

ORDINANCE NO. 3956

**ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING
CHAPTER 6-50 STREET PERFORMERS, OF THE SANTA ROSA CITY CODE**

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Chapter 6-50 is added to the Santa Rosa City Code to read in full as follows:

**“CHAPTER 6-50
STREET PERFORMERS**

Sections:

6-50.010	Purpose and Intent
6-50.020	Definitions
6-50.030	Prohibition
6-50.040	Permit
6-50.050	Inspection of Permit
6-50.060	Permitted Performances
6-50.070	Exclusion of Public Areas
6-50.080	Violation – Penalties
6-50.090	Appeal from Denial or Revocation of Permit

6-50.010 Purpose and Intent.

The Council of the City of Santa Rosa 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 to the ability of businesses to conduct their businesses uninterrupted. This section seeks to balance the interests of the performers with those of the residents and businesses of the City.

The City Council designates the Recreation, Parks & Community Services Department to be the agent of the City primarily charged with the responsibility of supervising the provisions of this section.

6-50.020 Definitions.

- (A) “Perform” includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry and reciting. Perform shall not include the production of items for sale.
- (B) “Performer” means a person who has obtained a permit pursuant to this section.
- (C) “Public Areas” means public sidewalks, parks, and other Downtown Santa Rosa pedestrian areas.

6-50.030 Prohibition.

- (A) No performer who intends to receive, or who actually receives, any monetary contributions, donations or anything of value from the public in exchange for or as a tip for the performance, or who intends to place any structure, chair, stool, table, or other physical object in a public area, may perform in a public area without a permit issued pursuant to Subsection 6-50.060 of this section.

6-50.040 Permit.

- (A) A permit shall be issued by the City of Santa Rosa to each applicant therefore in exchange for a completed application. A photo ID shall be presented at the time of application.
- (B) A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.
- (C) A permit shall be valid from the date on which it is issued through the end of that calendar year.
- (D) A permit shall be nontransferable, and shall contain the permit number of the applicant and 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.
- (E) Upon issuing a permit, the City shall also give the performer a copy of this section.
- (F) If a performer loses his or her permit, one replacement permit per year may be obtained for a processing fee of five dollars or as amended from time to time by resolution.
- (G) If the applicant is under the age of 18, the permit application shall be signed by the parent or guardian of the minor who will assume full responsibility for the minor's performance and agree to not hold the City responsible for any liability arising from minor's performance.

6-50.050 Inspection of Permit.

- (A) A performer shall allow inspection of the permit and photo ID by any Santa Rosa police officer or staff person of the Recreation, Parks & Community Services Department on request.

6-50.060 Permitted Performances.

- (A) Performances may take place in the following locations:

- (1) In public areas, except within one hundred 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 Council, the Director of Public Works, or the Chief of Police pursuant to subsection 6-50.070 of this section;
- (2) On private property, only with the written permission of the owner or other person in control of such property;
- (3) In public areas where an authorized street fair or public festival is being conducted, only with the permission of the sponsor of such fair or festival. An event that has received a Master Permit overrides this section.

(B) Performances may take place at the following times:

- (1) Monday through Thursday, between 9:00 a.m. and 10:00 p.m.
Friday, between 9:00 a.m. and 12:00 midnight
Saturday, between 9:00 a.m. and 12:00 midnight
Sunday, between 12 noon and 10:00 p.m.

(C) Length of Performance

- (1) Performers may perform in one location for up to 2 hours, after which time performers shall move to a different location (at least five storefronts or 150 feet, whichever is farther, from previous location).

(D) Noise Level

- (1) The sound level generated by a performer or group of performers shall be inaudible at a distance of 50 feet.
- (2) The use of sound amplification is permissible if the performer obtains a registration pursuant to section 17-16.180.

(E) Public Area Impact

- (1) A performer shall not create an undue interference with the passage of the public through a public area.
- (2) If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

(F) Distance Between Performers

- (1) No performer or group of performers may perform less than 50 feet from another performer or group of performers.

(G) Receiving Donations/Tips

- (1) Permitted street performers may perform for donations; however, donations must be voluntary. Aggressive panhandling or solicitation is prohibited pursuant to Chapter 10-36. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (2) If performers wish to offer for sale recordings of their own work in the form of records, cassettes, videotapes, or compact discs, appropriate vendor permits and/or business licenses must be obtained. Displays shall not obstruct free passage on sidewalks, handicap ramps, doorways, or windows (i.e., performers shall not tape or post signs or posters on windows or lean displays against windows). Notwithstanding the foregoing, a performer may set up a display on the public sidewalk in front of a doorway to a business if the business is not open, assuming the display meets all other requirements of this section. In public areas other than sidewalks, no such display shall exceed twenty-five square feet (5' x 5'). Placing a carpet, rug, blanket, or other such covering over grass in a public place is prohibited.
- (3) A permitted performer who performs and accepts donations according to this section is considered not guilty of aggressive panhandling or disturbing the peace.

6-50.070 Exclusion of Public Areas.

- (A) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing, notice of which shall be advertised once in a local newspaper no less than fourteen days prior to said hearing; or
- (1) On sidewalk areas where less than 5 feet in width remain, including items such as parking meters, news racks, light poles and planters, due to the restriction of free passage through a public area;
 - (2) Within 5 feet of any doorway to a commercial business, inclusive of audience, unless the business is not open, in order to eliminate the obstruction of entrances to commercial buildings.
 - (3) During periods of construction, emergencies, encroachment, or when a master permit is in effect, the City Council finds that issues of serious public safety will occur and the temporary exclusion of performances will be necessary.
 - (4) By decision of the Chief of Police in the case of a public safety emergency.
 - (5) By decision of the Director of Public Works in the case of an emergency regarding a park or playground.

6-50.080 Violation -- Penalties.

- (A) A violation of the provisions of this chapter shall be an infraction punished as follows:
- (1) For the first violation, a fine not exceeding \$25.00

- (2) For a second violation occurring within one year of being found guilty of a prior violation, by a fine not exceeding \$50.00
- (3) For the purposes of this section, the following officials shall be enforcing persons: City police officers.

(B) Revocation of Permit

- (1) The City of Santa Rosa may revoke a permit, or refuse to issue a new permit for twelve months if a performer has been found to be in violation under this section twice during any 12-month period.
- (2) In the case of a revocation of a permit, the Director of Parks and Recreation shall inform the permittee in writing of the revocation of the permit which will be effective 10 days following the date of such notice. The notice shall state the reasons for such revocation. During that 10-day period, the permittee may offer evidence to the Director of Parks and Recreation showing why the permit should not be revoked. Based upon sufficient evidence, the Director of Parks and Recreation may withdraw the revocation.

(C) A performer may not receive a permit unless all fines from the previous year have been paid.

6-50.090 Appeal from Denial or Revocation of Permit.

(A) Any person whose application for a permit is denied, or whose permit is revoked after appeal to the Director of Parks and Recreation, may appeal to the City Council within 15 days from the date of the mailing of notice of such denial or revocation in accordance with Section 1-20.010 of this code. The City Council's decision after such hearing shall be final and conclusive."

Section 2. Exclusivity. The provisions of this section take precedence over any other City regulations or ordinance applicable to street performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by street performances shall be governed by this section and not by the City of Santa Rosa noise ordinance.

Section 3. Peace and Quiet. A performance in accordance with this ordinance shall be presumed not to constitute a disturbance of the peace or quiet.

Section 4. Severability. If any section, subsection, sentence, clause phrase, or word of this ordinance is for any reason held to be invalid, the validity of the remaining portions of the ordinance shall not be affected.

Section 5. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines section 15060(c)(2) in that the Council

finds there is no foreseeable possibility that the implementation of this ordinance may have a significant effect on the environment.

Section 6. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

Section 7. Review. Once in effect, this ordinance may be reviewed after 6 months for possible amendments.

IN COUNCIL DULY PASSED AND PASSED THIS 19th day of October, 2010.

AYES: (6) Mayor Gorin, Vice Mayor Wysocky, Councilmembers Bender, Sawyer, Jacobi and Vas Dupre

NOES: (0)

ABSENT: (1) Councilmember Olivares

ABSTAIN: (0)

ATTEST: Susan Stoneman, City Clerk APPROVED: Susan Gorin, Mayor

APPROVED AS TO FORM:

Caroline Fowler, City Attorney