

ORDINANCE NO. _____

A Busking Ordinance for Montgomery Alabama

WHEREAS, the City Council finds that the existence in the City of buskers provides a public amenity that enhances the character of the City and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes or to the ability of businesses to conduct their businesses uninterrupted. This section seeks to balance the interest of the buskers with those of the residents and businesses of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, as follows:

Sec. 1-1. Definitions.

"*Busker*" is a person who Performs in public areas; accepts donations from the public; and, has obtained a license with *The City of Montgomery License and Revenue Division* pursuant to this ordinance.

"*Dangerous materials or objects*" includes, but is not limited to, pyrotechnics, fireworks, knives, animals, fire, projectiles or any other prop, device or material which could cause harm to or endanger the public, the busker or property.

"*Perform*" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry, sidewalk art (working with non-permanent, water- soluble media, i.e., chalk, pastels, or watercolors directly on the pavement), and reciting. Perform shall not include the production of or the offer of items for sale at the location of the performance, but buskers may offer lawfully permitted items in exchange for a donation. If buskers select to offer consumable items, such as candy, chips, or other in exchange for a donation, those consumables must be prepackaged unopened items, and not violate any State of Alabama Health Department laws, rules and regulations.

"*Public areas*" means public sidewalks and parks.

Sec. 1-2. Prohibition.

It shall be unlawful for any person to give any kind of performance or entertainment without first obtaining a permit from the City of Montgomery License and Revenue Division.

Sec. 1-3. Buskers' Licenses.

- A. A license shall be issued by the City of Montgomery License and Revenue Division upon application to the City of Montgomery License and Revenue Division. The license is \$25.00 and is valid for one calendar year, and not subject to proration A one-day license is \$7.00 per day and limited to three consecutive days. Licenses (City of Montgomery issued photo ID) must be displayed at all times during performances (by lanyard or on the busker's person). If a busker loses their permit, one replacement permit per calendar year may be obtained for a \$15.00 fee.

No license shall be issued to any person who has had a business license suspended or revoked within the last twelve months prior to the current application for a busker's business license.

- B. A completed application for a license, and the license itself, shall contain the applicant's name, residence address, telephone number, sponsored organization and or non-profit along with the contact information of the sponsoring organization or non-profit, and shall be signed by the applicant.
- C. Applicants shall present U.S. government-issued photo identification in order for the license to be issued, and obtain a photo identification card issued by the City of Montgomery Police Department before the license may be issued

- D. A license and City of Montgomery issued photo ID shall be nontransferable, and shall contain the year in which the permit is valid. Each member of a group of buskers who perform together shall be required to obtain an individual license.
- E. An applicant for a license shall be sponsored by a city- licensed non-profit organization.
- F. If the non-profit is not required to have a City of Montgomery business license, they must show proof of their legislative exemption as provided for under

Sec. 1-4. Permitted Performances.

- A. Performances may take place at the following locations:
 - In public areas, except within one hundred feet of an elementary and/or secondary school, library, or church while in session, a hospital or funeral home at any time, and except in public areas excluded by the City Council.

Performances in public areas shall NOT include, involve, or utilize dangerous materials or objects.

Buskers shall not block roadways, fire apparatus access roads, 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), or be within twenty feet of a fire hydrant, fire department connection (FDC) or within five feet of any fire alarm or other emergency communication device, either by the buskers' location, or by the location of any crowd that the busker may draw.

- In public areas where a street event or festival authorized by the City is being conducted, with the written permission of the sponsor of the event. Performances in public areas where a street event or festival authorized by the City is being conducted may include, involve or utilize dangerous materials or objects, with the written permission of the sponsor of the street event or festival. Buskers who include, involve, or utilize dangerous materials or objects in their performance at a street event or festival authorized by the City must obtain any required approvals or permits from the appropriate governmental agency or official. Buskers that include, involve or utilize dangerous materials or objects in their performance must take appropriate and adequate safety precautions to prevent personal injury to the public and to prevent property damage. The sponsor of the street event or festival shall be liable for any personal injury or property damage caused by a performance including, involving or utilizing dangerous materials or objects. A permit is not required when a busker is performing in a public area where a street event authorized by the City is being conducted.
- B. Buskers shall not perform before the hour of 9:00 a.m. and after the hour of 10:00 p.m. Buskers may perform low amplified, acoustic, low noise or no noise activities between the hours of 10:00 p.m. and 12:00 midnight. During these hours buskers shall not perform 100 feet from a residential unit, a hotel or motel unless permitted by the property owner or other person in control of such property.
- C. The conduct and behavior of all buskers shall always otherwise comply in all respect with existing noise and public nuisance ordinances.
- D. Buskers shall not obstruct or cause to be obstructed pedestrian or vehicular traffic, including but not limited to: not obstructing or causing to be obstructed sidewalks, doorways or other access areas. If a sidewalk entertainer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction.
- E. Buskers shall provide the minimum pedestrian passageway on the sidewalk as required by the *Americans with Disabilities Act*, which is currently five feet.

- F. Buskers or a group of buskers shall not perform closer than 50 feet from a sidewalk entertainer located within an approved encroachment area, another busker or group of buskers or an approved sidewalk vendor unless the sidewalk vendor gives approval.
- G. Buskers or groups of buskers shall perform in a manner so as to not to interfere with a community event, street events or festival (event resolutions and street closings) approved by the City or the holder of a parade permit.
- H. Buskers shall remove all props and other items from the public area used for a performance during breaks and immediately after the performance ends. Trash and other debris shall be removed from the public area used for a performance immediately after the performance ends.
- I. A busker may orally request donations of money or property at a performance, provided that no sign requesting donations shall exceed twelve inches by eighteen inches. Buskers shall not place signs within the right of way. Signs may not contain advertising. Contributions may be received in any receptacle, such as an open musical instrument case, box, or hat.
- J. Buskers shall not use pyrotechnics, fireworks, knives, animals, fire, projectiles or any other prop, device or material which could cause harm to or endanger the public, the busker, or property unless permitted herein.
- K. Buskers shall not consume nor be under the influence of alcoholic beverages or other controlled or intoxicating substances while performing.
- L. Buskers shall not sell, serve or otherwise dispense alcoholic beverages
- M. Buskers shall not use a megaphone during a performance unless the performance is in conjunction with a street event or festival authorized by the City and with the written permission of the sponsor of the street event or festival. Devices such as amplifiers for musical instruments shall be permitted provided their use is in compliance with the City Noise Ordinance.

Sec. 1-5. Exclusion of Public Areas.

- A. A specific public area may be permanently excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised no less than fourteen days prior to said hearing.
- B. During periods of construction on the streets, sidewalks and infrastructure, the City Manager may from time to time temporarily exclude performances from areas where there are issues of serious public safety and the City Council may, in their discretion, issue notices of exclusion from areas as the construction requires.

Sec. 1-6. Penalties.

- A. A license may be suspended or revoked if a performer is found to have knowingly provided false information on the application or has violated the rules and regulations or any Federal, State or local law or ordinance rationally related to this license.
- B. Before suspension or revocation, the City Council must hold a public hearing, after forwarding a 15-day written notice to the busker's last known address on file in the City's

License and Revenue Division, setting forth the facts constituting the basis for the proposed suspension or revocation.

Sec. 1-7. Severability.

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall remain in full force and effect.

ADOPTED this the _____ day of _____, 2022.

STEVEN L. REED, MAYOR

ATTEST:

BRENDA GALE BLALOCK, CITY CLERK