

ORDINANCE NO. 966

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ADDING CHAPTER 5.52 TO THE LANCASTER MUNICIPAL CODE RELATING TO STREET PERFORMERS

WHEREAS, a city “may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws” (Cal. Const., art. XI § 7); and

WHEREAS, “[t]he legislative body of an incorporated city may, in the exercise of its police power, and for the purpose of regulation ... license any kind of business not prohibited by law transacted and carried on within the limits of its jurisdiction” (Cal. Bus. & Prof. Code § 16000(a)); and

WHEREAS, pursuant to the foregoing authority, the City of Lancaster has determined that it is in the public interest and welfare to add Chapter 5.52 to the Lancaster Municipal Code in order to establish regulations that regulate street performers within the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 5.52 (“Street Performers”) is hereby added to the Lancaster Municipal Code to read as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including Exhibit “A”, is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 14th day of June, 2011, and placed upon its second reading and adopted at a regular meeting of the City Council on the ____ day of _____, 2011 by the vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 966, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

EXHIBIT “A”

**CHAPTER 5.52
STREET PERFORMERS**

Sections:

5.52.010	Purpose.
5.52.020	Definitions.
5.52.030	Performance permit required.
5.52.040	Application for performance permit.
5.52.050	Performance permit issuance and denial.
5.52.060	Term of performance permit.
5.52.070	Performance permit terms, conditions and requirements.
5.52.080	Fees for performance permit.
5.52.090	Designated performance zone.
5.52.100	Revocation of performance permit.
5.52.110	Appeal.
5.52.120	Violation and penalty.
5.52.130	Severability.

5.52.010 Purpose.

The city council finds that the existence in the city of street performers provides a public amenity that enhances the character of the city and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes or the ability of businesses to operate and conduct their businesses uninterrupted. This chapter seeks to balance the interests of performers with the residents and businesses of the city by imposing reasonable time, place and manner restrictions on street performers to the extent necessary in order to ensure the safety of performers, their audience, and the general public and to prevent unreasonable interference with residents’ enjoyment of peace and quiet in their homes or the ability of businesses to operate and conduct their business.

5.52.020 Definitions.

Except as otherwise expressly set forth herein, the following words and terms as used in this chapter shall have the following meanings:

“City” means the City of Lancaster.

“City manager” means the city manager of the city or his or her duly authorized representative.

“Designated performance zone” means the area(s) or zone(s) within the city designated by resolution of the City Council as constituting a “designated performance zone” for purposes of this chapter.

“Perform”, “performance” and/or “performing” includes, but is not limited to, the following activities: acting, singing, playing one or more musical instrument,

pantomiming, juggling, performing magic, dancing, reading, puppeteering and/or reciting. "Perform" shall not include the production of items for sale.

"Performance permit" means a performance permit issued by the city to a performer pursuant to this chapter.

"Performer" means a person who has obtained a permit pursuant to this chapter.

"Public area" means a public sidewalk, parkway, and/or all other public spaces located in the city.

5.52.030 Performance permit required.

No person may perform in a public area without a performance permit.

5.52.040 Application for performance permit.

A. An application for a performance permit shall be submitted to the city manager by and in the name of each person proposing to perform in a public area and shall be signed by the applicant under penalty of perjury. A performance permit issued contrary to this chapter, or contrary to any other law, or on the basis of false or misleading information supplied by an applicant, or due to omission of a material fact, shall be revoked pursuant to Section 5.52.100 of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a performance permit any status or right to perform in contravention of any provision of law.

B. All applications pursuant to this section shall be submitted on a form supplied by the city manager. The application shall include the applicant's name, applicant's address, proof of the applicant's identity (such as a photocopy of the applicant's driver's license, identification card, passport or other form of identification approved by the city that contains a photograph of the applicant), a detailed description of the nature of the acts that applicant will perform (including the instrument(s) or prop(s) that will be used), a true and correct photocopy of the applicant's seller's permit issued by the California State Board of Equalization (in order for the applicant to sell recordings of his or her own work pursuant to Section 5.52.070(S)) and any other information the city manager determines is necessary to administer and enforce this chapter. In addition to the foregoing, an application submitted by a minor must include a copy of the entertainment work permit issued to the minor by the Department of Industrial Relations of the State of California and shall identify the responsible adult(s) who will be with the minor at all times that the minor is performing.

5.52.050 Performance permit issuance and denial.

A. Within ten (10) days of receipt of an application for a performance permit and the required fee, the city manager shall issue a performance permit unless substantial record evidence demonstrates one of the following bases for denial:

1. The application is incomplete or inaccurate; or
2. The application seeks a performance permit for a person who has had a performance permit revoked pursuant to this chapter; or

3. The application seeks a performance permit for a type of performance that is unlawful pursuant to any section of this chapter; or

4. The application seeks a performance permit for a type of performance that is unlawful pursuant to any state or federal law.

B. The permit issued pursuant to this chapter shall state on its face such information as shall be determined by the city manager.

5.52.060 Term of performance permit.

A performance permit shall be valid for a period of one year from the date it is issued.

5.52.070 Performance permit terms, conditions and requirements.

All performance permits issued pursuant to this chapter shall be subject to, and all performers shall comply with, the following terms, conditions and requirements:

- A. A performer may not perform in any of the following locations:
 - 1. Within ten feet of any bus stop;
 - 2. Within ten feet of any street corner or marked pedestrian crosswalk;
 - 3. Within ten feet of the outer edge of an entrance to any business, including, but not limited to, doors, vestibules, driveways, outdoor dining entries, and/or emergency exits, during the hours that such business is open to the public or to persons having or conducting lawful business;
 - 4. Outside a designated performance zone.
- B. A performer may perform only within a designated performance zone.
- C. A performer may perform only during the following times:
 - 1. Mondays through Thursdays, between 9:00 a.m. and 10:00 p.m.;
 - 2. Fridays and Saturdays, between 9:00 a.m. and 12:00 midnight; and
 - 3. Sundays, between 12:00 noon and 10:00 p.m.

Notwithstanding the foregoing, the city manager may designate certain days and/or times during which no performer may perform within a designated performance zone or within any portion of a designated performance zone.

D. A performer may perform in one location for up to two (2) hours, after which time such performer shall move to a different location that is at least five (5) storefronts or one hundred-fifty (150) feet (whichever is farther) from the previous location.

E. A performer may not block or obstruct the free and safe movement of pedestrians. If a sufficient crowd gathers to observe a performer such that the passage of the public through a public area is blocked or obstructed, a peace officer, code enforcement officer employed by the city and/or a business license enforcement officer

employed by the city may disburse that portion of the crowd that is blocking or obstructing the passage of the public. If a performer cannot perform in a location without blocking or obstructing the passage of the public, a peace officer, code enforcement officer employed by the city and/or a business license enforcement officer employed by the city may cause such performer to leave such location or require that such performer relocate, but shall not prevent such performer from occupying another location in compliance with this chapter.

F. A performer may not construct, erect or maintain any stage, platform, or similar structure.

G. A performer may not use any knife, sword, torch, flame, axe, saw or other object that can cause serious bodily injury to any person, or engage in any activity, including, but not limited to, acrobatics, tumbling, or cycling, that can cause serious bodily injury to any person.

H. A performer may not use any generator, wet cell battery with removable fill caps, or any other power source that poses a fire or public safety hazard. A performer may not connect or maintain an electrical cord to an adjacent building or to a city power source.

I. A performer may not litter his or her performance site.

J. A performer may not utilize during his or her performance or prevent the public from utilizing any public bench or waste receptacle.

K. A performer may not place any object on a public sidewalk that causes less than a four-foot contiguous sidewalk width being kept clear for pedestrian passage.

L. A performer may not perform with more instruments, props, equipment, merchandise, or other items than such performer can reasonably transport or remove at one time.

M. A performer may not place his or her instruments, props, equipment, merchandise, or other items on a public sidewalk, public street, or public right-of-way for more than two hours without performing in accordance with this chapter.

N. A performer may not leave his or her instruments, props, equipment, merchandise, or other items unattended.

O. A performer may not block or obstruct a curb cut.

P. A performer or group of performers may not perform within one hundred feet of another performer or group of performers.

Q. A performer may not generate noise or sound that is audible at a distance of more than fifty (50) feet from such performer's performance site or that violates the provisions of Chapter 8.24 of this code.

R. A performer may perform for donations, subject to the provisions of Chapter 9.36 of this code.

S. A performer may offer for sale recordings of his or her own work in the form of records, cassettes, videotapes, compact disks, or digital versatile disk, without the

need for a general business license issued pursuant to Chapter 5.04 of this code, provided that the performer submitted to the city with his or her application for a performer's permit a true and correct copy of his or her seller's permit issued by the California State Board of Equalization.

T. A performer shall clearly display his or her performance permit while performing, and shall allow inspection of such permit upon request by any peace officer or city official.

5.52.080 Fees for performance permit.

The city council shall establish by resolution, and from time to time may amend, the fees for the administration of this chapter. Fees required by this chapter shall be in addition to any required under any other chapter of this code.

5.52.090 Designated performance zone.

The city council shall designate by resolution, and from time to time may amend, the areas within the city that constitute a designated performance zone.

5.52.100 Revocation of performance permit.

The city manager shall revoke a performance permit, in addition to any other basis provided by this code, upon determination that any of the following conditions exist:

A. A performer has failed to perform in accordance with this chapter and has violated one or more of the provisions of this chapter on two or more separate occasions. For purposes of the preceding sentence, the term "on two or more separate occasions" shall mean on two or more separate days;

B. A performer made a material false, misleading, or fraudulent statement or omission of fact to the city, or engaged in fraud, in the application for performance permit;

C. A performer has violated any federal, state or local law, regulation or ordinance while engaged in a performance pursuant to a permit issued under this chapter.

5.52.110 Appeal.

If any person is aggrieved by a decision of the city manager regarding the issuance, denial or revocation of a performance permit, such person may appeal the decision by submitting a notice of appeal in accordance with the uniform appeal procedure set forth in Chapter 2.44 of this code.

5.52.120 Violation and penalty.

A. Violations of this chapter shall constitute a misdemeanor and shall be punishable in the manner provided in Section 1.12.020(A) of this code.

B. Any violation of this chapter shall be and the same is declared to be unlawful and a public nuisance. The city attorney or the district attorney may, in addition to or in lieu of prosecution in a criminal action hereunder, commence an action or

actions, proceeding or proceedings for the abatement, removal and enjoinder thereof, in the manner provided by law, and shall take such other steps, and shall apply to such other courts or court as may have jurisdiction to grant such relief as will abate or remove such public nuisance and restrain and enjoin any person from violating the provisions of this chapter.

C. For failure to pay a permit fee when due, the finance director shall add a penalty of twenty percent (20%) of the permit fee on the first date of the month following the due date and ten percent (10%) each month thereafter while the fee remains unpaid, provided that the amount of the penalty shall not exceed fifty percent (50%) of the amount of the permit fee due.

D. If a performer fails to obtain a performance permit, the permit fee due shall be that amount due and payable from the date of the performer's first performance, together with the penalty described in subsection C of this section.

E. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

5.52.130 Severability.

If any part or provision of this chapter is found to be invalid or unenforceable by a court of law, such invalidity shall not affect any other part or provision herein, and all remaining provisions of this chapter will be valid and enforceable to the fullest extent permitted by law.