

## CHAPTER 864

### Street Performers

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#### CROSS REFERENCES

Peddlers- see BR & T Ch. 863  
 Power to license - see MSA 5.1740  
 Hawkers and peddlers generally - see MSA 19.691, et seq  
 Secondhand stores - see BR & T Ch. 856  
 Peddlers in parks - see S, U & PS Ch. 1064  
 Solicitors - see BR & T Ch. 862

#### **864.01 INTENT.**

Street performers provide a public amenity that enhances the character of the City. The City seeks to encourage such performances in a manner consistent with the overall public interest. The City also recognizes that street performers seek to and do draw crowds to their performances. This can create serious safety problems by impacting the ability of pedestrians to move safely on sidewalks and through crosswalks by impeding the response time of safety personnel. It can also impact access to and egress from businesses. Cognizant that street performers are engaged in First Amendment activities, this chapter imposes reasonable time, place and manner restrictions on street performers to the extent necessary to ensure the safety of performers, their audiences 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 conduct business.

(Ord. 603. Passed 6-16-03.)

#### **864.02 DEFINITIONS.**

As used in this chapter:

***Festival*** means a City Commission-authorized street fair or other public event.

***Perform*** includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry, sidewalk art, reciting, demonstrating and performing of any sort.

***Performer*** means a person who has obtained a permit pursuant to this section.

**Public areas** means public sidewalks, parks, playgrounds and other pedestrian areas.  
(Ord. 603. Passed 6-16-03.)

**864.03 STREET PERFORMER PERMITS.**

No person shall perform in a public area without a permit from the City Clerk. The permit shall bear the name and address of the person performing, term of permit, type and location of performing, a picture, and a statement that the permit does not constitute an endorsement by the City of the purpose of the performing or of the person or group conducting the performance. A performer shall clearly display his or her permit while performing, and shall allow inspection of the permit by any police officer or City staff person upon request. Performing shall comply with this Code, State laws and regulations and the conditions of the permit. A permit shall be valid from the date on which it is issued through December 31. A permit shall be nontransferable, and shall contain the year in which the permit is valid. Each member of a group of performers who play together shall be required to obtain an individual permit. A copy of this chapter shall accompany each permit. A performer may not receive a permit unless all previous year's tickets for violation of this chapter are paid.  
(Ord. 603. Passed 6-16-03.)

**864.04 STREET PERFORMER PERMIT APPLICATION; FEE.**

Every person desiring to perform is required to make written application for a permit from the City Clerk and accompanied by a fee established by resolution of the City Commission. The application form provided by the Clerk shall truthfully state, in full, the information requested on the application such as:

- (a) The applicant's name,
- (b) Birthdate of applicant,
- (c) The name, telephone number and address of the person by whom the applicant is employed or whom the applicant represents and the length of time of such employment or representation,
- (d) A description sufficient for identification of the subject matter and method of the performing in which the applicant will engage;
- (e) The period of time for which the permit is applied;
- (f) The locations of all areas in which performing will be conducted; and
- (g) The date, or approximate date, of the last permit issued under this Chapter;
- (h) A statement as to whether or not a permit issued to the applicant (or organization) represented under this chapter has ever been revoked, and if so, the reason for the revocation;
- (i) A statement as to whether or not the applicant has ever been convicted of a felony under the laws of the State or any other State or Federal law;
- (j) Driver's license or personal identification number;
- (k) A 2" x 2" color photograph of the head and shoulders of the applicant.

(Ord. 603. Passed 6-16-03. Ord. 770. Passed 8-20-07)

**864.06 RULES AND REGULATIONS.**

- (a) **Locations.** Performances may take place in the following locations:
- (1) In public areas, except within 100 feet of an elementary and/or secondary school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Manager or his or her designee in the case of an emergency.
  - (2) In public areas where a City Commission-authorized street fair, public festival, farmer's market or event is being conducted, with the permission of the sponsor. Otherwise, at least one block away from such street fair or public festival, farmer's market or event.
- (b) **Times.** Performances may take place at the following times:  
Monday through Saturday between 7:00 a.m. and 10:00 p.m.  
Sunday, between 12:00 noon and 10:00 p.m.
- (c) **Contributions.** A performer may request contributions or money or property at a performance. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (d) **Prohibitions.** No performer shall:
- (1) Perform on any public area without first obtaining a permit issued by the City Clerk pursuant to this chapter.
  - (2) Perform within ten feet of:
    - A. Any bus stop or street corner or a marked pedestrian crosswalk or
    - B. The outer edge of any entrance of any business, including, but not limited to doors, vestibules, driveways, outdoor dining area entries and emergency exits during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.
  - (3) Perform less than 50 feet from another performer or group of performers.
  - (4) Perform in any area excluded by the City Commission in Section 864.07.
  - (5) Perform in any area prohibited by the City Manager or his or her designee in the case of an emergency.
  - (6) Use:
    - A. 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.
    - B. Any amplification device.
    - C. Any generator, wet cell battery with removable fill caps, or any other power source that poses a fire or public safety hazard.

- D. Any connection to or maintenance of an electrical cord to an adjacent building or to a City power source.
- (7) Litter his or her performance site. The performer shall be responsible for clean-up of all litter at the performance site.
  - (8) Utilize or prevent the public from utilizing any public benches, waste receptacles, or other street furniture during the performance.
  - (9) Place any object on a public sidewalk which causes less than a four foot contiguous sidewalk width being kept clear for pedestrian passage.
  - (10) Perform with more instruments, props, equipment, merchandise or other items than the performer can reasonably transport or remove at one time.
  - (11) 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 provisions of this Chapter.
  - (12) Leave his or her instruments, props, equipment, merchandise or other items unattended.
  - (13) Offer for sale or make available for a price or donation any items. Performers who wish to offer items for sale must obtain a peddler's license according to Traverse City Code Chapter 863.
  - (14) Display any sign other than the street performer permit.
  - (15) Perform in contravention of the allowable noise levels established by Chapter 652 of this Code.
  - (16) Block or obstruct a curb cut.
  - (17) 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 police officer or fire official may disperse that portion of the crowd that is blocking or obstructing the passage of the public. If a performer cannot conduct a performance in a location without blocking or obstructing the passage of the public, a police officer or fire official may cause the performer to leave the location, but shall not prevent the performer from occupying another location in compliance with this Chapter.
  - (18) If a minor under the age of sixteen, perform unless accompanied at all times by a responsible adult eighteen years of age or older.
- (Ord. 603. Passed 6-16-03. Ord. 770. Passed 8-20-07)

**864.07 EXCLUSION OF PUBLIC AREAS.**

- (a) **Specific areas.** The following specific public areas are excluded from performances by decision of the City Commission based upon evidence presented to the City Commission during its deliberations on the adoption of this chapter:

- (1) Due to pedestrian and traffic congestion and other safety issues, sidewalks along Front Street on both sides in the 100, 200 and 300 blocks, except for performances in conjunction with a festival.
  - (2) Due to pedestrian and traffic congestion and other safety issues, bridges and riverwalks, parking areas and parking facilities.
- (b) **Other Areas.** The City Commission may by resolution exclude other specific areas from performances upon a determination that exclusion is necessary to protect the public health, safety, and welfare.
- (c) **Emergency designation.** A public area may be temporarily excluded from performances by the City Manager or his or her designee in the case of an emergency. The area shall be excluded from performance for the duration of the emergency.

#### **864.08 REVOCATION OF PERMIT.**

A permit shall be revoked by the City Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe a performer:

- (a) Has violated any of the provisions of this chapter, the Traverse City Code, or any statute of the State of Michigan.
- (b) Has made a false material statement in the application or has otherwise become disqualified for the issuance of such a permit.
- (c) Has violated any provision of this Chapter, which violation has been documented by a written complaint certified by the City Clerk.
- (d) Has conducted a performance that is in any manner adverse to the protection of the public health, safety or welfare of the City of Traverse City.

Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the permitted performer in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the permit shall become null and void.

(Ord. 603. Passed 6-16-03.)

#### **863.09 COMPLAINTS; APPEALS.**

If a written complaint is filed alleging that a performer has violated any provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the performer, together with a notice that an investigation will be made as to the truth of the complaint. The performer shall be

invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a permit is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this section, the applicant or holder of a permit may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk or the filing of the complaint shall be sustained and the applicant may appeal the City Manager's decision to the City Commission. Review by the City Commission shall be under the same standards of review as the determination by the City Manager and shall be in accordance with rules of procedure established by the City Commission. The City Commission's decision may be reviewed by a court of competent jurisdiction. (Ord. 603. Passed 6-16-03.)

**864.10 APPEARANCE TICKETS.**

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2)); (MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements. (Ord. 603. Passed 6-16-03.)

**864.11 CIVIL INFRACTION.**

A person who violates this Chapter is responsible for a civil infraction and subject to a fine of not less than \$200 nor more than \$500. (Ord. 603. Passed 6-16-03.)