



Town of Fort Myers Beach

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

STREET PERFORMER APPLICATION

Official Use Only: Permit # STP _____

Name: _____

Email: _____

Address: _____

Phone: _____ Cell Phone: _____

Application Information

1. Are you over the age of 16? Yes No (If no, please complete the attached Parental Consent Form)

2. Describe, in detail, your performance including any costumes or materials used in your act. (Attach separate sheet if necessary) _____

Please select one: Individual Performer Performer within a group

Please select the type of performance:

- Dance Artist Mime/Statue
 Juggling (non-dangerous implements) Musician (specify instrument(s) _____
 Other (Please specify the type of performance and supplies/equipment used. Attach separate sheet if necessary)

3. Have you previously held a Street Performer Permit with the Town of Fort Myers Beach? Yes No
If yes, please specify when: _____

Proof of Identity

You must provide proof of your identity and proof of identity of your parent/guardian if you are under the age of 18. Please check the item(s) below which you will provide as proof of identity.

	<u>Performer</u>	<u>Guardian</u>
Driver's License/State ID card	<input type="checkbox"/>	<input type="checkbox"/>
School ID card	<input type="checkbox"/>	<input type="checkbox"/>
Other, please list: _____	<input type="checkbox"/>	<input type="checkbox"/>

Driver's License Number (Performer)
_____ State: _____

Driver's License Number (Parent/Guardian)
_____ State: _____



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STREET PERFORMER APPLICATION

Official Use Only:

Permit # **STP** _____

You must submit the completed application including the background check form and parent/guardian consent form (*if applicable*) at Town Hall. A Town employee will schedule an appointment time to discuss your application. A photo will be taken at the time you complete your interview. ****This photo does not guarantee that your permit application will be approved.**** If the background check is approved and the Street Performer requirements are met, a permit will be issued.

As a condition of issuance of the Street Performer Permit, the applicant agrees to indemnify, defend and hold harmless the Town of Fort Myers Beach and its officers, employees and agents from any suit, actions or claims arising out of, or in any way connected to, the activities permitted pursuant to this Article, except for any claims or liability arising solely from the negligence or misconduct of the Town, its officers, employees or agents.

I have read the attached rules and regulations for performers as outlined in the Town of Fort Myers Beach Ordinance 15-09 and agree to the terms and conditions set forth. Further, I authorize the Town of Fort Myers Beach to conduct a criminal background investigation.

Signature _____

Typed or printed name _____ Date _____

DISCLOSURE CONCERNING REQUEST FOR BACKGROUND CHECK REPORT

The Town of Fort Myers Beach (the "Town") will obtain a commercially available background check report on you in connection with your permit application with the Town, and if selected, the Town may do so at any time during the course of your permit period with the Town to the extent permitted by applicable law. The Town also may order an "investigative consumer report." An "investigative consumer report" is a background report that includes information from personal interviews (except in California, where that term includes background reports with or without personal interviews). The most common form of investigative consumer report is an investigation into your employment history.

The Town currently obtains the report(s) from the following reporting agency: ScreeningOne, Inc. 1860 N. Avenida Republica de Cuba, Tampa, FL 33605 Phone: (888) 327-6511 Fax: (888) 216-1003 www.ScreeningOne.com (the "Agency"). The Agency's privacy policy can be found at www.ScreeningOne.com.

The report may contain information relating to your character, general reputation, personal characteristics, and/or mode of living. The types of information that may be obtained include, but are not limited to, background references; employment history; credit reports; criminal and civil court, education, and driving records; public Internet posts; and verification of prior employment. The information in the report will be obtained from private and public record sources, and, in the case of an investigative consumer report will include personal interviews with sources, such as former employers, friends and associates.

You may request more information about the nature and scope of any investigative consumer reports by written request to: the Town's Human Resources representative. A summary of your rights under the Fair Credit Reporting Act has been provided with this form.

ADDITIONAL STATE LAW NOTICES

If you live, or are applying for a position in, any of the states listed below, please review the additional notice that applies to you.

CA: You may review the file maintained on you by the Agency. You may also obtain a copy of that file, upon submitting proper identification, paying duplication costs, and by appearing in person at the Agency's offices on reasonable notice and during normal business hours, or by mail. You also may receive a summary of the file by calling the Agency. The Agency has trained personnel available to explain your file to you, including any coded information. If you appear in person, one other person may accompany you, provided that person furnishes proper identification.

CA, CT, HI, IL, MD, OR, WA, VT: These states restrict the circumstances in which the Town may obtain credit information about you. The Town will not obtain credit information about you except in accordance with applicable state law.

MA: If you contact the Town's Human Resources representative, you have the right to know whether the Town ordered an investigative consumer report about you. You also have the right to receive a copy of any investigative consumer report that the Town has ordered when that report is complete.

MN: Upon written request, the Agency will make a complete and accurate disclosure of the nature and scope of the report provided to the Town. Minnesota law requires the consumer reporting agency to provide this disclosure within five days after the request is received or the consumer report is requested, whichever is later.

NJ: Upon request, the Town will send you a copy of any investigative consumer report about you received by the Town.

NY: Upon written request to the Town's Human Resources representative, the Town will inform you whether or not the Town requested a consumer report or an investigative consumer report about you. If either report was requested, the Town will provide the name and address of the consumer reporting agency furnishing the report. You may inspect and receive a copy of the report by contacting the agency. Article 23-A of the New York Correction Law is provided with this form.

WA: If you make a written request within a reasonable time of this notice, the Town will provide a complete and accurate disclosure, in writing, of the nature and scope of any investigative consumer report that has been requested. The Town will provide the disclosure, by mail or otherwise, either five days after receiving your request or after requesting the report, whichever is later. You also have the right to ask the Town to provide you with a summary of your rights under the Washington Fair Credit Reporting Act.

AUTHORIZATION FOR BACKGROUND CHECK REPORT

I have carefully read, and I understand, this Disclosure and Authorization form. By my signature below, I consent to the release to the Town of Fort Myers Beach (“the Town”) of commercially available background check reports and investigative consumer reports prepared by a reporting agency. If I am permitted by the Town, I understand that the Town may rely on this Authorization to obtain additional reports on me from the agency or other reporting agencies during my permit period without asking for my consent again, to the extent permitted by applicable law.

I also authorize all of the following to disclose to the Agency and its agents all information about or concerning me, including but not limited to: my past or present employers; learning institutions, including colleges and universities; law enforcement and all other federal, state and local agencies; federal, state and local courts; the military; credit bureaus; drug and alcohol testing facilities; motor vehicle records agencies; all other private and public sector repositories of information; and any other person, organization, or agency with any information about or concerning me. The information that can be disclosed to the Agency and its agents includes, but is not limited to, information concerning my employment and earnings history, education, credit history, motor vehicle history, criminal history, military service, professional credentials and licenses.

The following is my true and complete legal name and all information is true and correct to the best of my knowledge. I understand that dishonesty will disqualify me from consideration and, if I am permitted with the Town, that such dishonesty could result in the termination of my permit.

I acknowledge that I have received a copy of the following documents: (1) “Disclosure Concerning Request for Background Check Report”; (2) “A Summary of Your Rights under the Fair Credit Reporting Act”; (3) “A Summary of Your Rights under California Civil Code Section 1786.22” (if you reside in or you are applying for a position in California); and (4) “New York Correction Law Article 23-A”(if you reside in or you are applying for a position in New York).

If you live, or are applying for a position, in California, Minnesota or Oklahoma: If you check the box below, the consumer reporting agency will send you a free copy of the report at the same time that the report is made available to the Town. I request a free copy of the report.

Signature _____
Date

Full Name Printed _____
Maiden Name or Other Name Used

Present Address _____
How Long?

City/State _____
Zip Code

Former Address _____
How Long?

City/State _____
Zip Code

Date of Birth _____ _____ _____
(Mo/Date/Year) Social Security Number Driver’s License Number State of License

(If position may involve driving)

Para informacion en español, visite www.consumerfinance.gov/learnmore o escribe a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

Para informacion en espanol, visite www.ftc.gov/credit o escribe a la FTC Consumer Response Center, Room 130-A 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to www.ftc.gov/credit or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
 - a person has taken adverse action against you because of information in your credit report;
 - you are the victim of identify theft and place a fraud alert in your file;
 - your file contains inaccurate information as a result of fraud;
 - you are on public assistance;
 - you are unemployed but expect to apply for employment within 60 days.In addition, by September 2005 all consumers will be entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.ftc.gov/credit for additional information.
- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.ftc.gov/credit for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need -- usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.ftc.gov/credit.
- **You may limit "prescreened" offers of credit and insurance you get based on information in your credit report.** Unsolicited "prescreened" offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-888-5-OPTOUT (1-888-567-8688).
- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.ftc.gov/credit.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. Federal enforcers are:

TYPE OF BUSINESS:	CONTACT:
Consumer reporting agencies, creditors and others not listed below	Federal Trade Commission: Consumer Response Center - FCRA Washington, DC 20580 1-877-382-4357
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Consumer Help (FRCH) P O Box 1200 Minneapolis, MN 55480 Telephone: 888-851-1920 Website Address: www.federalreserveconsumerhelp.gov Email Address: ConsumerHelp@FederalReserve.gov
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Complaints Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-519-4600
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Consumer Response Center, 2345 Grand Avenue, Suite 100 Kansas City, Missouri 64108-2638 1-877-275-3342
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation, Office of Financial Management Washington, DC 20590 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture

(CALIFORNIA APPLICANTS ONLY)
A SUMMARY OF YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1786.22

- (a)** An investigative consumer reporting agency shall supply files and information required under Section 1786.10 during normal business hours and on reasonable notice.
- (b)** Files maintained on a consumer shall be made available for the consumer's visual inspection, as follows:
- (1)** In person, if he appears in person and furnishes proper identification. A copy of his file shall also be available to the consumer for a fee not to exceed the actual costs of duplication services provided.
 - (2)** By certified mail, if he makes a written request, with proper identification, for copies to be sent to a specified addressee. Investigative consumer reporting agencies complying with requests for certified mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after such mailings leave the investigative consumer reporting agencies.
 - (3)** A summary of all information contained in files on a consumer and required to be provided by Section 1786.10 shall be provided by telephone, if the consumer has made a written request, with proper identification for telephone disclosure, and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.
- (c)** The term "proper identification" as used in subdivision (b) shall mean that information generally deemed sufficient to identify a person. Such information includes documents such as a valid driver's license, social security account number, military identification card, and credit cards. Only if the consumer is unable to reasonably identify himself with the information described above, may an investigative consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his identity.
- (d)** The investigative consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished him pursuant to Section 1786.10.
- (e)** The investigative consumer reporting agency shall provide a written explanation of any coded information contained in files maintained on a consumer. This written explanation shall be distributed whenever a file is provided to a consumer for visual inspection as required under Section 1786.22.
- (f)** The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. An investigative consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

NEW YORK STATE CORRECTION LAW, ARTICLE 23-A

§ 750. Definitions. For the purposes of this article, the following terms shall have the following meanings:

(1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

(2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.

(3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.

(4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.

(5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§ 751. Applicability. The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

§ 752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited. No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

(1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or

(2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safe or welfare of specific individuals or the general public.

§ 753. Factors to be considered concerning a previous criminal conviction; presumption.

1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

(a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.

(c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) The age of the person at the time of occurrence of the criminal offense or offenses.

(f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

§ 754. Written statement upon denial of license or employment. At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

§ 755. Enforcement.

1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.

2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.



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STREET PERFORMER APPLICATION

Official Use Only:

Permit # **STP** _____

PARENT / GUARDIAN CONSENT FORM

I, (print name) _____
residing at (address) _____
hereby give my consent for my child/ward:

Minor Name: _____ Age: _____

To apply with the Town of Fort Myers Beach as part of the Street Performer program and abide by all regulations therein.

I understand that the Town of Fort Myers Beach provides no supervision and that I must accompany my child/ward at all times.

Parent/Guardian Signature: _____

Parent/Guardian Name: _____ Date: _____

Relationship to Minor: _____

Identification of Parent/Guardian: Driver's License State ID Passport Other

Document Number: _____

ORDINANCE NO. 15-09

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION VII OF CHAPTER 10 OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA "STREET PERFORMERS", PROVIDING FOR REVISIONS TO THE APPLICATION REQUIREMENTS, PERMIT CONDITIONS, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; CONFLICTS OF LAW, SEVERABILITY; MODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council finds that the existence in the Town of street performers provides a public amenity that enhances the character of the Town; and

WHEREAS, the Town seeks to encourage such performances to the extent that they do not interfere with the reasonable expectation of residents and businesses to the enjoyment of peace and quiet in their homes or to the ability of businesses to operate; and

WHEREAS, the Town Council recognizes that street performers seek to and do draw crowds to their performances which may create serious safety problems by impacting the ability of pedestrians to move safely on sidewalks or may impede the response time of safety personnel; and

WHEREAS, the Town is cognizant that street performers may be engaged in activities protected by the First Amendment, and, as such, the Town is limited to imposing reasonable time, place, and manner restrictions on street performers to the extent necessary to ensure the safety of performers, their audience, and the general public; and

WHEREAS, the Town had previously adopted Ordinance 12-09 regulating street performers, and now seeks to further amend its regulations to provide for additional detail and clarity to those regulations.

WHEREAS, the Town, in permitting street performances, seeks to balance the interests of the performers, the residents and businesses in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

Section 1: LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2: Amendments. Chapter 10, Article VII, Street Performers, of the Code of Ordinances of Fort Myers Beach, Florida, is hereby amended as follows:

ARTICLE VII – STREET PERFORMERS

Sec. 10-190. Definitions.

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

“*Perform*” means and includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry, comedy, acrobatics, character impersonation, creating visual art, and other similar types of public performance done for the purpose of public entertainment or amusement.

“*Performer*” means an individual who performs in a public area, for the purpose of providing public entertainment, and to whom a permit has been issued for that purpose by the Town.

“*Public area*” means and includes any public sidewalk, alley, street, public park, public right of way or easement located in the Town.

Sec. 10-191. Prohibition.

No person may perform in any public area in the Town without a permit issued pursuant to Section 10-192 of this Article Code.

Sec. 10-192. Performer’s Permit Application; Permit Conditions.

(a) The Town ~~shall~~ will issue a limited number of street performer permits on a first come, first served basis to persons who make proper application, meet the requirements of this Article, and pay the permit fee established under the Town Fee Schedule by the Town by resolution. The number of permits will be determined during the annual budget process and may be adjusted as deemed necessary. Those applicants not receiving a permit due to the limit being reached will be placed on a waiting list.

(b) The information required on a permit application ~~shall~~ include the performer’s contact information and a description of the type of performance activities the performer intends to conduct. All performances are subject to performance review and Town approval. Each applicant shall will also be subject to a countrywide criminal records check.

(c) The Town reserves the right to deny a permit for any reason, including, but not limited to if the applicant has been convicted of any act that would represent a threat to public safety or security for the viewing audience. Permit denials may be appealed to the Town Council ~~and shall be heard at the next available Town Council meeting. An application will be automatically denied if a criminal records check produces any one or more of the following offenses.~~

- (1) Felony convictions
- (2) Conviction of a sexual related offense
- (3) Alcohol or drug convictions in the past 5 years

(4) More than 5 misdemeanors in the past 5 years

(d) All street performers permits shall will be issued based on the Town's fiscal year and shall will expire at midnight on September 30 of each year. ~~Street performer permits can be renewed for the next succeeding fiscal year upon payment of the applicable permit renewal fee.~~ Permit applications will be accepted September 1.

~~(e) Permits shall contain the name, photograph and permit number of the applicant and the year for which the permit is valid.~~

~~(f)~~(e) Permits may be issued, upon Town manager approval, to any minor under the age of ~~eighteen (18)~~ sixteen (16), provided the application for the permit is accompanied by a written consent signed by the parent, legal guardian, or custodian of any minor. Minors shall will not be permitted to perform during the hours school is in session. The parent or legal guardian of a minor must also complete and pay for a criminal records check. If more than one parent or guardian will accompany the minor, each must complete a criminal records check. Criminal records checks after the first will be charged at the actual cost of the criminal records check.

~~(g)~~(f) Street Performer permits are non-transferable.

~~(h)~~(g) ~~Each member of a group of performers shall be required to obtain a performer's permit.~~ Groups will perform under one permit, however all members must complete an application and criminal records check. Criminal records checks after the first will be charged at the actual cost of the criminal records check.

~~(g)~~(h) As a condition to issuance of the street performer permit, the applicant must agree to indemnify, defend, and hold harmless the Town and its officers, employees and agents from any suit, actions or claims arising out of or in any way connected to the activities permitted pursuant to this Article, except for any claims or liability arising solely from the negligence or misconduct of the Town, its officers, employees or agents.

~~(h)~~(i) Performers must obtain insurance. Certificates of insurance shall list the Town as the certificate holder and as an additional insured. Insurance shall be maintained during the entire term of the contract/permit, shall be of the following for and limits:

Workers Compensation Coverage for all employees to performers that comply with Statutory Limits in compliance with the applicable statutory limits of State Florida and Federal laws;

Commercial General Liability Insurance with minimum limits of \$1,000,000 each per occurrence combined property and bodily injury single limit or \$1,000,000 each occurrence/\$2,000,000 general aggregate; (3) and Crime Coverage with a minimum limits of \$200,000.

The establishment of minimum limits of insurance by Town does not reduce or limit the liability or responsibilities of Performer Service Provider.

Sec. 10-193. Display of Permit.

Permits must be displayed ~~A performer shall carry and~~ must visibly display their permit on the performer's person at all times while performing in a public area on Town property. Permits will contain the name, photograph and permit number of the applicant and the year for which the permit is valid.

Sec. 10-194. Permitted Performances; Restrictions.

(a) Street performances are limited to those areas ~~The use of a location on public Town property by~~ as depicted on the Street Performer Performance Map, hereafter known as Exhibit A, ~~by a permit holder shall~~ Performances will only be allowed on a daily, first come, first served basis. No permit holder ~~shall~~ will make efforts to reserve a location, and each permit holder ~~shall~~ will abandon a location at the end of his or her working day, including the removal of all personal property. There will be no permanent physical alteration of the public space.

(b) ~~A permit holder cannot locate within fifty (50) feet of another permit holder,~~ provided, however, that ~~Two or more street performers may combine their performances into one integrated performance.~~ A map of the allowable performance areas will be provided upon issuance of a permit.

(c) ~~Street performers shall~~ will abide by all requirements of the Town's noise ordinance regulations and ~~may not utilize any artificial sound amplification devices in their performance,~~ provided, however that devices that do not generate noise exceeding a median sound level of eighty decibels (72 db) measured at a distance of twenty-five (25) feet from the performer may be utilized.

(d) ~~Street performers shall~~ will not create any undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, ~~the a Lee County Sheriff's Deputy or a Town Code Enforcement Officer~~ employee may disperse the crowd that is creating the obstruction. ~~The officer~~ Deputy or Town employee may also ask the performer to temporarily suspend a performance or to move his or her location when such action is necessary to protect the public safety or public order.

~~(e) Street performers shall not:~~

~~(1) Include anything in their performance that creates a fire hazard or that employs a dangerous weapon.~~

~~(2) Engage in the application of tattoos or body piercing.~~

~~(3) Include any obscene material in their performance.~~

~~(4) Harass or coerce any member of the public~~

~~(5) Block access to the entrance of any building, bicycle rack, or trash receptacle.~~

~~(6) Connect to any electrical outlets or power sources owned by the Town or any private business, or utilize any electric extension cords.~~

~~(7) Perform in a street unless such street has been closed to vehicular traffic.~~

~~(8) Construct, erect, or maintain any stage, platform, or similar structure for use during any performance.~~

~~(9) Perform in any area of the Town that is outside the DOWNTOWN zoning district.~~

~~(10) Perform within fifty feet (50') of any area that has been permitted for a Special Event pursuant to Chapter 22 of this Code, provided that such street performance shall not interfere with the permitted special event.~~

(e) Performances including a fire hazard must be reviewed by the Fort Myers Beach Fire Department prior to permit issuance.

(f) Performers will not engage in the application of permanent, semi-permanent (henna) tattoos or body piercing.

(g) Animals may not be registered as performers and may not be part of any performance.

(h) Performances involving dangerous weapons are not permitted.

(i) Performances will not include any obscene material.

(j) Performers will not harass or coerce any member of the public.

(k) Performers will not block access to the entrance of any building, bicycle rack, or trash receptacle.

(l) Performers will not connect to any electrical outlets or power sources owned by the Town or any private business, or utilize any electric extension cords.

(m) Performers will not perform in a street, unless such street has been closed to vehicular traffic.

(o) Permitted Special Events take precedence over street performances. Street Performers will not perform within fifty feet (50') of any area that has been permitted for a Special Event pursuant to Chapter 22, Town of Fort Myers Beach Code of Ordinances; unless such street performance will not interfere with the permitted special event.

(p) Performances, including preparation, may take place in any public designated performance area, as depicted in Exhibit A, but only between the hours of 10:00 A.M. and 9:00

P.M. on Sundays through Thursdays, and between the hours of 10:00 A.M. and 11:00 P.M. on Fridays and Saturdays.

~~(g)(q) No street performer may sell or offer for sale t-shirts, toys, compact disks, or any other goods, unless the goods relate to the performer's authorized activities under the street performer permit. goods or services.~~

~~(h)(r) Permit holders~~ Performers who are minors shall must have a parent or legal guardian with them at all times while performing any street performance permitted under this Article.

Sec. 10-195. Acceptance of Contributions.

(a) A performer may accept voluntary contributions of money or property at a performance.

(b) Contributions may be received in any receptacle of reasonable size. The use of such open receptacle evidencing intent to receive money is prohibited unless a street performance is in preparation, underway, or the performance has recently concluded.

(c) The receptacle may have a sign which invites ~~gratuities~~ contributions, provided such sign is no larger than 12 inches by 18 inches and does not suggest a contribution amount.

~~(d) The use of such open receptacle evidencing intent to receive money is prohibited unless a street performance is in preparation, underway, or the performance has recently concluded.~~

Sec. 10-196. Permit Suspension/ and Revocation; Appeal.

(a) The Town Manager may suspend or revoke a permit for one or ~~more~~ both of the following reasons:

(1) A performer who is found to have obtained a permit through fraud or through material misrepresentation on the permit application

(2) A performer who violates any of the provisions of this Article.

(b) Any revocation of a permit under this section shall will be for the duration of the current permitting period and for the next subsequent permitting period.

(c) The decision of the Town Manager to suspend or revoke a permit may be appealed to the Town Council. The appeal must be filed within five (5) business days of permit revocation. Such appeal must be requested in writing and shall will be heard by the Town Council at the next available Town Council meeting. The performer may not perform during the appeal process.

- (d) Revocation or suspension of a permit will result in the performer's permit becoming available to the Street Performer's permit waiting list, following the expiration of the appeal request time period or the denial of the appeal.

Sec. 10-197. Violation—Penalty.

Engaging in a street performance without a permit ~~shall~~ will ~~subject~~ result in the violator being subject to such penalties and remedies as provided by Code, including but not limited to, a penalty as provided in Section 1-12 of this Code being issued a Trespass Warrant from Town property.

SECTION 3: CODIFICATION AND SCRIVENER'S ERRORS

The Town Council intends that this Ordinance be made part of the Code of Ordinances, Town of Fort Myers Beach, Florida; and that sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the Town Manager without the need for a public hearing.

SECTION 4: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION 5: SEVERABILITY

If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 6: MODIFICATION

It is the intent of the Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications will be incorporated into the final version of this Ordinance.

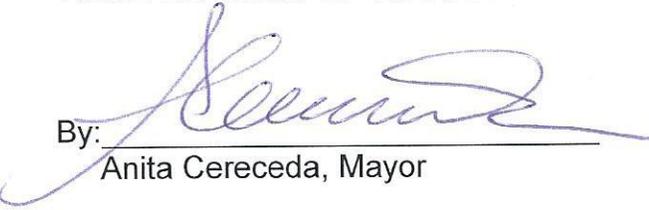
SECTION 7: EFFECTIVE DATE

This ordinance will take effect immediately upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Mayor Cereceda and seconded by Councilwoman Hosafros and upon being put to a vote, the result was as follows:

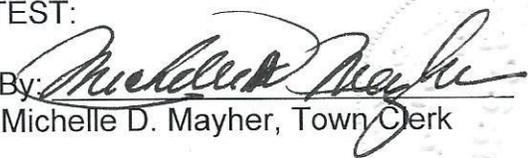
Anita Cereceda, Mayor	AYE	Dan Andre, Vice Mayor	NAY
Rexann Hosafros	AYE	Alan Mandel	AYE
Summer Stockton	AYE		

DULY PASSED AND ADOPTED THIS 21st DAY OF September, 2015, BY THE
TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 

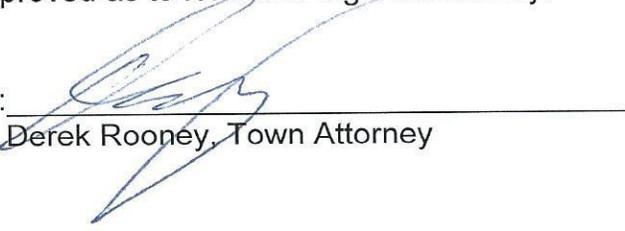
Anita Cereceda, Mayor

ATTEST:

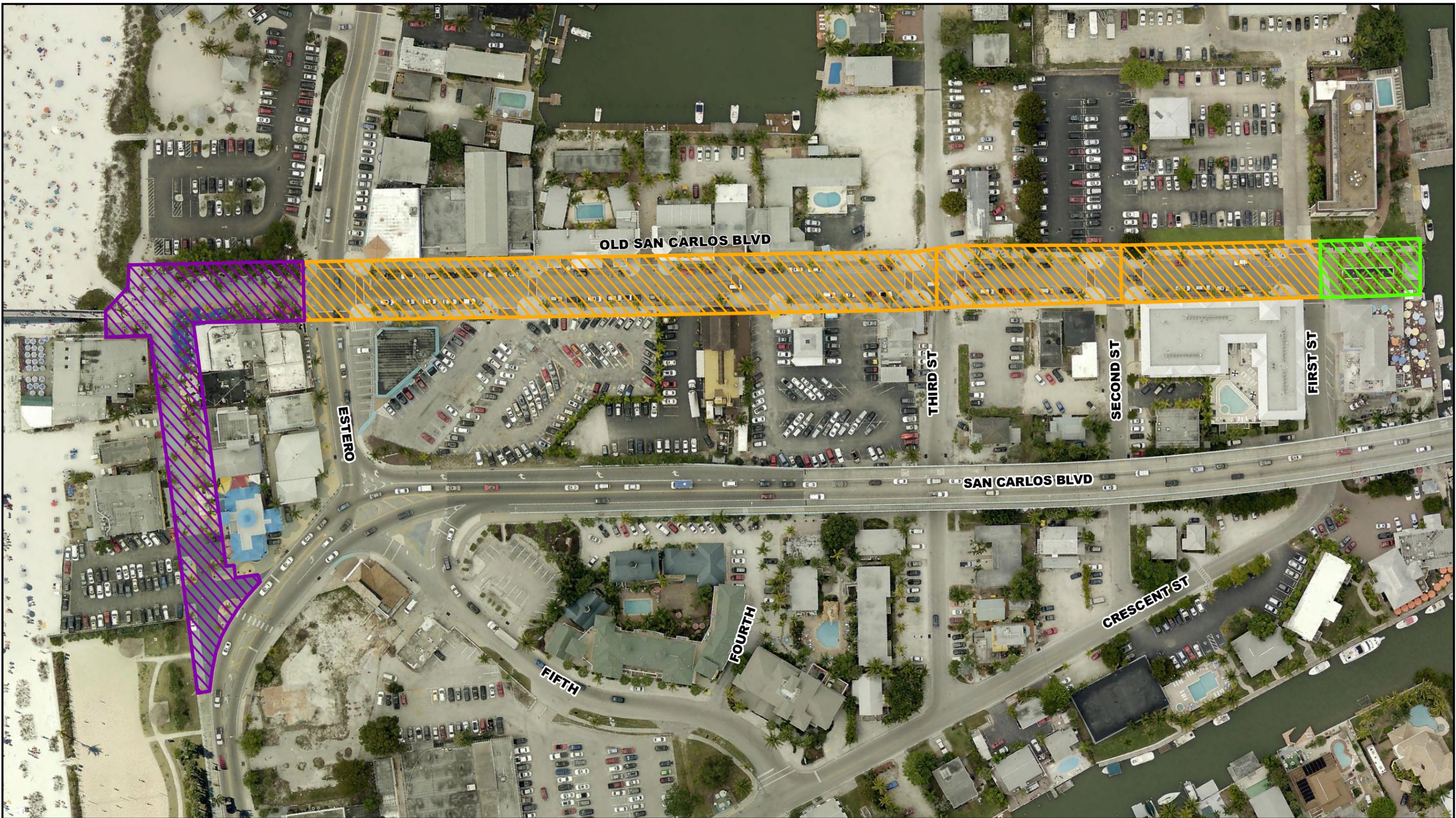
By: 

Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By: 

Derek Rooney, Town Attorney



Town of Fort Myers Beach, Florida

DEPARTMENT OF PUBLIC WORKS
 2523 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931
 (239) 765-0202

Exhibit A - Street Performer Location Map

Date:	Drawn By:	Sheet:	Scale:
9/29/2015	PW GIS	1	1" = 100'

-  Bayside Park Area
-  Old San Carlos ROW Area
-  Time Square ROW Area

