC § 59.5.0502 (b)(1)
14. Sites shall not be left unattended unless actively setting up or breaking down. SDMC § 54.0212
15. Do not damage city property, including but not limited to, turf, shrubbery, or irrigation system. SDMC § 63.0102(b)(4) and SDMC § 63.0102(b)(5)
16. It is unlawful to open or close any valves or switches pertaining to the water or electric services in any park, plaza or beach. SDMC § 63.0102(b)(28)
17. Activities involving fire or any generally prohibited weapons are prohibited. SDMC § 63.0102(b)(11) and 16590 FC
18. Fortune telling, palm reading, and tarot card

readings are prohibited. SDMC § 57.10

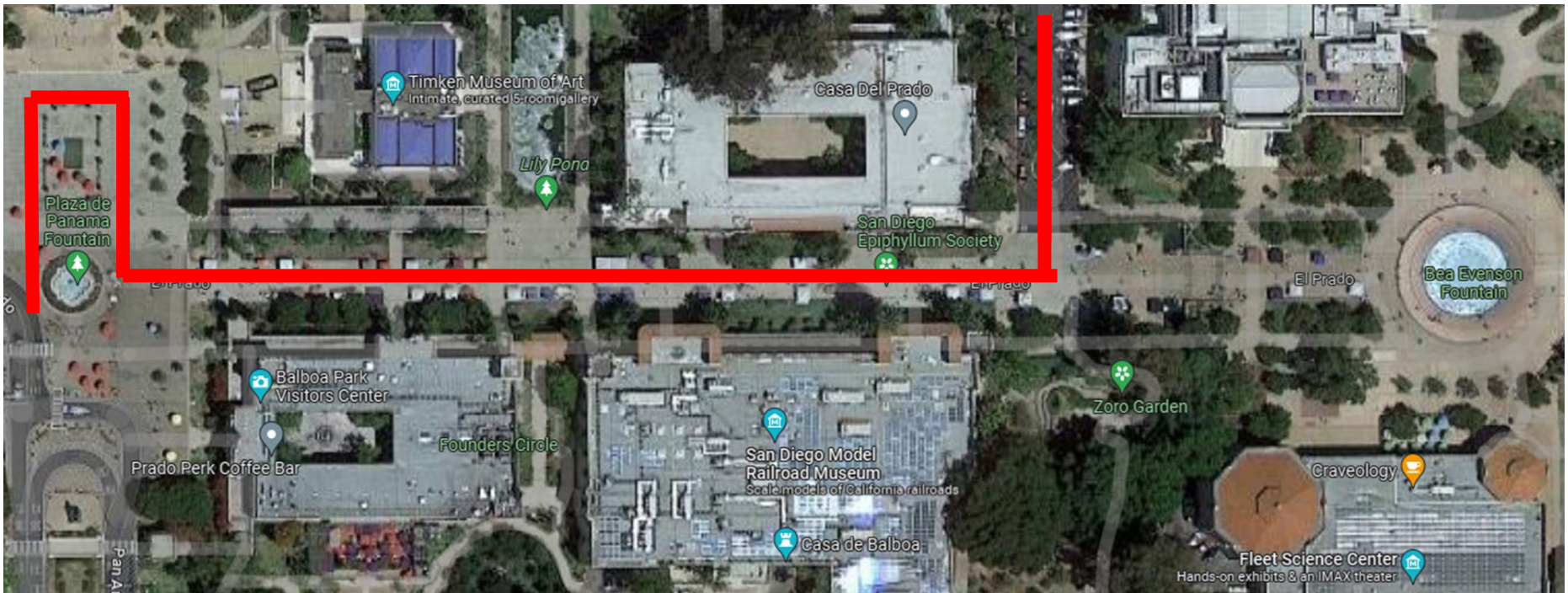
19. Holistic health care including raki and massages is prohibited. SDMC § 33.4403
20. Consuming alcohol or narcotics is strictly prohibited. SDMC § 56.54 (b)
21. The 10-foot area immediately surrounding the space must be kept clean and free of trash and debris associated with their activity. SDMC § 63.0102(b)(8) and SDMC § 63.0102 (b)(25)
22. May not set up within 20 feet of any fire hydrant or fire lane. CFC 503.2.1, CFC 503.4, CFC 507.5.4

*Arcade sites are located inside of the archways located along the north and south side El Prado. They are designated on the map provided as a circle.

**Non-Arcade locations are open air locations. They are designated on the map provided as a rectangle.

- The locations were selected to respect fire lanes, ADA access, walkways, public health & safety and to preserve the natural resources within the park.
- If an individual conducting artistic expressive activity is within an area that is blocking access, they will be directed to one of the more than two dozen locations that are available. A citation will be issued only if a person refuses to move voluntarily.

Fire Lanes – California Fire Code Section 503 El Prado – Balboa Park



New Expressive Activity Guidelines

- First come first serve for each of the 26 sites – No lottery system
- Each site is labeled with the corresponding site number
- Sites are limited to either 4 ft X 8 ft or 8 ft X 8 ft
- Hours: 10:00 AM to 7:00 PM – Provides delivery & Maintenance access
- Sidewalk Vending will continue to be enforced per the current Muni Code – this includes illegal food and non expressive activity merchandise sales.

Education and Information

- Updated website with the map & guidelines will be available
- Brochure & map will be handed out and posted
- A 30-day educational period will provide additional opportunity to learn about the new guidelines and site locations
- Mission Bay & Beach areas will also have sites and locations for expressive activity
- More information email: BPRangers@san Diego.gov



Thank You