

# CITY OF SANTA FE, NEW MEXICO STREET PERFORMER (BUSKER) ORDINANCE

## 23-8 STREET PERFORMERS ON PUBLIC PROPERTY.

**23-8.1 Legislative Findings.** The governing body of the city of Santa Fe finds that:

- A. Street performers enhance the character of the city of Santa Fe; and
  - B. Street performers are professional entertainers whose livelihood comes from gratuities received; and
  - C. Street performers have a right to perform on public property; and
  - D. Street performers gather crowds who are entertained by their widely varied and creative performances; and
  - E. At some locations that street performers choose to entertain there is not enough room for a crowd, therefore, public safety matters occur because sidewalks, passageways, streets or entrances to buildings are blocked; and
  - F. Conflicts among street performers, between street performers and local businesses and sponsors of permitted events often arise because of the proximity of the street performers to other street performers, local businesses, or permitted events; and
  - G. Conflicts occur because the sound level of a street performance may interfere with other street performances, business dealings or other permitted events; and
  - H. In order to facilitate and encourage street performers, there is a need to establish regulation and licensing standards for street performers related to the times and public locations for street performances, distance requirements, public safety and compliance with current ordinances.
- (Ord. #2009-50, §2)

**23-8.2 Purpose.** The purpose of this section is to ensure the ability of street performers to perform in public spaces and to promote harmony among street performers, local businesses, permitted event sponsors, residents and visitors to Santa Fe by:

- A. Addressing public safety concerns; and
  - B. Balancing the interests of the street performers with those of the local businesses, permitted event sponsor, residents and visitors to Santa Fe; and
  - C. Establishing regulation and licensing standards for street performers.
- (Ord. #2009-50, §3)

**23-8.3 Definitions.** As used in this section:  
*Perform or performance* means entertainment such as, but not limited to reciting or singing, acting, dancing, miming, pantomiming, playing a musical instrument or performing a theatrical or literary work.  
*Street performer* means an individual who performs, as defined herein, on public property within the city of Santa Fe.  
(Ord. #2009-50, §4)

### 23-8.4 Business License Required.

- A. Street performers shall be required to obtain a city

business license in accordance with Section 18-1 SFCC 1987, which may be applied for each calendar year. The business license shall expressly state the type of performance the street performer will be performing.

B. Only one (1) member of a street performer group is required to obtain a business license, unless a member or members of the group also perform individually, then that member or those members shall be required to obtain an individual business license.

C. Street performers shall pay license fees in accordance with subsection 18-8.10 SFCC 1987.

D. At all times street performers shall have available the performer's city-issued business license and proof of identification for review by the city.

(Ord. #2009-50, §5, Ord. #2014-19, §1)

**23-8.5 Regulations.** Street performers may perform on public property within the city of Santa Fe but shall comply with the following regulations.

A. Street performers shall not block, or cause the blocking of any sidewalk, passageway, street, or entrance to a building.

B. Street performers may accept contributions of money or property at their performance, in exchange for representations of their own work, except that street performers shall not exchange any type of food product or vegetation, on public property. Street performers shall not sell goods or wares on public property at a fixed price except for audio or video recordings.

C. Street performers shall not perform on private property unless permission is granted from the property owner.

D. Street performers shall not infringe on events for which a city permit has been issued so as not to detract from the stated purpose of the permit including, but not limited to, Indian Market, Spanish Market, Fiesta Arts and Crafts, Fiesta and midday or evening performances at the bandstand on the Plaza. Any performance at such events shall only be with the written permission of the sponsor.

E. Use of fire, spray paint or aerosol in performances is prohibited.

F. Street performers shall stay at least fifty feet (50') away from other street performers, Plaza Park artist/artisan vendors and Plaza pushcart vendors.

G. Street performers shall not be plainly audible fifty feet (50') away from the performance site. A street performer may use amplification, but within the Plaza boundaries may only do so between the hours of 1:00 p.m. and 3:00 p.m. daily. A street performer may not use public power sources or portable generators.

H. Street performers shall not remain at any one location longer than two (2) hours and then shall move at least one hundred feet (100') away from that location and shall not return to that location for two (2) hours. If the location is within the Plaza boundaries, the street performer shall move off the Plaza.

I. Street performers shall not perform on the Plaza

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bandstand.

J. Street performers shall perform no earlier than 8:00 a.m. and no later than 11:00 p.m. Sunday through Thursday and 1:00 a.m. on Friday and Saturday nights except at city parks and recreation areas, where the curfew is 10:00 p.m., Sunday through Saturday, in accordance with subsection 16-13.6 SFCC 1987.

(Ord. #2009-50, §6; Ord. #2011-39, §1, Ord. #2014-19, §2)

**23-8.6 Other Compliance.** The conduct and behavior of all street performers shall be in compliance with the Santa Fe City Code 1987, which includes more specifically:

A. Subsection 10-2.4 — Noises Prohibited;

B. Subsection 10-2.5 — Zone District Noise Levels; Maximum; Correction;

C. Subsection 23-4.2 — Solicitation on Public Property; and

D. Subsection 23-4.8 — Blocking or Obstructing of Sidewalks.

(Ord. #2009-50, §7)

**23-8.7 Criminal Enforcement; Penalty; Administrative Enforcement.**

A. *Criminal Enforcement:* The police department shall enforce the provisions of Section 23-8 SFCC 1987.

(1) Upon the first violation of the provisions of this section, the police may issue a warning to the person violating this section.

(2) Upon a second and subsequent violation by the same person, the police shall issue a citation.

(3) Any street performer who violates any provision of Section 23-8 SFCC 1987 or any other city ordinance shall, upon conviction, be punished in accordance with the provisions of Article 1-3 SFCC 1987.

B. *Administrative Enforcement.*

(1) If a street performer is in violation of any provision of this section or any provision of the SFCC 1987; or is operating in a manner contrary to the public welfare, then the city finance director may, in his discretion and upon reasonable evidence:

(a) Send the street performer a notice of violation specifically stating:

(i) The nature of the violation;

(ii) Whether there are past due license fees; and

(iii) If there are past due license fees, order that the past due license fees, plus a penalty that is double the amount due, be paid immediately, upon receipt of the notice;

(iv) If the fee and penalty are not paid, the provisions of this section or other provisions of the SFCC 1987 are not complied with and the operation contrary to the public welfare is not

discontinued within fifteen (15) days after receipt of the notice, the street performer shall surrender his business license to the finance director and the license shall be placed in suspension until a hearing is held before the finance committee for consideration of revocation of the business license; or

(b) If the street performer's action creates an immediate and imminent danger, immediately place the business license in suspension until a hearing is held before the finance committee for consideration of revocation of the business license.

(c) Any notice of violation shall specify the date, time and place of the hearing by the finance committee in the event the violations are not corrected. The street performer shall appear before the finance committee to show cause why the business license should not be revoked.

(2) If, at the hearing before the finance committee, the street performer fails to show cause why the business license fee should not be revoked, the finance committee shall issue a cease and desist order revoking the business license. Such cease and desist order shall prevent the street performer from performing on public property, for a period of one (1) year from the date of the hearing.

(3) The hearing before the finance committee shall not be less than thirty (30) days after the notice provided in paragraph B(1), above, is mailed, via certified mail, to the address listed on the street performer business license application.

(4) An appearance may be made by counsel and the street performer charged with violating this section may present evidence and call witnesses to show cause why his license should not be revoked.

(5) Any street performer aggrieved by the decision of the finance committee may submit to the governing body a written petition for appeal. Such petition for appeal shall:

(a) Be submitted to the city clerk's office within thirty (30) days of the date the action appealed was taken by the finance committee.

(b) Set forth that such proceedings or assessments were in error in whole or in part, specifying the grounds of the appeal.

(c) Be on the agenda of the next regularly scheduled meeting of the governing body, during the evening session. Verbal or written notice shall be given to the appellant at least five (5) calendar days prior to the meeting of the governing body.

(Ord. #2009-50, §8; Ord. #2011-39, §2, Ord. #2014-19 §3)

**23-8.8 Review.** Section 23-8 SFCC 1987 shall be reviewed by the governing body no later than October 30, 2014.

(Ord. #2009-50, §9, Ord. #2014-19, §4)