

Sec. 16-141. – Definitions.

[Add]

High Impact Area means an area identified in Appendix H of this code within which sidewalk entertainment is prohibited outside of a designated Performance Space.

Incentive Area means an area designated on the sidewalk within which vending may occur in conjunction with street performances subject to conditions.

Performance Space means a space, designated by a marking by the City on the sidewalk, within which performers of sidewalk entertainment may conduct performances within High Impact Areas.

[Amend]

Sidewalk entertainment means performances which may include, but not be limited to, music, dance, mimes, magicians, clowns, jugglers and theatrical presentations, but specifically excluding speeches, lectures, and sermons.

Sec. 16-142 Scope

Except by a permit **which** may be issued pursuant to ~~this~~ **article V of the City Code**, for locations within the Central Business District, the Biltmore Village Historic District, or other zoning districts where office and business uses are a permitted use, **or within Incentive Areas designated by the City Manager pursuant to section 16-145(c)**, it shall be unlawful for any person to sell, offer for sale, exhibit or demonstrate any goods, wares, merchandise, mechanical devices, animals or any article of any kind whatsoever, by whatever name called, upon any public street, sidewalk, square, avenue or alley within the corporate limits of the city.

Sec. 16-145. - Performers of sidewalk entertainment.

[Delete existing language and replace with the following]

Findings

- (1) Artistic performances on city sidewalks are a vital and welcome part of Asheville's unique character and culture.
- (2) Street performances are distinguished from panhandling activities by the commercial nature of the performer's actions which provide the benefit of a live performance of artistic value in exchange for gratuities given in appreciation of the performance.
- (3) Persons have a right to perform on public property, but those performances can cause adverse impacts to the community in the form of gathering crowds attracted to the entertainment offered in locations where there is insufficient room for crowds; blocked sidewalks; blocked ingress and egress of buildings; the risk of disrupting

nearby motor vehicle traffic; and/or disturbance of the quiet enjoyment of residents and businesses.

- (4) Such adverse impacts can be mitigated or alleviated through minimally intrusive regulation of the time, place, and/or manner in which such performances may occur. Such regulation ensures the ability of street performers to perform in public spaces and to promote harmony among street performers, local businesses, permitted event sponsors, and residents and visitors by balancing the interests of performing artists with the public's safety.

(A) General Requirements

Unless prohibited elsewhere in this code, performers of sidewalk entertainment may utilize sidewalks for performances subject to the following conditions:

1. Performances must not violate the prohibitions on disturbing, annoying and unnecessary noise as set forth in article IV of chapter 10 of the City Code.
2. Performances must not violate the prohibitions on solicitation as set forth in City Code sections 11-5 and 11-14.
3. Performances must 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. Performances must provide a minimum of six (6) feet for pedestrian passageway. Performances must cease if persons are observing a performance from a street.
4. No performer may sell, display or exhibit any tangible good on any city sidewalk. This prohibition includes the exchange of any goods, wares, merchandise, mechanical devices, animals, or any article of any kind whatsoever, by whatever name called, in exchange for a fixed price or donation.
5. Performances must only take place between the hours of 10:00 a.m. and 10:00 p.m.
6. Performers of sidewalk entertainment must not consume or be under the influence of alcoholic beverages or other controlled substances.
7. Performances outside of High Impact Areas identified in Appendix H must not take place any closer than 40 feet from another performance.

8. Performances must not take place at locations designated for a community event or festival, unless permitted to play at the community event or festival by the event or festival coordinator, pursuant to section 16-97 of the City Code.
9. Performances must comply with all applicable federal, state and local laws, including but not limited to, ordinances concerning noise regulation.
10. Performances involving the use of knives, swords, torches, axes, saws (except non-powered saws used solely as musical instruments), fire or other potentially dangerous objects or that involve acrobatics, tumbling, or other inherently dangerous activities are prohibited.

(B) Special Requirements in High Impact Areas

1. In addition to the general requirements set forth above, the following conditions shall apply at any location designated as a High Impact Area as identified in Appendix H:
 - a) All performances must take place only within designated performance spaces. No other performance may take place within 100 feet of any designated performance space.
 - b) All performers associated with a performance must remain entirely within the performance space.
 - c) No equipment or personal items belonging to, or in the custody, possession or control of any performer may protrude beyond the performance space.
 - d) No equipment or personal items may be present in the performance space if a performer is not also present in the performance space. All equipment and personal items must be removed from the performance space at the conclusion of each performance. Any personal items left unattended in a performance space by a person or group not physically present and preparing to perform, performing, or diligently removing equipment from a performance space following a performance will be deemed abandoned and may be disposed of by city personnel.
 - e) Individual performance spaces may only be utilized in two hour, non-consecutive blocks of time. At least one performer utilizing an individual performance space must be registered with the City and scheduled to perform in that space for the block of time in which the performance is taking place. Persons not registered and scheduled may perform within an individual performance space so long as they perform in conjunction with a registered and scheduled performer actually present and performing in that space during a time in which they are registered.

- f) Persons registering to utilize performance spaces shall be required to provide contact information and a photograph. Such information may be accessed by city personnel at any time to verify compliance with this section.

(C) Incentive Areas

1. Notwithstanding the prohibitions on vending contained in subsection (B), the City Manager or their designee may, at their sole discretion, designate Incentive Areas where the display, selling or exhibiting of goods and wares may be allowed in conjunction with street performances subject to the following conditions:
 1. All performers utilizing Incentive Areas must register with the City and provide contact information, a photograph, and a current and valid state sales tax identification number.
 2. Individual incentive areas may only be utilized in two hour, non-consecutive blocks of time. At least one performer utilizing an individual incentive area must be registered with the City and scheduled to utilize that incentive area for the block of in time in which it is used.
 3. No goods or wares available for sale, or any item associated with the display of such goods or ware, may be made available for sale outside the bounds of spaces specifically designated on the sidewalk.
 4. With the exception of the prohibition contained in (A)(4), performers utilizing incentive areas must comply with all General Requirements applicable to street performances, including all requirements pertaining to distance between performances.