



CITY OF HUNTINGTON BEACH
INTER-DEPARTMENT COMMUNICATION

TO: Honorable Mayor and City Council Members

VIA: Dr. Penelope Culbreth-Graft, City Administrator

FROM: Kenneth W. Small, Chief of Police

SUBJECT: Huntington Beach Beer Company Entertainment Permit Revocation

DATE: October 1, 2007

On July 2, 2007, I initiated action to revoke the Entertainment Permit for the Huntington Beach Beer Company located at 201 Main Street. The Huntington Beach Beer Company has appealed the revocation, and a public hearing will be held at the City Council Meeting on October 15, 2007. My decision to revoke the permit was based on the following information.

Since August 1, 2005, the Huntington Beach Police Department responded to the following police related calls for service and police related incidents involving the Huntington Beach Beer Company.

Loud Music Complaints:	4
Intoxicated Patron Arrests:	13
Assault/Battery:	7
Misc. Disturbances:	8
Verbal Warning:	11
Warning Letters:	3
COP/City Inspections:	2
Civil Citations/Letters:	4
Crime/Information Reports:	36
B&P/ABC Violations:	7
Entertainment Permit Violations:	14

Below is the brief description of police calls for service at the Huntington Beach Beer Company.

September 2005

September 3, 2005 – Disturbing The Peace / Battery DR 2005-16175

September 8, 2005 – Public Intoxication DR 2005-16425

January 2006

January 1, 2006 – Loud Music (Verbal Warning to owner)

January 19, 2006 – Loud Music (Verbal Warning to owner)

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February 2006

February 17, 2006 – Entertainment Permit Violation DR 2006-2732
February 18, 2006 – Battery / Intoxicated subjects / minor involved DR 2006-3144

April 2006

April 20, 2006 – Public Intoxication / Disturbing The Peace DR 2006-7059
April 27, 2006 – Public Intoxication DR 2006-7343
April 30, 2006 – Public Intoxication / Disturbing The Peace DR 2006-7684

May 2006

May 27, 2006 – Disturbing The Peace / Fight CN 06054333
May 28, 2006 – Disturbing The Peace CN 06054860
May 31, 2006 – Entertainment Permit Violation (Warning to Manager Josh Hayes)

June 2006

June 24, 2006 – Public Intoxication / Vandalism DR 2006-11421
June 24, 2006 – Public Intoxication / Vandalism DR 2006-11422
June 25, 2006 – Public Intoxication / Battery DR 2006-11436

July 2006

July 1, 2006 – Disturbing The Peace (Verbal Warning to Manager Josh Hayes)
July 4, 2006 – Public Intoxication / Battery (2 victims) DR 2006-12193(4)
July 14, 2006 – Disturbing The Peace CN 06076950
July 16, 2006 – Defrauding An Innkeeper DR 2006-13115
July 26, 2006 – Vandalism CN 06082365
July 29, 2006 – ABC Violation (Verbal Warning to Manager Josh Hayes)

August 2006

August 6, 2006 – Disturbing The Peace	CN 06087129
August 11, 2006 – Disturbing The Peace	CN 06089147
August 20, 2006 – Entertainment Permit / Municipal Code Violation	DR 2006-15588
August 31, 2006 – Entertainment Permit (Verbal Warning to Manager)	

September 2006

September 1, 2006 – ABC Conditions Violation (Verbal Warning to Yolanda)	
September 2, 2006 – ABC Conditions Violation (Verbal Warning to Manager)	
September 16, 2006 – Public Intoxication	DR 2006-17494
September 24, 2006 – Entertainment Permit Violation	DR 2006-18059
September 24, 2006 – Over Capacity	DR 2006-18059

October 2006

October 6, 2006 – Disturbing The Peace	CN 06112329
October 8, 2006 – Loud Music (Verbal Warning to Owner)	
October 9, 2006 – Entertainment Permit Violation	DR 2006-19205
October 22, 2006 – Battery	DR 2006-20172
October 29, 2006 – Public Intoxication	DR 2006-20488
October 29, 2006 – Entertainment Permit Violation	DR 2006-20490

November 2006

November 4, 2006 – Minor Purchase / Possess Alcohol	DR 2006-20995
November 9, 2006 – Entertainment Permit Violation	DR 2006-21349

December 2006

December 8, 2006 – Sell Alcohol to a minor	DR 2006-23267
December 23, 2006 – Public Intoxication	DR 2006-24275

January 2007

January 26, 2007 – Minors drinking alcohol	DR 2007-1717
January 27, 2007 – ABC Condition Violation	
January 28, 2007 – Entertainment Permit Violation	DR 2007-1785

February 2007

February 3, 2007 – Entertainment Permit Violation (Verbal Warning to Chris Cassidy)

February 24, 2007 – Overcrowding (Verbal warning to staff)

March 2007

March 9, 2007 – Entertainment Permit Violation DR 2007-4395

March 16, 2007 – Loud Music / Entertainment Permit Violation DR 2007-4823

March 17, 2007 – Disturbing The Peace / Public Intoxication DR 2007-4904

March 24, 2007 – Disturbing The Peace / Public Intoxication DR 2007-5395

March 29, 2007 – Drinking In Public DR 2007-5716

April 2007

April 6, 2007 – Entertainment Permit Violation / Minor on premises DR 2007-6245

April 7, 2007 – Public Intoxication DR 2007-6244

April 17, 2007 – Disturbing The Peace CN 0741188

May 2007

May 19, 2007 – Entertainment Permit Violation DR 2007-9024

Civil Citations

The Huntington Beach City Treasurer's office advised that the Huntington Beach Beer Company has paid fines for the following civil citations, all of which were uncontested:

Citation Number HB73725, DR 2007-1785, \$250.00 Fine paid on 5/1/07

Citation Number HB73711, DR 2007-4395, \$500.00 Fine paid on 6/13/07

Citation Number HB73712, DR 2007-4823, \$1000.00 Fine paid on 6/13/07

Owner Advisement

On several occasions, Detective Brian Smith spoke with Mr. Pena, who is the owner of Huntington Beach Beer Company. Detective Smith advised Mr. Pena of the continued calls for service and entertainment permit violations. He also discussed management's inability to operate the business within the guidelines set forth by the City of Huntington Beach and the ABC. Mr. Pena was advised that continued violations might lead to the revocation of the Huntington Beach Beer Company's Entertainment Permit. Captain Chuck Thomas also met with Mr. Pena and advised him of the continued police related problems at the location and told him that a continuation of the problems may lead to a revocation of his Entertainment Permit.

I met with Mr. Pena following the revocation of the Entertainment Permit to determine whether he would be interested in obtaining a conditional Entertainment Permit. This would allow him to continue providing entertainment at the location within the provisions established by the conditional permit. Mr. Pena and I could not agree on the conditions, so no conditional Entertainment Permit was issued. He has been able to continue operating under the conditions of his previous Entertainment Permit during the appeal of the revocation.

Since Mr. Pena and the Huntington Beach Beer Company received the Entertainment Permit Revocation Letter, there have been no additional reported incidents related to alcohol or entertainment. It appears that the numerous warnings given to the Huntington Beach Beer Company were ineffective, however once the Entertainment Permit was revoked, they began to comply with applicable regulations.

Huntington Beach Municipal Code, 5.44.090, states that three (3) or more violations of the same provision, or six (6) or more violations of any of the provision of Chapter 5.44 of the Municipal Code, and/or the conditions of an Entertainment Permit, within any 12 month period, can subject the Entertainment Permit to revocation by the Chief of Police. Between August 1, 2006, and June 1, 2007 (10 months) the Huntington Beach Police Department documented **12 violations** of the conditions listed on the Entertainment Permit.

Below is a synopsis of the documented Entertainment Permit violations:

August 20, 2006 DR 2006-15588 Violation of Condition 4

At 1:20 am, Officers were over 200 feet away from the establishment, when they could hear loud music originating from the location for over 20 minutes. The music was being generated from a disc jockey inside of the Huntington Beach Beer Company.

August 31, 2006 Warning Given Violation of Condition 3

During the evening of August 31, 2006, Officers observed several patrons dancing inside the Huntington Beach Beer Company. At that time, they did not have a Conditional Use Permit or Entertainment Permit that would allow patron dancing.

September 24, 2006 DR 2006-18059 Violation of Condition 3

At 0100 hours, Officers observed 20-40 patrons dancing inside of the Huntington Beach Beer Company. The report indicates that staff has been warned about dancing by Officer Zumwalt at least 5 times prior. After being notified about the violation, the staff made minimal efforts to stop the patron dancing. During this event, officers also conducted an occupancy check, which showed that the bar was over the prescribed occupancy level of 229.

October 9, 2006 DR 2006-19205 Violation of Condition 4

At 11:30 pm, Officers could hear loud music coming from the Huntington Beach Beer Company. The music was being generated by a live band that was playing inside the location. The Officers noticed that the rear doors were open and they suspected that this is why the music was so loud. The Officer's contacted Mr. Pena and advised him of the noise disturbance.

Approximately 30-45 minutes later, the Officer's once again could hear loud music coming from the Huntington Beach Beer Company. This time the rear windows and doors were closed, however external speakers had been turned up so that the music could be heard from more than 50 feet away.

October 29, 2006

DR 2006-20490

Violation of Condition 1 and 3

At 1:05 am, Officers entered the Huntington Beach Beer Company after a patron threw a lit cigarette at them from the second floor balcony. When they entered the location, the Disc Jockey was still playing music. There were about 30 patrons dancing. At this point the Huntington Beach Beer Company Entertainment Permit did not authorize dancing, and entertainment was only authorized until 1:00 am.

When Officers spoke to the manager about the violations, he stated that it did not matter if they had dancing because they were getting their dance permit in one month.

November 9, 2006

DR 2006-21349

Violation of Condition 10

At 11:25 pm, Officers observed a group of subjects inside of the location who appeared to be under 21 years old. These subjects included an 18-year-old female, 20-year-old female, 19-year-old male, and a 19-year-old female. Some of the minors had fictitious ID cards, which the Officer's noticed immediately upon examination of them.

January 28, 2007

DR 2007-01785

Violation of Condition 1

At 1:35 am, Officers observed several patrons dancing on the open dance floor inside of the Huntington Beach Beer Company. The officers notified the manager who asked them if it was "really that big of a deal." Entertainment was only authorized until 1:00 a.m.

February 3, 2007

Warning

Violation of Condition 6

Officers noticed that the doors were open during hours of entertainment, a violation of the Entertainment Permit. The open doors allow excess noise to escape the premises creating a disturbance.

March 9, 2007

DR 2007-04395

Violation of Condition 6

At 10:30 pm, Officers observed that the front door leading into the Huntington Beach Beer Company was propped open while entertainment (dancing) was occurring. In this report, Officer Zumwalt states that he has warned the management, on multiple occasions, that it is a violation of their Entertainment Permit to keep the doors open.

At 11:50 pm, Officers once again noticed that the front door was left open, and that the manager was standing next to the open door.

March 16, 2007

DR 2007-04823

Violation of Condition 6

Officers observed the rear door open from 10:30pm until 10:50 pm while entertainment was taking place.

At 11:15 pm, Officers were standing on the northeast corner of Main/Walnut, when they could hear loud dance music coming from the Huntington Beach Beer Company. They could also see that the front door and upstairs patio windows were open.

At one point, an officer walked approximately 150 feet away from the Huntington Beach Beer Company, and could still hear the music that originated from the location.

April 06, 2007

DR-2007-06245

Violation Condition 11 (former 10)

At 11:45 pm, Officers located a younger looking female patron inside the location. They contacted the female and determined that she was 20-years-old. The female advised them that she entered the location using a fictitious ID.

May 19, 2007

DR 2007-09024

Violation of Condition 11 (former 10)

At 11:45 pm, Officers observed a group of young looking patrons inside of Huntington Beach Beer Company. The female was later identified as a 20-year-old female, who had used another person's identification card to gain access into the location. The 20-year-old female was 5'08" tall, 130 pounds, with brown hair and green eyes. The female on the identification card had a physical description of 5'03" tall, 130 pounds, with brown hair and green eyes.

Huntington Beach Municipal Code 5.44.050, subsection (1), which is listed as Condition #10 of the Entertainment Permit (August 1, 2006 thru August 1, 2007), states, "*Calls for Police service at your establishment deemed excessive as described in 5.44.050 HBMC, as well as any violations of your ABC License or Conditional Use Permit, can result in the suspension or revocation of your Entertainment Permit.*" The municipal code section establishes fifteen (15) police related calls for service as excessive. The Huntington Beach Beer Company had **33 police related calls for service** between June 1, 2006 and June 1, 2007. Included in the 33 calls for service were 5 incidents related to violations of their ABC license and 12 incidents that were violations of their Entertainment Permit.

It is requested that, following the public hearing, the council deny the appeal from the Huntington Beach Beer Company.

Attachments

1. Entertainment Permit (August 1, 2005 through August 1, 2006)
2. Entertainment Permit (August 1, 2006 through August 1, 2007)
3. Entertainment Permit (August 1, 2006 through August 1, 2007 revised December 19, 2006 to allow dancing)

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CITY OF HUNTINGTON BEACH

2000 MAIN STREET
P.O. BOX 70

POLICE DEPARTMENT

CALIFORNIA 92648
Tel. (714) 960-8811

Kenneth W. Small
Chief of Police

ENTERTAINMENT PERMIT

THIS PERMIT ALLOWS ONLY THE ACTIVITY SHOWN BELOW BY THE PERSON OR PERSONS TO WHOM THE PERMIT IS ISSUED. THIS PERMIT IS NOT TRANSFERABLE.

ISSUED TO: **HUNTINGTON BEACH BEER COMPANY**
201 Main Street #E
Huntington Beach, CA 92648

Effective Dates: August 1, 2005 through August 1, 2006

CONDITIONS:

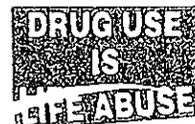
1. Hours of Entertainment: 11:00 AM to 1:00 AM Daily
2. Types of Entertainment: Entertainment, amplified, and non-amplified, not otherwise prohibited or regulated by City Ordinance or City Permit Process, or any conditions set forth by the A.B.C., is approved.
3. No patron dancing. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. Alcoholic drinks shall not be included in the price of admission.
4. Entertainment will not be audible beyond 50 feet of the building in any direction. (HBMC 8.40.112, ABC License)
5. All exterior doors and windows shall be closed during times of entertainment. All entertainment must remain inside the establishment at all times.
6. Security Guards: At least (1) when entertainment is present. The guards must be clearly identifiable as security guards and must possess a valid Guard Card from the State of California.
7. This permit is valid only when used in conjunction with a valid Conditional Use Permit allowing entertainment at the premises.
8. This permit must be posted in a conspicuous place on the premises described above.
9. Calls for Police service at your establishment deemed excessive as described in 5.44.050 HBMC, as well as any violations of your A.B.C. License or Conditional Use Permit, can result in the suspension or revocation of your Entertainment Permit.
10. Per section 5.28.030 HBMC, no person conducting, maintaining or carrying on a business, or having charge or control thereof, which permits entertainment to be allowed on its premises, shall permit to be admitted on such business premises any minor under the age of twenty-one years, if any alcoholic beverages are consumed, dispensed or sold on the premises, unless the minor is accompanied and under the care at all times of his parent or parents or legal guardian.
11. Must obey all state, local, and municipal laws, including, but not limited to, the "No Smoking" statue under Labor Code 6404.5.

You have the right to appeal the conditions on this permit to the City Council in the manner provided by Section 248.02A of the Huntington Beach Zoning and Subdivision Ordinance, except that the written appeal must be filed with the City Clerk within five (5) days of service of this written notice.

ISSUE DATE: August 23, 2005

Kenneth W. Small
Chief of Police

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ATTACHMENT 1

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CITY OF HUNTINGTON BEACH

2000 MAIN STREET
P.O. BOX 70

POLICE DEPARTMENT

CALIFORNIA 92648
Tel. (714) 960-8811

Kenneth W. Small
Chief of Police

ENTERTAINMENT PERMIT

THIS PERMIT ALLOWS ONLY THE ACTIVITY SHOWN BELOW BY THE PERSON OR PERSONS TO WHOM THE PERMIT IS ISSUED. THIS PERMIT IS NOT TRANSFERABLE.

ISSUED TO: **HUNTINGTON BEACH BEER COMPANY**
201 Main Street #E
Huntington Beach, CA 92648

Effective Dates: **August 1, 2006 through August 1, 2007**

CONDITIONS:

1. Hours of Entertainment: 11:00 AM to 1:00 AM Daily
2. Types of Entertainment: Entertainment, amplified, and non-amplified, not otherwise prohibited or regulated by City Ordinance or City Permit Process, or any conditions set forth by the A.B.C., is approved.
3. No patron dancing. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. Alcoholic drinks shall not be included in the price of admission.
4. Entertainment will not be audible beyond 50 feet of the building in any direction. (HBMC 8.40.112, ABC License)
5. All exterior doors and windows shall be closed during times of entertainment. All entertainment must remain inside the establishment at all times.
6. Security Guards: At least (1) when entertainment is present. The guards must be clearly identifiable as security guards and must possess a valid Guard Card from the State of California.
7. This permit is valid only when used in conjunction with a valid Conditional Use Permit allowing entertainment at the premises.
8. This permit must be posted in a conspicuous place on the premises described above.
9. Calls for Police service at your establishment deemed excessive as described in 5.44.050 HBMC, as well as any violations of your A.B.C. License or Conditional Use Permit, can result in the suspension or revocation of your Entertainment Permit.
10. Per section 5.28.030 HBMC, no person conducting, maintaining or carrying on a business, or having charge or control thereof, which permits entertainment to be allowed on its premises, shall permit to be admitted on such business premises any minor under the age of twenty-one years, if any alcoholic beverages are consumed, dispensed or sold on the premises, unless the minor is accompanied and under the care at all times of his parent or parents or legal guardian.
11. Must obey all state, local, and municipal laws, including, but not limited to, the "No Smoking" statue under Labor Code 6404.5.

Any person who appeals the conditions and terms of this permit to the City Council shall be deemed to have accepted the jurisdiction of the City Council and shall be bound by the City Council's decision. Any person who appeals the conditions and terms of this permit to the City Council shall be deemed to have accepted the jurisdiction of the City Council and shall be bound by the City Council's decision.

ISSUE DATE: August 1, 2006


Kenneth W. Small
Chief of Police

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ATTACHMENT 2

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CITY OF HUNTINGTON BEACH

2000 MAIN STREET
P.O. BOX 70

POLICE DEPARTMENT

CALIFORNIA 92648
Tel. (714) 960-8811

Kenneth W. Small
Chief of Police

ENTERTAINMENT PERMIT

THIS PERMIT ALLOWS ONLY THE ACTIVITY SHOWN BELOW BY THE PERSON OR PERSONS TO WHOM THE PERMIT IS ISSUED. THIS PERMIT IS NOT TRANSFERABLE.

ISSUED TO: **HUNTINGTON BEACH BEER COMPANY**
201 Main Street #E
Huntington Beach, CA 92648

Effective Dates: August 1, 2006 through August 1, 2007

CONDITIONS:

1. Hours of Entertainment: 11:00 AM to 1:00 AM Daily
2. Types of Entertainment: Entertainment, amplified, and non-amplified, not otherwise prohibited or regulated by City Ordinance or City Permit Process, or any conditions set forth by the A.B.C., is approved.
3. Patron dancing is allowed, limited to interior dance floor per CUP.
4. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. Alcoholic drinks shall not be included in the price of admission.
5. Entertainment will not be audible beyond 50 feet of the building in any direction. (HBMC 8.40.112, ABC License)
6. All exterior doors and windows shall be closed during times of entertainment. All entertainment must remain inside the establishment at all times.
7. Security Guards: At least (1) when entertainment is present. The guards must be clearly identifiable as security guards and must possess a valid Guard Card from the State of California.
8. This permit is valid only when used in conjunction with a valid Conditional Use Permit allowing entertainment at the premises.
9. This permit must be posted in a conspicuous place on the premises described above.
10. Calls for Police service at your establishment deemed excessive as described in 5.44.050 HBMC, as well as any violations of your A.B.C. License or Conditional Use Permit, can result in the suspension or revocation of your Entertainment Permit.
11. Per section 5.28.030 HBMC, no person conducting, maintaining or carrying on a business, or having charge or control thereof, which permits entertainment to be allowed on its premises, shall permit to be admitted on such business premises any minor under the age of twenty-one years, if any alcoholic beverages are consumed, dispensed or sold on the premises, unless the minor is accompanied and under the care at all times of his parent or parents or legal guardian.
12. Must obey all state, local, and municipal laws, including, but not limited to, the "No Smoking" statue under Labor Code 6404.5.

You may appeal the conditions on this permit to the city Council in the manner provided by Section 2.28.02 of the Huntington Beach City Ordinance, or you may appeal the written approval to the City Clerk within 30 days of the date of issuance of this permit.

ISSUE DATE: December 19, 2006


Kenneth W. Small
Chief of Police

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