

Administrative Rules: 18-901 Title: Artists and Street Performer Permit

Ordered: Hilda M. Jernandez **Effective:** 3/21/08 Rev. 2/12/09

AUTHORITY:

Article XV Section 18-901 thru 18-910 of the Miami Beach City Code.

POLICY:

These Administrative Rules establish the application procedure for an artist vendor/street performer permit, the lottery process for the issuance of a artist vendor/street performer permit, and the rules of conduct for Artist vendors and Street Performers permitted under this section of the Miami Beach City Code.

PROCEDURE:

- A. Application Procedure – Any applicant that fails to follow Article XV, Section 18 of the Miami Beach City Code and the procedure as listed below shall be disqualified from entering the lottery.
1. An application for a permit does not guarantee the issuance of a permit. Permits shall be allocated through a lottery process, as established in Section 18 of the City Code, and as further provided in these administrative rules.
 2. Only one (1) application for a permit may be submitted in one quarter by an artist vendor or a street performer.
 - A. A permit application may be submitted by co-applicants. This permit application is treated as one permit application and only one lottery number is assigned and only one selection is permitted during the lottery.
 - B. Individual applicants for a permit cannot change their application to a co-applicant application any later than twenty-four hours prior to the lottery period. No changes from individual applications to co-applications will be permitted any alter than twenty-four (24) hours prior to the lottery period.
 3. A permit issued to an applicant is non-transferable. Only the person issued the permit can use the permit, or in the case of co-applicants, only the co-applicants issued the permit can use the permit.
 4. Application packages can be acquired on the City's web site, in the Finance Department at on the 3rd floor of City Hall, or at the Code Compliance Division Office, 555 17 Street.
 5. Application packages consist of:
 - A. Application
 - B. Copy of Section 18, Article XV of the Miami Beach City Code
 - C. Copy of Administrative Rules and Guidelines for the artist vendors/street performers permitted under Miami Beach City Code.
 6. Only applications submitted on city forms will be accepted.
 7. The applicant's signature on the application must be notarized.
 8. Applicants must submit a new, timely application for each quarter for which they wish to apply for a permit.
 9. Applications must include:
 - A. \$15.00 non-refundable application fee, paid when the application is submitted.
 - B. A copy of applicant's driver's license or other form of identification as may be deemed acceptable by the City.
 - C. D. For artist vendors: A copy of the current Sales and Use Tax Certificate
 - E. A copy of Fictitious Name Registration (if applicable)

F. For Artist Vendors: a copy of the applicant's Artist Vending Certificate. If an Artist Vendor applicant does not have his artist vending certificate on the date of submission of the application, the application will be accepted, but a valid Artist Vendor Certificate for the quarter of the lottery for which the applicant is applying must be obtained and be submitted to the Finance Department no later than twenty-four (24) hours before the lottery date.

10. All applications must be submitted to the cashier at city hall on the first floor. A receipt will be given for the application fee.
11. Applications received after the advertised due date for application submission for a specific quarter, shall not be eligible for the lottery for that quarter. An application for artist vending may be submitted without the artist vending certificate. However, a valid artist vending certificate for the lottery period must be submitted at least twenty-four (24) hours prior to the lottery date for the application to be considered complete, and the applicant to participate in the lottery.
12. Appeals shall be handled in accordance with Article XV. Section 18 of the City Code.
13. For artist vendor applicants, only those types of items listed on the application, permit and certificate may be sold.

B. Lottery

1. Permits for artist vending and street performance artists shall be issued via a lottery.
2. Lottery notification for each quarter will be posted on the City's web site at www.miamibeachfl.gov, city bulletin boards, and/or other publications.
3. The list of all applicants for the permit lottery will be posted at the Finance Department and at the Code Compliance Division. The list will be updated regularly to reflect the applicants that will be eligible for the lottery. The final list of all eligible applicants will be posted twenty-four (24) hours prior to the lottery.
4. One (1) lottery will be held to assign all artist vendor permits and one lottery shall be held to assign all street performance artist permits in the City, except as otherwise provided for in cases of applicants not present at the time of the lottery.
5. Lottery drawings will take place in a location that will be posted prior to the lottery date.. The lottery drawings are open to the public. Applicants do not have to attend the lottery drawing to be selected to receive a permit.
 - i. Permit applicants are randomly assigned a "lottery number" at the time of their permit application.
 1. The lottery number corresponds to a lottery ball.
 2. the lottery balls for all persons assigned a lottery number shall be placed in the lottery bin on the day of the lottery.
 3. Lottery balls are selected one-by-one during the lottery process.
 - ii. Applicants selected via the lottery shall be provided five (5) minutes to make their zone selection
 1. Applicants may select a permit for a zone for three days (A), for four days (B) or for seven days (AB).
 2. Applicants who do not complete their selection within the five (5) minute window shall have to wait until after the next lottery applicant selected makes their selection.
 - iii. An applicant selected during the lottery process that chooses not to select an available zone permit not be placed on the alternate list and shall forfeit their ability to receive a zone permit during the lottery period.

- iv. Applicants not present the day of the lottery who are selected during the lottery process for available zone permits, shall be included in a supplemental lottery at the conclusion of the lottery.
 - 1. The supplemental lottery shall include only those zone permits available after the conclusion of the advertised lottery.
 - 2. The supplemental lottery shall be open to the public and held at a time and location convenient for the participation of interested persons.
 - 3. An applicant may provide a legally valid "Power of Attorney" assigning to another person the ability to select for the applicant the day of the lottery. The "Power of Attorney" must be an original and presented to staff on the day of the lottery.
 - 4. Applicants selected during the supplemental lottery who do not select an available zone permit shall not be placed on the alternate list and shall forfeit their ability to receive a zone permit during the lottery period.
 - v. Applicants not selected for a zone either through the lottery held on the lottery day, or through the supplemental lottery, shall be placed, in the order selected in the lottery, on an "alternate" list.
 - vi. A list of the zone permits issued shall be available at the Finance Department and the Code Compliance Division within five (5) business days of the conclusion of the lottery.
6. Applications selected through the lottery for a permit on the day of the lottery shall be assigned a zone permit, as follows:
- i. Zone locations will be determined prior to the permit period. The Zone location list shall be available for review at the Finance Department and Code Compliance Division ten (10) business days prior to the lottery period.
 - ii. The zones available for a lottery period may change from quarter to quarter.
 - iii. Zones shall be assigned as follows:
 - 1. Lincoln Road: a total of eighteen (18) Artist Vending and Street performance artist zones shall be available for allocation of a permit(s) each quarter; nine (9) of the zones shall be designated for the category of artist vendors and nine (9) of the zones shall be designated for the category of street performance artist.
 - 2. Ocean Drive: a total of fourteen (14) Artist Vending and Street performance artist zones shall be available for allocation of a permit(s) each quarter; eleven (11) of the zones shall be designated for the category of artist vendors and three (3) of the zones shall be designated for the category of street performance artists.
 - 3. Street End of Lincoln Road and the Beachwalk: a total of six (6) Artist Vending zones
 - 4. Street end of 17th Street and the Beachwalk: a total of six (6) Artist Vending Zones
 - 5. Street end of 18th Street and the Beachwalk: a total of six (6) Artist Vending Zones
 - 6. Collins Avenue: a total of eight (8) Artist Vending and Street performance artist zones; six (6) of the zones shall be designated for artist vendors and two (2) of the zones shall be designated for the category of Street Performance Artist.
 - 7. Washington Avenue: A total of four (4) Artist Vending zones
 - iv. If the number of permit applications received by the Finance Department for either the Artist Vendor or Street Performance Artist category is fewer than the number of available zones for either the artist vendor or the street performance artist category, the zone shall be made available to permit applicants from the other category, but at no time shall the total number of zones permitted exceed the number delineated in (iii) above.
 - v. Permits shall be assigned to each zone using a lottery. An applicant selected through the lottery may choose to select a zone for seven (7) days a week, for three (3) days a week, or for four (4) days a weeks, as follows:
 - 1. permit for artist vending or street performance for Thursday, Friday and Saturday ("Weekend Permit") – an "A" permit.
 - 2. permit for artist vending or street performance for Sunday, Monday, Tuesday and Wednesday ("Weekday Permit") – a "B" permit.

3. permit for artist vending or street performance for seven (7) days a week (Sunday through Saturday) – an "7-day" permit.
7. Zones are not transferable by the permit holder (or holders if co-applicants); only the permit holder(or holders if co-applicants) may engage in artist vending or street performance from the assigned zone.
8. If a zone permit becomes available after the lottery but during a lottery period with more than 45 days remaining in the quarter, then the City may assign the zone permit to applicants as follows:
 - i. If an alternate list exists, to the top person on the alternate list in the order they were drawn in the lottery. If that alternate does not accept the available zone permit, that alternate forfeits his/her right to a permit for the lottery period, and the next alternate on the list shall be offered the zone permit. This process shall be continued until the zone permit is assigned to an alternate.
 - ii. If no alternate list exists, or if no alternate selects the available zone permit, then the zone permit shall be offered to the permit holder that selected last on the lottery. Should the permit holder that selected last on the lottery choose not to select the available zone permit, then the zone permit shall be offered to the applicant that selected next to last on the lottery. This process will continue until the zone permit is assigned to an existing permit holder.
 1. If an existing permit holder is offered and chooses to accept a zone permit that became available after the lottery, they shall forfeit the zone permit they selected via the lottery for the remainder of the lottery period.
 2. If an existing permit holder chooses not to accept a zone permit that became available after the lottery, the existing permit holder shall be entitled to remain in the zone they selected through the lottery process.
 3. If no alternate or no permit holder chooses to select the zone permit that became available after the lottery, the City may choose to leave the zone or permit period vacant until the next lottery period.
 - iii. Abandonment of Zone: Any permit holder that is deemed to have abandoned his/her zone within the first thirty (30) days of the start of the permit quarter shall be subject to revocation of their permit.
 - iv. Abandonment shall be considered the use of less than sixty-five (65) percent of all available use days for the permit zone; or failure to use the zone for one consecutive use period. A use period shall be defined as follows:
 1. For permit holders with Thursday through Saturday permits, 3 consecutive use days.
 2. For permit holders with Sunday through Wednesday permits, 4 consecutive use days.
 3. For permit holders with seven-day permits (Sun – Sat), 5 consecutive use days.
 - v. Any permit holder who has their permit revoked may appeal the revocation pursuant to Section 18-909 of the City Code.
 - vi. Any permit holder who has their permit revoked will be ineligible to apply for a permit for the two (2) subsequent quarters.
 - vii. Any permit holder may voluntarily surrender their permit within the first thirty days of the start of the quarter. A voluntary surrender within 30 days of the start of the quarter will not affect the permit holder's ability to apply for a permit in the next, subsequent quarter.
- C. Rules of Conduct - These rules shall apply to all active permit holders and may be amended from time to time at the discretion of the City Manager or his designee. Failure to comply with any rule as listed below is a violation of the City Code and shall result in the issuance of a notice of violation and/or any other remedy provided by law.
 1. Street performances and artist vending shall only be conducted in the specific zone listed on their permit.

2. Street performances and artist vending shall only be conducted during the hours established in Article XV, Section 18 of the City Code.
3. Throughout the period of time a permittee is located on public property engaged in Street Performances or Artist Vending under this article, the permittee shall maintain the zone free of trash and debris, including within a radius of 15 feet of the permitted area, and deposit trash and debris in proper receptacles.
4. Street performance and artist vending permits shall be displayed by the permittee at all times. Permittees must have in their possession, while engaged in performances or vending, photo identification cards in their name.
5. Artist Vendors shall display their certificate at all times.
6. No street performer, street performance or artist vendor may create noise that violates the City noise ordinance.
7. A street performer or artist vendor may not interfere with the passage of the public through a public area. If a street performer or artist vendor attracts a crowd sufficient to obstruct the public way, a police officer or code officer may disperse the crowd that is creating the obstruction. The police officer or code officer may ask the street performer or artist vendor to temporarily suspend a street performance or artist vending activity or leave the location when that action is necessary to protect the public safety or public order.
8. No street performer or artist vendor may include obscenity in a street performance or artist vending activity.
9. No street performer or artist vendor shall engage in physical or verbal harassment or coercion.
10. Permittees may have only one (1) display table, and that table may not exceed 50% of the total square footage allotted for street performance artists or street vendors, as per Article XV, Section 18 of the City Code. A work area of no more than two feet by two feet shall be permitted, but this work area must be within the 36 square feet of artist vending/street performance space.
11. Artist vendor permittees shall neatly display all art on the table. No art shall be displayed in any other area. Any boxes or additional art shall be stored wholly underneath the table, which must be fully skirted to public right-of-way so that the boxes and additional art will not be visible. The table must be skirted to the ground in solid black, dark blue or dark green fabric. No art available for sale or on display may be laid on the floor, ground, sidewalk, ground level or raised landscape area, step, or other fixed public improvement.
12. Push carts, mobile display racks and stands are not permitted.
13. No lounge chairs may be used. No more than two (2) chairs shall be permitted, but the two chairs shall not be placed in a manner that exceeds the total square footage allotted for the artist vending and street performance.
14. The permittee shall be limited to one sign which shall be no greater than 8.5 inches by 11 inches. Said sign shall be located on or attached to the table. The permittee's name shall be legibly displayed on such sign, and such sign shall be approved by design review.
15. No street performer, artist vendor, or table shall be permitted to block any public right-of-way or entrances to buildings or other place of public accommodation.

16. Sunshades and tents are prohibited. Permittees may have one (1) traditional sidewalk cafe type umbrella of no greater size than 6 feet by 6 feet square or 6 feet in diameter, with a maximum height of no greater than 8 feet at the center, or a minimum height of less than 6 feet and 8 inches at the lowest edge, and supported by a single pole. The umbrella shall be easily portable when closed and made of non-shiny woven fabric of solid dark blue, dark green, or dark red color only.
17. No street performer or artist vendor shall interfere with a motorist, either regarding the passage of a vehicle or the sight of its driver.
18. No street performer shall use an animal as part of his/her act while on public property.
19. No permittee shall keep any animal in the permit area except for service animals.
20. No permittee shall leave any table unattended.
21. No permittee shall allow the table or any item relating to the permitted artist vending or street performance activity to lean against or hang from any building, structure, tree or other plant.
22. The table and all art shall be removed from city property daily, and the permittee shall clean the permit area and deposit trash in proper receptacles.
23. Street performers with a valid permit cannot place amplified sound equipment on Ocean Drive facing west.
24. Street performer permittees may not place any object on the sidewalk, floor, ground, raised landscape area, step or other fixed public improvement that can pose a tripping hazard.

D. The City manager or his designee may cause the immediate removal or relocation of all or parts of of the art and/or equipment associated with a certified artist vendor or a street performer, whether or not in a permitted zone, in emergency situations, for safety considerations, if the location is needed for a special event, municipal repairs or other city business. This removal or relocation may be temporary or permanent in nature.