

AN ORDINANCE AMENDING THE AIKEN CITY CODE TO ADD CHAPTER 24,
ARTICLE IV TO REGULATE STREET PERFORMANCES.

WHEREAS, the City Council of the City of Aiken would like to allow street performances such as singing, playing musical instruments, dancing, miming, juggling, and other activities in the City of Aiken; and

WHEREAS, the staff of the City of Aiken has drafted the proposed changes to the Aiken City Code that would allow performers to apply for a street performance permit and to regulate street performances; and

WHEREAS, the Council of the City of Aiken has reviewed the proposed changes to the Aiken City Code and has determined that the Aiken City Code should be amended to add Chapter 24, Article IV to allow street performances; and

WHEREAS, the Council of the City of Aiken has concluded that the adoption of the proposed amendment to the Aiken City Code is essential to the general health, safety, welfare and economic stability of the City and is in the best interest of its citizens.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF AIKEN HEREBY ORDAINS THAT:

Section 1: The Aiken City Code is hereby amended to add Chapter 24, Article IV which shall read as set forth in Exhibit “A” which is attached hereto and is incorporated herein by reference.

Section 2: A map showing the location of allowed places for street performance in the Downtown Business Zone District shall be set forth as Exhibit “B” which is attached hereto and is incorporated herein by reference. The City Manager has the authority to modify Exhibit “B” at any time.

Section 3: This ordinance shall become effective upon adoption by the Council of the City of Aiken.

Section 3: In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity or effectiveness or any of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance or of said provision as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the City that this Ordinance would have been adopted had such unconstitutional, invalid, or ineffective provisions not been included herein.

ADOPTED by the Council of the City of Aiken at its regular meeting held this ____8th
day of June, 2020, at which a quorum was present and voting.

INTRODUCTION AND FIRST READING: May 11, 2020

SECOND READING AND ADOPTION: June 8, 2020

MAYOR

APPROVED:

ATTEST:

CITY ATTORNEY

CITY CLERK

Exhibit "A"

CHAPTER 24

ARTICLE IV. STREET PERFORMANCES

Sec. 24-80. Definitions.

- (a) Street performance means acting, singing, playing one or more musical instruments, dancing, miming, juggling, unicycle game, stilt walking, doing magic tricks, reciting, imitating statues, and engaging in similar acts of entertainment when done on a city-owned or -controlled sidewalk, plaza, park, or similar public space.
- (b) Street performer means someone who engages in street performances.

Sec. 24-81. Street performances authorized.

A street performer, as defined herein, may engage in a street performance as defined herein, on city-owned or operated sidewalks, plazas, parks and other public places, other than vehicular areas in streets and motor vehicle parking lots, so long as the street performer obtains a street performance permit pursuant to this section and complies with the provisions of this section. A street performer acting in compliance with this section does not need any other required permits unless selling goods identified in section 24-90.

Sec. 24-82. Permit requirements.

No street performer may engage in street performances without first obtaining a street performance permit from the city manager or his designee, in accordance with reasonable administrative procedures established by the city manager. The information required on a permit application shall be that which reasonably relates to the performer's identity and current contact information and which specifies the type of performance activities the performer intends to provide. The city reserves the right to deny a permit with a conviction for an act that would represent a potential threat to public safety or security for a viewing audience. Each street performance permit applicant must complete a permit application at least one business day prior to the first street performance of the permit's term.

- (a) Permit term. The permit shall be valid from the time of issuance until the next June 30. Thereafter, the permit may be renewed on or before each June 30 upon the completion of a new application and payment of the standard permit fee.
- (b) Permit fee. The city manager shall from time to time set a standard fee adequate to cover or offset the administrative costs of processing a permit application, issuing a permit, maintaining a file on current and inactive permits, and assuring compliance.
- (c) Permit appearance and display. Each permit shall include a current photograph, which shall be passport size, as submitted by the street performer applicant in the most recent application. The permits shall be numbered and contain the name of the permitted street performer. The

city shall laminate permits at the time of issuance. Street performers shall keep the permits prominently displayed on their persons, or at the place of performance, during the time of performance.

- (d) Nontransferable. Permits are issued to individuals only, even if two or more permittees perform as a group. No permittee may transfer an issued permit to another person.

Sec. 24-83. Excluded Areas.

Street performances are not permitted within 50 feet of the structure which is a school, hospital, funeral home, or court house and which is designated as such. No performance may occur within 50 feet of the property line of a cemetery. No performance activity shall interfere with or impede the flow of pedestrian traffic at a crosswalk, building entrance, private patio, curb cut, or entrance into an encroachment area for dining. No performance activity shall be allowed in a special event area permitted by the city without the express written authorization of the event sponsor. No street performer may perform within 50 feet of another street performer; however, this provision shall not preclude street performers who are performing together from performing in close proximity to one another. In addition: the city, after at least ten days' published notice in a newspaper of general circulation and a posting of notice at or near the proposed site, may hold a public hearing to receive comments on whether to exclude additional sites at which street performances shall be excluded. Persons may also submit written comments. The city manager shall assess such information thereby developed and may exclude additional sites for good cause related to public safety, public health, public peace, or the peaceful enjoyment of nearby premises.

Sec. 24-84. Excluded Performances.

Performances with flames or fireworks are excluded unless the performer first obtains a written authorization from the fire marshal setting forth the conditions of authorization, if any is to be granted, for the time, place, and manner of the performance. Performances with knives, daggers, swords, and like sharp instruments are excluded unless written authorization is first obtained from the Department of Public Safety setting the conditions of authorization, if any is to be granted, for the time, place, and manner of the performance. Performances with chalk drawings on sidewalks are excluded unless the performer first obtains the written authorization, if any is to be granted, from the city manager or his designee, setting conditions for the time, place and manner of the performance. The use of animals is excluded. Where written authorizations are required under this subsection, the performer shall maintain them at the location of the performance at all times during the performance.

Sec. 24-85. Times of Performance.

Permitted street performances may occur between 10:00 a.m. and 10:00 p.m. all days of the week.

Sec. 24-86. Gratuities.

No performer may solicit payment from any individual before, during, or after a performance. However, a performer may invite a group as a whole to show appreciation by placing money in a designated receptacle of any reasonable size that it does not block pedestrian traffic at the performance site. The receptacle may remain open before, after, and during the performance and may have with it a sign which invites gratuities, provided the sign is no larger than 12 inches by 18 inches. The use of such open receptacles evidencing intent to receive money is prohibited unless a street performance is in preparation, underway, or just concluded.

Sec. 24-87. Sound Level and Amplification.

All street performers in conducting street performance activities shall be subject to the city's noise ordinance contained in City Code section 22-31, et seq. Performances with sound amplification are

excluded unless the city manager or his designee issuing permits determines that the amplification is necessary or proper for the musical or other sound component of a performance and that reasonable steps are being taken as described in the permit to avoid the likelihood of undue public disturbance. Necessary or proper amplification includes, but is not limited to, background musical accompaniment for dancing, juggling, singing, or the like, as well as amplification for keyboards, flute, piccolo, and other low volume wind instruments needing amplification to be heard outside. Provision of power for sound amplification or other uses will be the responsibility of the street performer(s).

Sec. 24-88. Disturbance and Interference.

No person shall willfully and maliciously interfere with or disturb a permitted street performer engaged in a street performance. No street performer shall engage in acts that would disturb a person of normal sensibilities. Nothing in this provision shall be interpreted to preclude benign or jovial interaction between street performers and members of the audience.

Sec. 24-89. Sidewalk Blockage.

Whenever the audience gathering around a street performance is of such size or configuration as to block or unduly impede safe pedestrian movement on sidewalks, plazas, parks, or similar public space, then a police officer may direct members of the audience to keep space open for pedestrians or, if necessary, direct the performer to move to a nearby location where there is less likely to be an undue interference with the movement of pedestrians.

Sec. 24-90. Sale of Goods.

No street performer may sell or offer for sale t-shirts, toys, CDs, or any other goods, unless the goods so sold relate to the performer's authorized activities under the street performer's permit. All street performers electing to offer such goods for sale shall obtain a City of Aiken business license and abide by the terms of the license. The City of Aiken business license should be available for inspection if requested by any City official. However, a street performer is not required to rent a cart, select a specific site, or pay for space rental.

Sec. 24-91. Insurance.

Based on the character of the permitted performances, the city may determine that liability insurance is needed to address claims of injury and damage sustained by members of the public at large, owners and occupants of real property, and the city. Such policies by certificate shall name the city as an additional insured.

Sec. 24-92. Violations.

Any person violating this section shall be subject to section 1-13, the general penalty clause. In addition, and separate from any proceeding in the municipal court, the city may suspend or revoke the permit and business license of any permitted street performer determined by the city manager to have violated this section two or more times within a six-month period. Such suspension or revocation must be preceded with written notice sent to the address listed on the current permit's completed applications or hand delivered to the recipient by a law enforcement officer. Such notice must provide at least ten days' notice of a hearing before the city manager or a hearing officer appointed by the city manager.

EXHIBIT B



Busking Locations

1. On Barnwell Ave. at Flanigan's Ice Cream Shoppe
2. On Laurens St. at New Moon Café
3. On Laurens St. at Wells Fargo Building
4. On Laurens St. at 100 Laurens St.
5. On Hayne Ave at Osbon's Cleaners
6. On Laurens St. at Lionel Smith Ltd.
7. On Newberry north of the Alley
8. Bank Of America Building
9. Park Ave at the alley behind Nandinas
10. Park Ave PKWY between Laurens/Newberry
11. Park Ave PKWY between Newberry/Chesterfield
12. Park Ave PKWY between Chesterfield/York
13. Park Ave PKWY between York/ Fairfield
14. Park Ave PKWY between Fairfield/Union
15. In front of Train Depot
16. In Gyles Park