

## **AN ORDINANCE**

**THE MAYOR AND BOARD OF ALDERMEN DO HEREBY ORDAIN THAT CHAPTER 10 AMUSEMENTS AND ENTERTAINMENTS, OF THE CITY OF ACWORTH, GEORGIA CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS:**

WHEREAS, Chapter 10, Article IV will enhance the experience of visitors, encourage the growth of performing arts and add to the vibrancy of the downtown.

**Section 1. That the Code of Ordinances of the City of Acworth Georgia, is hereby amended to read as follows:**

### **Chapter 10 – AMUSEMENTS AND ENTERTAINMENTS**

#### **ARTICLE IV – ITINERANT PERFORMERS**

##### **Sec. 10 – 250. – Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Busker* means a person who performs in a public place for donations.

*Busking* means performing in a public place for donations.

*Perform* means 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.

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

*Public areas* means public sidewalks, parks, playgrounds and other public areas for pedestrian use in the City of Acworth.

*The Downtown Performance Committee* shall consist of members of the Downtown Development Authority Promotions Committee and up to three at large members who shall be appointed by the Acworth Downtown Development Authority, that represent a cross section of the Acworth artistic community. The at-large members are not required to be a City of Acworth resident if they are active in a local art organization, or the member of a current Acworth Board or Commission. All members shall serve at the pleasure of the appointing authority. The chair of the committee shall be a member of the committee and shall be selected by a majority of the members. The committee shall represent a cross section of the Acworth artistic community.

##### **Sec. 10 – 251. – Prohibition.**

- (a) No person may perform in a public area without a permit issued to them.
- (b) Performances shall not take place between the hours of 11:00 p.m. and 7:00 a.m.
- (c) No lewd, vulgar or obscene dress or behavior is permitted.
- (d) No performer or group of performers shall generate noise using sound amplification.  
Upon complaint from a business or resident, the performer or group of performers causing the excessive sound level shall either reduced the level of the music or move to a distance from the origin of the complaint so as to reduce the sound level.
- (e) No performer or group of performers shall perform less than 50 feet away from another group of performers.
- (f) Performance sites must be at least 15 feet away from building entrances/exits, crosswalks, trash receptacles and bike racks.
- (g) The licensee shall not block roadways, sidewalks, crosswalks, driveways, stairways, curb cuts, handicapped access ramps nor block access to buildings, parks, public conveyances, businesses, crosswalks, traffic control poles containing pedestrian crosswalk button(s).
- (h) A performer shall not create an undue interference with the passage of the public through a public area. 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 may not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

Sec. 10 – 252. – Permit.

- (a) A permit shall be issued by the City Clerk's Office upon approval of an application by the Downtown Performance Committee.
- (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) Prior to being granted a street performance permit, all performances/entertainment will be reviewed for appropriate content and shall be subject to acceptance by the Downtown Performance Committee.
- (d) A permit fee of \$15.00 will be charged and shall be valid in the year that it is issued and will expire on December 31 of each year.
- (e) Any performer 17 years or older will be required to undergo a criminal background check.
- (f) Applicants under the age of 17 must have a parent or legal guardian present when applying and give signed permission. All permitted minors age 17 and under must always have a parent or legal guardian present when they are performing.

- (g) A permit shall be non-transferable and shall contain the permit number of the applicant and the year in which the permit is valid. Each performer regardless of group size must have an individual permit.
- (h) Upon issuing a permit, the Downtown Development Authority shall also give the performer a copy of the rules and regulations for itinerant performers.
- (i) If a performer loses his or her permit, one replacement permit per year may be obtained for a fee of \$5.00.

Sec. 10 – 253. – Display of Permit.

- (a) A performer shall clearly display his or her permit while performing and shall allow inspection of the permit by any Acworth police officer, City staff person upon request.

Sec. 10 – 254. – Permitted performances.

- (a) Performances may take place in the following locations:
  - a. All performance areas will be located within the geographic boundaries of Acworth's Downtown Development Authority district, as reflected on the most current map as illustrated by resolution on file with the City Clerk's Office, per the following locations:
    - i. Depot Park
    - ii. Cherokee Plaza
    - iii. Frana Brown Park
    - iv. Hill Park
    - v. Logan Farm Park
    - vi. Public Plaza located at Dallas Street and Center Street
    - vii. On Dallas Street between Main Street and Center Street when Dallas Street is closed to vehicular traffic.
  - b. In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.
- (b) A performer may collect contributions of money or property at a performance, provided that they do not directly solicit for tips. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat with a sign no larger than 5 inches by 7 inches (5"x7"). Performers are allowed one additional sign no larger than 11 inches by 17 inches (11"x17") to identify themselves.

Sec. 10 – 255. – Exclusion of performance areas.

- (a) Itinerant performers may be excluded from the defined performance area at the direction of:
  - a. Downtown Development Director
  - b. Chief of Police
  - c. Director of Parks, Recreation and Community Resources
  - d. City Manager



## Sec. 10 – 256. – Penalties.

- (a) Disposition. For purposes of this section, Acworth police officers shall be specifically authorized to enforce the provisions of this section. Any person violating this section (or Article) shall be punished as provided in section 1-11 of the City of Acworth Code of Ordinances.
- (b) Suspension of permit.  
The City Clerk's Office may suspend a permit for the remainder of the calendar year if:
  - a. A performer is found to have knowingly provided false information on an application; or
  - b. A performer has received three non-criminal dispositions within one calendar year.
  - c. A performer is ineligible for a permit if they have any outstanding debt (taxes, liens, etc.) with the City.
- (c) Revocation of permit. The City Clerk's Office may revoke a permit permanently if a performer has received three summonses during a calendar year.

## Sec. 10 – 257. – Exclusivity.

The provisions of this section take precedence over any other city regulations or ordinance applicable to street performances. To the extent that other City regulations or ordinances are applicable and are inconsistent with this section (or Article), then this section shall govern. Sound levels generated by street performances shall be governed by this section and not by the City of Acworth noise ordinance, noting that this section was designed using guidelines set forth in the Acworth City Code, Article II (Noise Control).

## Sec. 10 – 258. – Peace, quiet, safety, etc.

A performance permitted pursuant to this section shall have a rebuttable presumption that it does not constitute a disturbance of the peace, quiet, safety, etc.

## Sec. 10-259. - Effective date.

The ordinance shall become effective upon its adoption by the Mayor and Board of Aldermen of the City of Acworth.

Section 2. It is hereby declared to be the intention of this ordinance that its sections, paragraphs, sentences, clauses, and phrases are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance.

Section 3. All Ordinances in conflict with this Ordinance are hereby repealed.

Date: 8.18.22

  
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Thomas W. Allegood, Mayor

Attest:

  
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Regina R. Russell, City Cler