

ORDINANCE NO. C-15-

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 23, SOLICITORS, PEDDLERS, ETC., OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO CREATE A NEW ARTICLE VI, ENTITLED STREET PERFORMERS AND STREET ARTISTS, TO PROVIDE FOR A STREET PERFORMER AND STREET ARTIST PROGRAM; PROVIDING FOR DEFINITIONS; PROVIDING FOR PERMIT APPLICATION AND PROCESS; PROVIDING FOR LOCATIONS; PROVIDING FOR REGULATIONS AND PENALTIES AND FURTHER PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Fort Lauderdale has acknowledged in the Riverwalk District Plan, presented to the City Commission on March 15, 2011, the inclusion of street performers and artists on the Riverwalk area to activate the District; and

WHEREAS, the City of Fort Lauderdale acknowledges that street artists and street performers may be considered mobile vendors under the current ordinance, Sec. 23-91 and such mobile vendors are limited to certain zoning districts in the City; and

WHEREAS, the City of Fort Lauderdale acknowledges that creating and selling artwork is speech protected by the First Amendment of the United States Constitution; and

WHEREAS, the City of Fort Lauderdale acknowledges that there is a benefit to the artists and also to the residents, businesses, and visitors of the City; and

WHEREAS, the City of Fort Lauderdale wants to encourage street performers' and street artists' availability to other areas of the City and to also regulate the time, place and manner of such activities to protect the health, safety and general welfare of its residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 23, Solicitors and Peddlers, is hereby amended to add a new Article VI, Street Performers and Street Artists, as follows:

ARTICLE VI. STREET PERFORMERS AND STREET ARTISTS

Sec. 23-125. Definitions.

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

Art means painting, photograph, sculpting, sketching, crafts and other creative and expressive activity which is not a danger to the general public.

Artist means the person who specifically engages in Art as defined in this Section.

Street art includes the creation, display and/or sale or offer for sale, compensation, or donation, of Art that is created only by the Artist.

Street artist means the person who engages in Street Art on public property. Street Artist does not include a person who creates Art while in a public area, but has no intention to display for sale or sell the Art in that location.

Street performance includes the following activities: acting, singing, playing a musical instrument, pantomime, juggling, magic, dancing, comedy, acrobatics, puppetry, storytelling, balloon twisting, and similar types of public performance done for the purpose of public entertainment or amusement on public property.

Street performer means the person who engages in Street Performance activities to offer entertainment or special demonstrations for those around them which may be for compensation or donation.

Riverwalk means City owned or controlled property including, but not limited to, the public right-of-way located in the area generally bounded by Broward Boulevard to the north, SW & SE 6th Street to the South, Federal Highway to the east (including Laura Ward Plaza), and from SE 7th Avenue/Avenue of the Arts & SW 4th Avenue to the west.

Public Beaches is defined in Sec. 8-71 of the Code of Ordinances.

Sec. 23-126. Permit required.

Notwithstanding any other provision in this Code, it shall be unlawful for any person to act as a street artist or street performer in the City of Fort Lauderdale until a permit has been issued by the City in accordance with this Article.

Sec. 23-127. Permit application and process.

(1) The City of Fort Lauderdale shall establish an application form for street artist and street performer permits. The application form shall include, at minimum, the following information:

(a) Name, address and telephone number of the applicant;

(b) A photograph of the applicant;

(c) A description of the street art or street performance; and

(d) A specific site location for the street art display or street performance within the Riverwalk, as defined herein, or the sidewalk across from the Public Beach on the west side of Atlantic Boulevard (A1A), south of Alhambra Street, at or near 170 North Fort Lauderdale Beach Boulevard, or north of the Fort Lauderdale South Beach Parking Entrance, at or near 650 South Fort Lauderdale Beach Boulevard;

(2) The application shall be signed by the applicant and shall state that the applicant is the individual that is the street artist or street performer.

(3) The application shall also include a hold harmless agreement prepared by the City of Fort Lauderdale releasing the City of Fort Lauderdale and its employees from all claims and actions arising out of the street art and/or street performance on public property.

(4) The permit under this Article is not transferable.

(5) An applicant may appeal a permit denial to the City Manager of the City of Fort Lauderdale, as provided in Sec. 23-130(2).

(6) The fee associated with every initial permit application shall not exceed twenty-five (25) dollars. Renewal of permits shall be provided and processed at no charge.

(7) The permit shall be valid for a period of one (1) calendar month and shall be renewed monthly on the first of each month. Permit applications submitted after the first of the month shall be valid for the remainder of that month with a renewal required for the following calendar month.

Sec. 23-128. Permit locations.

(1) Upon issuance of the permit, street artists and street performers are permitted in one location, as identified on the approved permit, on the Riverwalk or the sidewalk across from the Public Beach on the west side of Atlantic Boulevard (A1A), south of Alhambra Street, at or near 170 North Fort Lauderdale Beach Boulevard, or north of the Fort Lauderdale South Beach Parking Entrance, at or near 650 South Fort Lauderdale Beach Boulevard, between the hours of 10:00 am and 10:00 PM.

(2) The use of the location as identified on the approved permit application shall be limited to the street artist or street performer permit holder for that location for the permitted calendar month.

(3) The street artist or street performer permit holder shall engage in their activities at the location identified in the permit in such a manner that at all times there shall remain open for the passage of pedestrians a space of at least three feet in width, as measured on a straight line perpendicular to the curb line, between the edge of the sidewalk farthest from the curb and the edge of the street artist or street performer's activities.

(4) No street artist or street performer or their personal belongings shall be permitted to interfere with or obstruct the flow of pedestrian traffic, including ingress and egress to and from any residence or place of business, or obstruct any public right-of-way or entrances to buildings or other place of public accommodation.

(5) The street artist or street performer shall be at least twenty feet from another street artist or street performer.

(6) Laura Ward Plaza shall be limited to one street artist or one street performer at any given time.

Sec. 23-129. Permit regulations; prohibitions.

(1) The street artist or street performer shall have the permit visibly displayed when on public property.

(2) Spray painting is only permitted when the street artist or street performer provides ground cover, a wind screen, and confines the spray painting to an area not greater than five feet by five feet and otherwise ensures that the spray paint shall not damage or implicate property not involved in the subject art.

(3) The street artist or street performer shall maintain the area in which they are engaged in their activities, within a radius of ten feet, free of trash and debris, and deposit all trash and debris in proper receptacles.

(4) The street artist or street performer shall comply with all applicable noise regulations, Chapter 17 of the Code of Ordinances.

(5) The street artist or street performer shall not create an undue interference with the passage of the public through the public rights-of-way. If the street artist or street performer attracts a crowd sufficient to obstruct the public right-of-way, a police officer may disperse the crowd that is creating the obstruction. The officer may ask the street artist or street performer to temporarily suspend a performance or leave the location when such action is necessary to protect the public safety or public order.

(6) The street artist or street performer shall not engage in the application of any form of permanent tattoos, or the insertion of indelible ink into the dermis layer of the skin to change the pigment thereof, or body piercing.

(7) The street artist or street performer shall not display or offer for sale food or drink items.

(8) The street artist or street performer shall not create a fire hazard, use fire, or use any incendiary devices or fireworks of any kind.

(9) The street artist or street performer shall not include any manner of lewdness as defined in Section 18-51, as may be amended.

(10) The street artist or street performer shall not use any type of weapon.

(11) The street artist or street performer may have one sign no larger than 10 inches by 14 inches.

(12) The street artist or street performer shall maintain a minimum distance of 10 feet from the entrance or exit to any building, fire exit, bicycle rack, trash receptacle, or pedestrian crosswalks.

(13) The street artist or street performer shall not interfere with any motorist, either regarding the passage of a vehicle or the sight of its driver.

(14) The street artist or street performer shall not connect to any electrical outlets or other power sources owned by the City of Fort Lauderdale. All extension cords that traverse the rights-of-way are prohibited. All generators, vehicle batteries or any other power sources deemed hazardous to the public health, safety or welfare shall not be permitted.

(15) The City Manager or his or her designee may cause the immediate removal or relocation of any street art and street performance in emergency situations for safety considerations:

(a) Upon issuance of a severe storm, tropical storm or hurricane warning by the National Weather Service, the street artist or street performer shall cease all street art and street performance and remove all items associated with said street art and street performance. If required, the City may remove any and all personal belongings of the street artist or street performer remaining on the public right of way. All costs incurred by the City for removal and storage of these personal belongings shall be the responsibility of the street artist or street performer. All personal items shall be kept by the City for a period of thirty days. After thirty days, the City may dispose of the personal belongings. If any of the personal belongings are a threat to the health, safety or welfare of the public, they will immediately be disposed of by the City.

(b) If the location upon which the street artist or street performer is needed for a City approved special event, maintenance or repairs by the City or the City's contractor, or for any other City business, the City Manager or his or her designee may temporarily or permanently relocate the street artist or street performer to a different location, or if no alternative is available, temporarily suspend the street art and street performance.

Sec. 23-130. Penalties; permit revocation.

(1) The City Manager or his or her designee may deny, revoke or suspend any permit issued pursuant to this Article if the permit holder has violated any of the regulations set forth in this Article, or any other applicable law.

(2) Upon the denial, revocation or suspension of the permit, the City Manager or his or her designee shall give notice of such action to the permit holder in writing stating the action which has been taken and the reason therefor. The permit holder may request a hearing to appeal such denial, revocation or suspension to the City Manager within three days of receipt of the notice. An appeal does not stay the decision of the City Manager.

(3) If the street artist or street performer continues to engage in street art or street performance after notice of the denial, revocation or suspension of his or her permit, the street artist or street performer shall be subject to the penalties in Section 1-6 of the Code of Ordinances. Each day the violation exists shall constitute a separate violation under this Article and shall be punishable as such.

SECTION 3. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 5. That nothing in this ordinance shall be construed so as to affect any past or pending actions, notice of violation, or order of the code enforcement board or special magistrate, or any past, pending, or existing liens, fines, costs, or other obligations arising from code enforcement, or otherwise, all of which shall continue in full force and effect as if this ordinance has not been adopted.

SECTION 6. That this ordinance shall be in full force and effect on June 1, 2015.

PASSED FIRST READING this the ____ day of _____, 2015.

PASSED SECOND READING this the ____ day of _____, 2015.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH