

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2011-41

INTRODUCED BY:



AN ORDINANCE

AMENDING SECTION 23-8.5 SFCC 1987 TO REGULATE THE TYPES OF GOODS AND WARES STREET PERFORMERS MAY SELL; AND AMENDING SECTION 23-8.7 SFCC 1987 REGARDING CRIMINAL ENFORCEMENT, PENALTY; AND ADMINISTRATIVE ENFORCEMENT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 23-8.5 SFCC 1987 (Ord. #2009-50, §6) is amended to read:

23-8.5 Regulations. Street performers may perform on public property within the city of Santa Fe ~~[provided that they]~~ but shall comply with the following regulations.

A. Street performers shall not block, or cause the blocking of¹ any sidewalk, passageway, street, or entrance to a building.

B. With the exception of audio recordings, video recordings, hand-made items or written materials that relate to their performance, a [S]street performer[s] shall not sell any other type of goods or wares on public property ~~[other than goods or wares that directly relate to their performance]~~.

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

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

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

9 F. Street performers shall stay at least one hundred fifty (150') feet away from other
10 street performers.

11 G. The sound level from street performances shall be kept at such a level that other
12 street performances are not disturbed.

13 H. Street performers shall remain at one location no longer than two (2) hours and shall
14 not return to that location for two (2) hours, availability of the location permitting.

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

19 **Section 2. Section 23-8.7 SFCC 1987 (being Ord. #2009-50, §8) is amended to read:**

20 **23-8.7 Criminal Enforcement; Penalty; Administrative Enforcement.**

21 A. Criminal Enforcement: ~~[It shall be the duty of the]~~ The police department [to] shall
22 enforce the provisions of Section 23-8 SFCC 1987.

23 ~~[B-]~~ (1) Upon the first violation of the provisions of this [section] Article, the police
24 may issue a written warning to the person violating this [section] Article.

25 ~~[C-]~~ (3) Upon a second and subsequent violation by the same person, the police shall

1 issue a citation.

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

5 [~~D. Upon conviction of a third violation in municipal court, the license shall be revoked~~
6 ~~for one (1) year.~~]

7 B. Administrative Enforcement.

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

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

12 (i) The nature of the violation;

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

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

17 (iv) If the fee and penalty are not paid, the provisions of this
18 Article or other provisions of the SFCC 1987 are not complied with and the
19 operation contrary to the public welfare is not discontinued within fifteen
20 (15) days after receipt of the notice, the street performer shall surrender his
21 business license to the finance director and the license shall be placed in
22 suspension until a hearing is held before the finance committee for
23 consideration of revocation of the business license; or

24 (b) If the street performer's action creates an immediate and imminent
25 danger, immediately place the business license in suspension until a hearing is held

1 before the finance committee for consideration of revocation of the business license.,

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

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

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

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

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

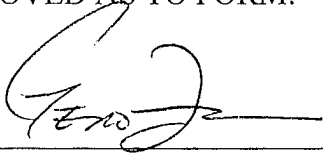
19 (a) Be submitted to the city clerk's office within thirty (30) days of the
20 date the action appealed was taken by the finance committee.

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

23 (c) Be on the agenda of the next regularly scheduled meeting of the
24 governing body, during the evening session. Verbal or written notice shall be given

1 to the appellant at least five (5) calendar days prior to the meeting of the governing
2 body.

3 APPROVED AS TO FORM:

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6 GENO ZAMORA, CITY ATTORNEY

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M/Melissa/Bills 2011/Street Performers