

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2011-39

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4
5 AN ORDINANCE

6 AMENDING SECTION 23-8.5 SFCC 1987 TO REGULATE THE TYPES OF GOODS AND
7 WARES STREET PERFORMERS MAY SELL; AND AMENDING SECTION 23-8.7 SFCC
8 1987 REGARDING CRIMINAL ENFORCEMENT, PENALTY; AND ADMINISTRATIVE
9 ENFORCEMENT.

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11 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

12 Section 1. Section 23-8.5 SFCC 1987 (Ord. #2009-50, §6) is amended to read:

13 23-8.5 Regulations. Street performers may perform on public property within the city of
14 Santa Fe but shall comply with the following regulations.

15 A. Street performers shall not block, or cause the blocking of any sidewalk, passageway,
16 street, or entrance to a building.

17 B. Street performers may accept contributions of money or property at their
18 performance, in exchange for representations of their own work, except that street performers shall
19 not exchange any type of food product or vegetation, on public property. Street performers shall not
20 sell goods or wares on public property at a fixed price except for audio or video recordings.

21 C. Street performers shall not perform on private property unless permission is granted
22 from the property owner.

23 D. Street performers shall not infringe on events for which a city permit has been issued
24 so as not to detract from the stated purpose of the permit including, but not limited to, Indian Market,
25 Spanish Market, Fiesta Arts and Crafts, Fiesta and midday or evening performances at the bandstand

1 on the Plaza. Any performance at such events shall only be with the written permission of the
2 sponsor.

3 E. Use of fire, spray paint or aerosol in performances is prohibited.

4 F. Street performers shall stay at least one hundred fifty (150') feet away from other
5 street performers.

6 G. The sound level from street performances shall be kept at such a level that other
7 street performances are not disturbed.

8 H. Street performers shall remain at one location no longer than two (2) hours and shall
9 not return to that location for two (2) hours, availability of the location permitting.

10 I. Street performers shall perform no earlier than 8:00 a.m. and no later than 11:00 p.m.
11 Sunday through Thursday and 1:00 a.m. on Friday and Saturday nights except at city parks and
12 recreation areas, where the curfew is 10:00 p.m., Sunday through Saturday, in accordance with
13 Section 16-13.6 SFCC 1987.

14 **Section 2. Section 23-8.7 SFCC 1987 (being Ord. #2009-50, §8) is amended to read:**

15 **23-8.7 Criminal Enforcement; Penalty; Administrative Enforcement.**

16 A. *Criminal Enforcement:* The police department shall enforce the provisions of Section
17 23-8 SFCC 1987.

18 (1) Upon the first violation of the provisions of this Article, the police may issue
19 a written warning to the person violating this Article.

20 (2) Upon a second and subsequent violation by the same person, the police shall
21 issue a citation.

22 (3) Any street performer who violates any provision of Article 23-8 SFCC
23 1987 or any other city ordinance shall, upon conviction, be punished in accordance
24 with the provisions of Article 1-3 SFCC 1987.

25 B. *Administrative Enforcement.*

1 (1) If a street performer is in violation of any provision of this Article or any
2 provision of the SFCC 1987; or is operating in a manner contrary to the public welfare, then
3 the city finance director may, in his discretion and upon reasonable evidence:

4 (a) Send the street performer a notice of violation specifically stating:

5 (i) The nature of the violation;

6 (ii) Whether there are past due license fees; and

7 (iii) If there are past due license fees, order that the past due
8 license fees, plus a penalty that is double the amount due, be paid
9 immediately, upon receipt of the notice;

10 (iv) If the fee and penalty are not paid, the provisions of this
11 Article or other provisions of the SFCC 1987 are not complied with and the
12 operation contrary to the public welfare is not discontinued within fifteen
13 (15) days after receipt of the notice, the street performer shall surrender his
14 business license to the finance director and the license shall be placed in
15 suspension until a hearing is held before the finance committee for
16 consideration of revocation of the business license; or

17 (b) If the street performer's action creates an immediate and imminent
18 danger, immediately place the business license in suspension until a hearing is held
19 before the finance committee for consideration of revocation of the business license,.

20 (c) Any notice of violation shall specify the date, time and place of the
21 hearing by the finance committee in the event the violations are not corrected. The
22 street performer shall appear before the finance committee to show cause why the
23 business license should not be revoked.

24 (2) If, at the hearing before the finance committee, the street performer fails to
25 show cause why the business license fee should not be revoked, the finance committee shall

1 issue a cease and desist order revoking the business license. Such cease and desist order shall
2 prevent the street performer from performing on public property, for a period of one year
3 from the date of the hearing.

4 (3) The hearing before the finance committee shall not be less than thirty (30)
5 days after the notice provided in paragraph B(1), above, is mailed, via certified mail, to the
6 address listed on the street performer business license application.

7 (4) An appearance may be made by counsel and the street performer charged
8 with violating this Article may present evidence and call witnesses to show cause why his
9 license should not be revoked.


10 (5) Any street performer aggrieved by the decision of the finance committee may
11 submit to the governing body a written petition for appeal. Such petition for appeal shall:

12 (a) Be submitted to the city clerk's office within thirty (30) days of the
13 date the action appealed was taken by the finance committee.

14 (b) Set forth that such proceedings or assessments were in error in whole
15 or in part, specifying the grounds of the appeal.

16 (c) Be on the agenda of the next regularly scheduled meeting of the
17 governing body, during the evening session. Verbal or written notice shall be given
18 to the appellant at least five (5) calendar days prior to the meeting of the governing
19 body.

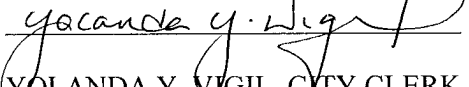
20 PASSED, APPROVED and ADOPTED this 30th day of November, 2011.

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23 DAVID COSS, MAYOR
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1 ATTEST:

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4 VOLANDA Y. VIGIL, CITY CLERK

5 APPROVED AS TO FORM:

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7 _____

8 GENO ZAMORA, CITY ATTORNEY

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25 *M/Melissa/Bills 2011/2011-39 Street Performers*