

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF RIVERSIDE,
CALIFORNIA, AMENDING TITLE 13 OF THE RIVERSIDE
MUNICIPAL CODE BY ADDING CHAPTER 13.21
ESTABLISHING REGULATIONS FOR STREET
PERFORMERS DURING THE FESTIVAL OF LIGHTS AND
PROVIDING LEGISLATIVE FINDINGS THERETO.

The City Council of the City of Riverside does ordain as follows:

Section 1: The Table of Contents for Title 13, Streets, Sidewalks, Trails and Trees, is
hereby amended to include Chapter 13.21 as follows:

“Title 13 – Streets, Sidewalks, Trails and Trees

Chapter 13.18 Trails Master Plan

...

Chapter 13.21 Festival of Lights Regulations

...

Chapter 13.26 Reward for Detection of Persons Burning City Controlled
Vegetation”

Section 2: Chapter 13.21 of the Riverside Municipal Code entitled Festival of Lights
Regulations is hereby added as follows:

“Chapter 13.21

FESTIVAL OF LIGHTS REGULATIONS.

Sections:

13.21.010 Purpose.

13.21.020 Findings.

13.21.030 Definitions.

13.21.040 Regulation of Performers.

13.21.050 Stages.

13.21.060 Penalties.

1 **Section 13.21.010 Purpose.**

2 It is the concern and interest of the City Council to protect the broad range of
3 performance protected by the First Amendment while also vigilantly protecting and preserving
4 the public health, safety and welfare of the City's residents, business owners and visitors during
5 the Festival of Lights ("Festival"), located on Main Street Riverside ("Pedestrian Mall") in
6 Downtown Riverside and at the historic Mission Inn Hotel and Spa ("The Mission Inn").

7 The Festival is a free, approximately six-week long holiday extravaganza featuring one of
8 the nation's largest holiday light collections of its kind. The Festival includes attractions,
9 entertainment, activities and events, horse drawn carriages, and vendors who sell food and
10 merchandise. Each year, the Festival draws over 500,000 people from all over the world, with
11 75,000 attending the Switch-On Ceremony alone. Due to its popularity, the Festival has
12 continued to grow each year and with that has come a substantial increase in pedestrian traffic to
13 an already confined stretch of the Pedestrian Mall.

14 As part of the Festival, the City recognizes that Street Performers desire to engage in
15 Expressive Activities. With the continued popularity of the Festival, there has recently been an
16 increase in the number of performers. Cognizant that Street Performers are engaged in First and
17 Fourteenth Amendment activities that can often enhance the visitor experience, this Chapter sets
18 forth appropriate street performer locations on peak days and hours as a reasonable time, place,
19 and manner restrictions in a manner that balances their constitutional rights with the health,
20 safety and welfare of the City's residents, business owners and visitors to the Festival.

21 **Section 13.21.020 Findings.**

22 The City recognizes that Street Performers are afforded rights related to freedom of
23 speech and freedom of expression. The City also recognizes that the current climate of the
24 country is such that the general public is operating at a heightened state of alert in large crowds.
25 The City desires to enhance the safety of the City's residents, businesses and visitors by
26 implementing safe areas at the Festival for Street Performers during the times when the Festival
27 experiences the largest crowds.

1 At the Switch on Ceremony and on High Traffic Days of the Festival, the Pedestrian Mall
2 is often extremely crowded with pedestrian traffic. It is crucial to the continued interest of the
3 community for the City to safeguard this area with reasonable restrictions and regulations to
4 ensure the health, safety and welfare of individuals during the Festival.

5 The existence of Street Performers at the Festival provides a public amenity that
6 enhances the character of the Festival and the City seeks to encourage such Performances in a
7 manner consistent with the public's overall safety. Street Performers seek to and do draw large
8 crowds to their Performances. This can create serious safety problems by impacting the ability of
9 individuals to move safely on sidewalks in high pedestrian traffic areas in that Street Performers
10 attract large stationary crowds which have a tendency to block passageways and impede the path
11 of travel. For example, on the Pedestrian Mall, street performers on highly attended Festival
12 evenings, attract audiences that congest the area, and increase the likelihood for conflict and
13 disorderliness.

14 The City's police and fire departments have made great efforts to provide access to the
15 areas surrounding the Mission Inn and the Pedestrian Mall in an effort to ensure the public's
16 safety at the Festival. The ability to limit Street Performers on the days the Festival experiences
17 the largest crowds ultimately assists public safety personnel by allowing critical access to the
18 streets surrounding the Mission Inn and the Pedestrian Mall.

19 Due to the unusually large crowds on this day, travel is inhibited not only for pedestrians,
20 but also for public safety personnel needed to provide safety and emergency response. The
21 Police Chief and Fire Chief have found that audiences attracted by street performers contribute to
22 impeding the ability of emergency response personnel to respond to critical incidents.

23 During the Festival, public safety personnel are patrolling the Pedestrian Mall on
24 bicycles, ATV's, vehicles and by foot. At any given time, safety personnel need to have the
25 ability to deploy all or a portion of their resources in case of an emergency or fire. Large crowds
26 could potentially limit public safety's ability to mitigate an incident before it escalates.

27 The past presence of Street Performers on the days and nights when the largest crowds
28 attend the Festival has caused a hazard and danger to the residents, business owners and visitors

1 to the Festival. The mass congestion caused by the Street Performers and their audience impedes
2 pedestrian traffic and ingress and egress from businesses and which could create an impedance to
3 pedestrian traffic flow in cases of emergency which could, in turn, cause injury to persons and
4 property.

5 Street Performers and their equipment may impede the ingress and egress of emergency
6 and public safety vehicles on the Pedestrian Mall by creating physical obstacles to emergency
7 response and administration of aid to those in need of immediate medical attention and to victims
8 of criminal activity. It is, therefore, necessary to ensure that Street Performers congregate in less
9 congested areas than the Pedestrian Mall on High Traffic Days to avoid interference with
10 emergency response vehicles that provide assistance to individuals with medical needs and
11 victims of criminal activity. These designated areas, however, will be within the FOL
12 Boundaries and located proximate to any prohibited area.

13 Established federal and state law allows municipalities to regulate the time, place, and
14 manner of speech and other forms of expression where such regulations are narrowly tailored,
15 content-neutral, and leave open ample alternative channels of communications for Street
16 Performers desiring to display Expressive Activities in proximate performance areas where
17 Street Performers may reasonably reach their intended audience.

18 The City desires to balance the freedom of speech and freedom of expression protections
19 afforded by United States and state constitutions to those Street Performers desiring to engage in
20 Expressive Activities at the Festival that is intended to or has the effect of gathering large crowds
21 and audiences with protected and significant governmental interests related to traffic and
22 sidewalk congestion, pedestrian safety, aesthetics, the ability of emergency response personnel to
23 reach locations, limiting access to and egress from business and residences, and other interests to
24 ensure smooth pedestrian traffic flow, relieve congestion and overcrowding, limit disorderliness,
25 and prevent potential interference with and visibility obstruction for motorists attempting to
26 navigate through the streets within the FOL Boundaries during the Festival. It is the intention of
27 the City to balance these regulations and governmental interests with the recognized rights to
28 street performers to exercise their rights of free speech and expression to their intended audience.

1 The reasonable and content-neutral time, place, and manner restrictions outlined herein
2 that apply to certain conduct on the Pedestrian Mall will be effective, are narrowly tailored to
3 address the governmental interests outlined herein, and constitute the least restrictive alternative
4 for the purposes intended and set for herein.

5 The City acknowledges that Street Performers may intend to reach a particular audience
6 during the Festival and the City Council desires that such Street Performers be afforded an ample
7 opportunity to engage in Expressive Activities during the Festival to ensure that messages and
8 Performances can be conveyed to the Street Performers intended audience.

9 By enacting this ordinance, the express public policy and purpose of the City shall
10 continue to be the protection and preservation of the public health, safety and welfare of the
11 City's residents, business owners and visitors who attend the Festival while still providing
12 reasonable and meaningful alternate avenues, areas and access for Street Performers by allowing
13 performances anywhere within the FOL Boundaries, except on the days and times defined herein
14 as High Traffic Days.

15 The City therefore finds, that in order to ensure the safety of the residents, businesses and
16 visitors to the Festival, it is necessary to prohibit Street Performers from performing on the
17 Pedestrian Mall on High Traffic Days.

18 **Section 13.21.030 Definitions.**

19 For purposes of this Chapter, the following words or phrases shall have the meaning
20 given herein:

21 "Expressive Activities" means conduct, the sole or principal object of which is the
22 expression, dissemination, or communication by verbal, visual, literary, or auditory means of
23 opinion, views, expression or ideas that are likely to be understood as such in the surrounding
24 circumstances.

25 "Festival Boundaries" means the area beginning at the intersection of Third Street and
26 Market Street, continuing along Market Street to Sixth Street, along Sixth Street to Fairmount
27 Boulevard, along Fairmount Boulevard to Mission Inn Avenue, along Mission Inn Avenue to
28 Market Street, Market Street to Tenth Street, including White Park at Market and Ninth Streets,

1 along Tenth Street to Orange Street, along Orange Street to University Avenue, along University
2 Avenue to Lime Street, along Lime Street to Sixth Street, along Sixth Street to Orange Street,
3 along Orange Street to Third Street, and along Third Street back to Market Street.

4 “Festival of Lights” means the special event that coincides with the winter holiday season
5 in the public areas in downtown Riverside and at the historic Mission Inn Hotel and Spa.

6 “High-Traffic Days” means Thursday through Sunday after 5:00 p.m.

7 “Pedestrian Mall” means the pedestrian mall known as “Main Street Riverside” as set
8 forth in Chapter 13.20 of this Code.

9 “Perform” means the expressive activities of acting, singing, playing musical
10 instruments, pantomime, mime, magic, dancing, juggling, artistry or the creation of visual art and
11 wares, including but not limited to drawings or paintings applied to paper, cardboard, canvas,
12 cloth or to other similar medium when such art is applied to the medium through the use of
13 brush, pastel, crayon, pencil, spray or other similar object and the creation, display and/or sale of
14 crafts made by hand or otherwise.

15 “Street Performers” means individuals who Perform in a public area or areas for the
16 purpose of providing public entertainment or whose performance otherwise has the effect of
17 drawing a crowd or audience. Street Performers does not include Participants as set forth in
18 Section 13.21.050 of this Code.

19 “Solicitation” has the meaning ascribed to it in Section 5.08.050 of this Code.

20 “Switch on Ceremony” means the first day of the Festival of Lights.

21 **Section 13.21.040 Regulation of Street Performers.**

22 A. Based on the Purpose and Findings outlined above, the City Council declares that
23 Street Performers may perform at the Festival on any public pedestrian area within the Festival
24 Boundaries except as set forth below:

25 1. Switch-On Ceremony.

26 2. High Traffic Days: The Pedestrian Mall and the area surrounding The
27 Mission Inn as follows: all sidewalks and right-of-ways on Mission Inn Avenue from the
28 Pedestrian Mall to Orange Street, all sidewalks and right-of-ways on Orange Street from Mission

1 Inn Avenue to Sixth Street, and all sidewalks and right-of-ways on Sixth Street from Orange
2 Street to the Pedestrian Mall.

3 B. Additional Regulations.

4 1. A Street Performer and the performer's equipment may not block or
5 obstruct the free and safe movement of pedestrians. If a sufficient crowd gathers to observe a
6 performer such that the passage of the public through a public area is blocked or obstructed, a
7 police, fire or code enforcement official may disperse that portion of the crowd that is blocking
8 or obstructing the passage of the public. If a Street Performer cannot conduct a performance in
9 a location without blocking or obstructing the passage of the public, a police, fire or code
10 enforcement official may cause the performer to leave the location or require that the Street
11 Performer relocate his or her equipment, but shall not prevent the performer from occupying
12 another location in compliance with this Chapter.

13 2. A Street Performer shall not charge for a performance. Money given for a
14 Performance shall be on a donation only basis. A Street Performer may not charge a set fee for
15 the Performance or use aggressive measures for the Solicitation of donations. Solicitation at any
16 time by a Street Performer within the FOL Boundaries is strictly prohibited. For purposes of this
17 subsection, aggressive measures shall include: blocking or impeding the passage of the solicitee
18 intentionally; touching the solicitee with the intent to intimidate or coerce; following the
19 solicitee, going behind, ahead or alongside of him or her with the intent to intimidate or coerce;
20 threatening the solicitee, by word or gesture, with physical harm; or abusing the solicitee with
21 words which are offensive and inherently likely to provoke an immediate violent reaction.

22 3. A Street Performer shall not use any firearm, knife, sword, torch, flame,
23 explosive, smoke emitting device, axe, saw, replica of any of the aforementioned items, or other
24 object that can cause serious bodily injury to any person or damage to property.

25 4. A Street Performer shall stay with his or her instruments, props,
26 equipment, merchandise, or other items at all times that these items are on a public sidewalk,
27 public street, or public right-of-way and shall be able to reasonably transport and remove all at
28 once within three minutes.

1 5. A Street Performer shall not use, move or remove City property or
2 Festival decoration as a prop, equipment, stage, or as part of any performance.

3 6. A Street Performer shall not use any audible siren, alarm, or other alert as
4 part of their performance or for the purpose of drawing attention.

5 **Section 13.21.050 Stages.**

6 Street Performers who desire to use any of the stages within the Pedestrian Mall may do
7 so upon prior approval from the City, based upon availability. The selection process will not
8 discriminate based on the viewpoints or opinions of the Street Performers.

9 **Section 13.21.060 Penalties.**

10 A violation of any provision of this Chapter shall be deemed a misdemeanor and shall be
11 punishable in accordance with the provisions of Section 1.01.110 of this Code.”

12 Section 3: The City Council has reviewed the matter and, based upon the facts and
13 information contained in the staff reports, administrative record, and written and oral testimony,
14 hereby finds that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2),
15 15060(c)(3) and/or 15061(b)(3) of the State CEQA Guidelines, California Code of Regulations,
16 Title 14, Chapter 3, in that it will not result in a direct or reasonably foreseeable indirect physical
17 change in the environment nor have a significant impact on the environment.

18 Section 4: The City Clerk shall certify to the adoption of this ordinance and cause
19 publication once in a newspaper of general circulation in accordance with Section 414 of the
20 Charter of the City of Riverside. This ordinance shall become effective on the 30th day after the
21 date of its adoption.

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ADOPTED by the City Council this ____ day of _____, 2017.

WILLIAM R. BAILEY, III
Mayor of the City of Riverside

Attest:

COLLEEN J. NICOL
City Clerk of the City of Riverside

I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the ____ day of _____, 2017, and that thereafter said ordinance was duly and regularly adopted at a meeting of the City Council on the ____ day of _____, 2017, by the following vote, to wit:

Ayes:

Noes:

Absent:

Abstain:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Riverside, California, this ____ day of _____, 2017.

COLLEEN J. NICOL
City Clerk of the City of Riverside

CA: 16-1901
09/07/17