

# CHAPTER 864

## Street Performers

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### CROSS REFERENCES

Transient Merchants- see BR & T Ch. 863  
 Power to license - see MSA 5.1740  
 Hawkers and transient merchants generally - see MSA 19.691, et seq  
 Secondhand stores - see BR & T Ch. 856  
 Transient Merchants 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:

1. **Festival** means a City-authorized street fair or other public event.
2. **Perform/Performance** means a live, public presentation or exhibition which includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading aloud, puppetry, sidewalk art, reciting, and performing of any sort.
3. **Performer** means a person conducting activities defined as a Performance under this Chapter.
4. **Public areas** means public sidewalks, parks, playgrounds and other pedestrian areas.

(Ord. 603. Passed 6-16-03, Ord. 1015. Passed 3-16-15)

#### **864.05 RULES AND REGULATIONS.**

- (a) **Locations.** Performances may take place in the following locations:

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- (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-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:
- (1) Monday through Saturday between 7:00 a.m. and 10:00 p.m.
  - (2) 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 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.
  - (2) Perform less than 50 feet from another performer or group of performers.
  - (3) Perform in any area excluded by the City Commission in Section 864.06.
  - (4) Perform in any area prohibited by the City Manager or his or her designee in the case of an emergency.
  - (5) Use:
    - A. Any knife, sword, torch, flame, axe, saw, animal or other object, thing or being that can cause serious bodily injury to any person, or engage in any activity, such as, 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.
  - (6) Litter his or her performance site. The performer shall be responsible for clean-up of all litter at the performance site.
  - (7) Prevent the public from utilizing any public benches, waste receptacles, or other street furniture during the performance.
  - (8) Cause less than a five foot contiguous sidewalk width being kept clear for pedestrian passage.
  - (9) Perform with more instruments, props, equipment, merchandise or other items than the performer can reasonably transport or remove at one time.
  - (10) Leave his or her instruments, props, equipment, merchandise or other items unattended.

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- (11) Offer for sale or make available for a price or donation any items. Performers who wish to offer items for sale must obtain a transient merchant's license according to Traverse City Code Chapter 863.
- (12) Perform in contravention of the allowable noise levels established by Chapter 652 of this Code.
- (13) Block or obstruct a curb cut.
- (14) 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.

(Ord. 603. Passed 6-16-03. Ord. 770. Passed 8-20-07, Ord. 1015. Passed 3-16-15)

### **864.06 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.

### **864.09 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.)

### **864.10 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.)