

ORDINANCE NO. C - \_\_\_\_\_

An ordinance relating to street performers; amending SMC 10.40.010 of the Spokane Municipal Code.

WHEREAS, the City supports and seeks to protect the activities of street performer, including street musicians, who perform any valid form a constitutionally protected expressive activities in the public right-of-way,

WHEREAS, the City must also implement reasonable regulations to protect the public health, safety, welfare from adverse effects that can result from commercial and non-commercial activities in the public right-of-way,

WHEREAS, the City also has a legitimate government interest in regulating business activities which take place on the public right-of-way, and

WHEREAS, it is the City's desire to implement an ordinance that protects the rights of street performers to perform constitutional protected expressive activities in the public right-of-way while also enforcing reasonable regulations regarding business and commercial activities which occur on the public right-of-way.

The City of Spokane does ordain:

Section 1. That SMC 10.40.010 is amended to read as follows:

**10.40.010 Peddler Designation – When Required.**

A regular or temporary business license issued under chapter 8.01 SMC must have a special designation as “peddler” under any of the following circumstances:

- A. Where the person is eligible for a temporary business license, and is engaged in the business of selling or delivering goods or services within the City from a fixed or temporary location as an itinerant vendor.
  - 1. Examples are people selling food or wares from mobile carts on the sidewalk or roving vehicles in the streets. (Cross Reference: SMC 8.01.220).
- B. Where the person travels from door to door as the principle means of conducting business offering, exposing for sale, or selling within the City any goods, merchandise, service or product.

C. Where the person engages in any business in the City with no permanent location. (Cross Reference: SMC 8.01.070).

D. Where the person engages in the activity of a street performer in the public right-of-way.

For the purposes of this section, a street performer means an individual, including street musicians, who performs any form of artistic expression with the intent to attract an audience for the purpose of active solicitation of donations. Active solicitation means the performer intends to attract individuals to his or her performance for the purpose of collecting and/or soliciting donations by the use of written or printed matter, props such as hats, cans, containers, instrument cases or through verbal or non-verbal communication. Passive solicitation means that while a performer may receive donations, there is no active effort on behalf of the performer to collect donations.

Individuals who engage in constitutionally protected expressive activities in the public right-of-way, which involves passive solicitation, and do not attempt to attract an audience for the purpose of active solicitation shall not be required to obtain a business license under this section. Such individuals must still comply with all other regulations regarding conduct in the public right-of-way.

PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2008.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date