

ORDINANCE NO.

2010-3678

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 18 OF THE MIAMI BEACH CITY CODE ENTITLED "BUSINESSES," BY AMENDING ARTICLE XV, ENTITLED "STREET PERFORMERS AND ART VENDORS" BY AMENDING SECTION 18-901, ENTITLED "DEFINITIONS," BY EXPANDING GEOGRAPHICAL DEFINITIONS AND AREAS RELATING TO STREET PERFORMERS AND ARTIST VENDORS; BY AMENDING SECTION 18-903, ENTITLED "ARTIST VENDOR CERTIFICATE REQUIRED," BY AMENDING THE PROVISIONS REGARDING FEES, CERTIFICATE REQUIREMENTS, ADMINISTRATIVE RULES, AND THE PROCEDURES FOR THE PROCESSING OF APPLICATIONS; BY AMENDING SECTION 18-905, ENTITLED "PERMIT APPLICATION," BY AMENDING THE PROVISIONS REGARDING FEES, AND AMENDING THE PROCEDURES RELATIVE TO PERMITS AND LOTTERIES; BY AMENDING SECTION 18-906, ENTITLED "REGULATIONS AND PROHIBITIONS" BY AMENDING THE PROVISIONS CONCERNING LOTTERY PROCEDURES, ZONE LOCATIONS, EXPANDING THE NUMBER OF ZONES AND PROVIDING FOR MULTIPLE PERMITS FOR ZONE LOCATIONS PURSUANT TO THE ADMINISTRATIVE RULES, AND AMENDING PROVISIONS REGARDING THE MAINTENANCE OF ARTIST VENDOR OR STREET PERFORMER ZONES; BY AMENDING SECTION 18-909, ENTITLED "DISCLAIMER, DISPLAY, AND EXPIRATION PERMIT OR CERTIFICATE" TO CORRECT A TYPOGRAPHICAL ERROR AND TO REQUIRE THAT PERMITS BE DISPLAYED AT THE PERMITTEES' TABLES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATES.

**WHEREAS**, the Mayor and City Commission deem it in the best interest of the City of Miami Beach to expand the opportunities for and amend the procedures relative to the permitting of street performers and artist vendors in the City.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** That Article XV, entitled "Street Performers and Art Vendors," of Chapter 18 of the Miami Beach City Code is hereby amended as follows:

## CHAPTER 18

### BUSINESSES

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#### ARTICLE XV. STREET PERFORMERS AND ART VENDORS

##### Sec. 18-901. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Art* means painting, photography, sculpting, sketching and crafts. Art, as herein defined, shall not be construed to permit the display or sale of any item intended or suitable for human consumption.

*Artist vending and street performance artist zone* is defined as a sidewalk area which has been selected and identified by the city manager or designee as the specific artist vendor/street performance artist area at which all artist vending/street performance art ~~in the on~~ Lincoln Road ~~area~~, and all artist vending/street performance art from or using a portable table ~~in the on~~ Ocean Drive, Collins Avenue, Washington Avenue and the city's beachwalk ~~areas~~ shall occur by a specific permittee.

*Artist* means one who engages in an activity defined to be art by this article.

*Beachwalk area*, as used herein, shall mean the public pedestrian pathway located adjacent to the city's beachfront or bayfront, and as may also be referred to as the beachwalk, beachway, baywalk, cutwalk or boardwalk.

*Collins Avenue area* is defined for purposes of this article as all public rights-of-way within that area bounded on the east by Ocean Court (the alley between Ocean Drive and Collins Avenue) or the ocean; on the west by Collins Court (the alley between Collins Avenue and Washington Avenue) or 200 feet west from the centerline of Collins Avenue; on the south by ~~South Pointe Drive~~Government Cut; and on the north by 24th street.

*Lincoln Road area* is defined as all public rights-of-way within that area bounded on the east by the ~~ocean west side of Washington Avenue~~, on the west side by the east side of Alton Road and on the north by the south side of Lincoln Lane North and the south by the north side of Lincoln Lane South.

*Ocean Drive area* is defined as all public rights-of-way on Ocean Drive within that area bounded on the south by ~~South Pointe Drive~~Government Cut; on the north by 15th Street; on the west by Ocean Court (the alley between Ocean Drive and Collins Avenue); and on the east by the ocean.

*Offense* means either an uncontested notice of violation issued by a code compliance officer or a finding of violation by a special master.

*Permittee* means a person who has obtained a permit pursuant to this article.

*Review committee* is a committee whose purpose is to review all artist vendor certificate applications to determine conformity with this article. The City Manager may designate the fine arts board, or such other a city advisory committee or board, or a committee specifically convened by the City Manager to serve as the Review Committee. ~~as the city may identify, whose purpose is to review all artist vendor certificate applications to determine conformity with this article.~~

*Right-of-way* is defined as land dedicated, deeded, used or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress or egress, or other purpose by the public, certain designated individuals of governing bodies.

*Street*, as used herein includes any primary access way such as a street, road, lane, highway, avenue, boulevard, or cul-de-sac and also includes all of the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved.

*Street-end* means the intersection between a street or avenue and another street or avenue, where one street or avenue is a dead end.

*Street performance* includes the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, and puppetry on public property.

*Street performance artists* means persons who engage in street performance activities to offer entertainment or special demonstrations (often outlandish or unique) for those around them, often standing in areas accessible to pedestrians and public rights-of-way.

*Street vending of art or artist vending*, as used herein, includes the display, creation and/or sale on public property of art by a permittee. Street vending of art shall be limited to art created by the permittee.

*Washington Avenue* is defined by all public rights-of-way bounded on the east by Collins Court (the alley between Collins Avenue and Washington Avenue) or 200 feet east of the centerline of Washington Avenue; on the west measured 200 feet from the centerline of Washington Avenue; on the south by ~~South Pointe Drive~~ Government Cut; and on the north by Dade Boulevard.

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**Sec. 18-903. Artist vendor certificate requirements and rules.**

It shall be unlawful for any person to engage in artist vending in the City of Miami Beach without first obtaining an Artist vendor Certificate.

- (1) *Application.* Each person desiring certification as an artist vendor pursuant to this ordinance shall file an application with the city's business tax receipt office or any such other office as may be designated by the city manager.

a. Only those artist vendor certification applications on city forms will be accepted.

b. Except as otherwise provided herein, said artist vendor certification application shall specify:

i. The artist vendor certificate applicant's name, resident address, place of employment where the work of art is produced, a phone number, electronic mail (e-mail) address or mailing address of the artist vendor certificate applicant or of a person through whom the certificate applicant may always be reached.

ii. A description of the art or craft item for which the applicant seeks certification.

iii. A declaration under penalty of perjury that the art for which the applicant seeks certification is of his or her own creation, and that the applicant neither employs other persons to produce, nor is employed by another person to produce, the art item for which he/she seeks certification.

iv. The artist vendor shall provide a copy of their State of Florida Sales and Use Tax Certificate, including the sales tax identification number. Notification from the State of Florida Department of Revenue that the applicable sales tax has not been paid shall constitute a violation of this article and be subject to the fines and penalties set forth in section 18-910.

c. The city may charge a nonrefundable artist vendor certificate application processing fee in an amount set forth administratively which is approved by the City Commission by resolution.

(2) *Examination of application.* Upon receipt of an artist vendor certificate application filed pursuant to this article, the city's business tax receipt office, or such other office as may be designated by the City Manager, shall coordinate the authentication process of the artist vendor certificate application by the review committee.

a. The business tax receipt office, or such other office as may be designated by the City Manager, shall determine a date for the review committee to consider the artist vendor certificate application, and shall notify the artist vendor certificate applicant of said date. Such date shall occur no later than 60 days after artist vendor certificate application.

b. In consideration of the artist vendor certificate application, and consistent with the administrative rules for review of artist vendor certificate applications, the review committee shall:

i. Examine representative samples of the applicant's work for the purposes of verifying the information set forth in the artist vendor certificate application, and/or observe the artist vendor certificate

applicant in the production of the art for which they seek a certification

ii. After such an authentication process, and for the purposes of further investigation, the artist vendor certificate review committee may: 1) designate one or more of its members to visit the studio or workshop of the applicant to view the applicant's facilities and to further verify that the art or craft item for which the applicant seeks certification of his own creation; and 2) request further documentation from the artist vendor certificate applicant, including but not limited to receipts or other proof of purchase of arts or crafts or other supplies or raw materials used in creating or producing the art for which the applicant seeks a certification.

(3) *Issuance of artist vendor certificate.* If the artist vendor certificate applicant's authentication process is satisfactory, no deception was used to obtain the certificate, the applicant agrees to abide by the terms of this article, and the artist vendor certificate fee is paid, the business tax receipt office, or such other office as may be designated by the City Manager, shall issue an artist vendor certificate to the applicant, duly signed, and shall show therein that the person named therein satisfied the authentication process and is entitled to engage in the display and sale of the specific art or craft item set forth in said certificate in accordance with the provisions of this ordinance, unless the applicant's artist vendor certificate has previously been revoked or suspended or the applicant has evidenced a failure to conform to the rules and requirements herein.

a. The applicant shall be notified by the business tax receipt office regarding the decision on the issuance or denial of the artist vendor certificate. If the artist vendor certificate is denied, the applicant shall be provided with a statement of the reasons for denial. A denial may be appealed to the city manager or his designee within ten days of the issuance of the denial. Appeals from a decision of the city manager or the manager's designee shall be to the appellate division of the circuit court in accordance with the Florida Rules of Appellate Procedure.

b. Disclaimer. On each artist vendor certificate the following words shall appear: The issuance of this permit does not constitute an endorsement by City of Miami Beach of articles sold pursuant to the terms of this certificate.

c. Transfer. Artist vendor certificates are nontransferable.

d. Display. The artist vendor certificate shall contain the name of the artist vendor, a photograph of the artist vendor, a listing of the types of art for which the artist vendor certificate has been issued, and any other information that the city may determine should be placed on the artist vendor certificate. The artist vendor must prominently display the artist vendor certificate at all times.

e. The term of the artist vendor certificates shall be for no less than one quarter (three months). All artist vendor certificates shall expire on September 30 of each calendar year.

f. An artist vendor certificate fee shall be as follows, and shall be paid prior to the issuance of an approved artist vendor certificate:

i. For a three-month certificate: \$25.00

ii. For a six-month certificate: \$47.50

iii. For a nine-month certificate: \$67.50

iv. For a one-year certificate: \$85.00

v. An artist vendor certificate shall be renewable on a quarterly or an annual basis. However, such renewal application may be subject to provisions contained in subsection 18-903(2).

g. Notwithstanding subsection 18-903 (3)e., and as provided for in the administrative rules for artist vendor certificates, failure to pay an artist vendor certificate fee within ten business days of the expiration of a certificate, resulting in a non-renewal of an artist vendor certificate, shall require the artist vendor to submit a new application for an artist vendor certificate. The artist vendor shall pay the applicable artist vendor certificate application fee and will be subject to provisions contained in subsection 18-903(2).

h. Artist vendor certificate holders are subject to the enforcement, suspension/revocation provisions as set forth in section 18-910.

(4) *Administrative rules.* In addition to the foregoing, the city manager or his/her designee shall develop and impose administrative rules pertaining to artist vendor certificates. All certificate holders shall comply with the administrative rules; failure to ~~do so~~ shall result in the application of fines and penalties ~~as described in~~ pursuant to section 18-910 of this article.

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**Sec. 18-905. Permit application and rules.**

No artist vending or street performance on Lincoln Road or artist vending or street performance from or using a portable table on Ocean Drive, Collins Avenue, Washington Avenue or the city's beachwalks shall be allowed unless specifically authorized by a permit. Applications for a street performance artist or artist vending permit shall be made at the city business tax office, and shall be subject to the review and approval of that office, or such other office designated by the city manager for such purposes.

(1) Only those permit applications on city forms will be accepted. If the permit application form is complete and consistent with this article, the applicant agrees to abide by the terms of this article, and the application fee is paid, the

application will be approved, unless the applicant's permit has previously been revoked or suspended, and the applicant has evidenced a failure to conform to the rules and requirements herein.

(2) An applicant for an artist vendor permit must have a valid artist vendor certificate to be eligible to apply for a permit and only art for which the permit applicant has received an artist vendor certificate may be sold in conjunction with an issued permit. All artist vendor certificate fees, and all permit application fees, shall be paid in full at least twenty-four (24) hours prior to the date and time of the permit lottery to be eligible to participate in the permit lottery.

(3) The permit application shall be submitted to the city business tax office as follows:

a. For first time artist vendor permit applicants, not later than 45 days prior to the date of the lottery date for the permit period; or

b. For street performance artist applicants and applications by a previous artist vendor applicant for the same art, not later than 30 days prior to the lottery date for the permit period.

(4) Not later than 30 days after the filing of a completed, first-time application for an artist vending permit, or not later than 15 days after the filing of a completed application for street performance artist or a completed, subsequent application by an artist vendor for the same art, the applicant shall be notified by the finance department regarding the decision on the issuance or denial of ~~the permit, or eligibility for a permit in the event a through the lottery, as it is held pursuant to subsection (8) herein.~~ If the permit application is denied, the applicant shall be provided with a statement of the reasons for denial. A denial may be appealed to the city manager or his designee within ten days of the issuance of the denial. Appeals from a decision of the city manager or the manager's designee shall be to the appellate division of the circuit court in accordance with the Florida Rules of Appellate Procedure.

(5) Permits are nontransferable.

(6) The permit shall be effective for a maximum of three months from the date of its issuance.

(7) The city may charge ~~an permit~~ application processing fee and a permit processing fee in an amount set forth administratively which is approved by the City Commission by resolution.

(8) ~~ApplicationsZones~~ for artist vendor ~~and street performer~~ permits for Lincoln Road, Ocean Drive, Collins Avenue, Washington Avenue and the city's beachwalks shall be selected by a quarterly lottery conducted by the city's business tax office and the City's Code Compliance Division, or such other office as may be designated by the City Manager, and as set forth in subsection 18-906(1). Zones for street performer permits for Lincoln Road, Ocean Drive and Collins Avenue may be selected by a quarterly lottery conducted by the city's business tax office and the City's Code Compliance Division, or such other office

as may be designated by the City Manager, or as otherwise may be provided for in the Administrative Rules.

a. Each artist vendor ~~and street performance artist permit~~ shall be limited to one zone location and ~~no artist vendor shall~~~~may not~~ hold a permit for more than one permit zone simultaneously. Each street performance artist permit shall be limited to one zone location, and no street performance artist shall not hold a permit for more than one permit zone simultaneously, except as may be provided for in the Administrative Rules.

b. Lotteries will be held by the business tax office and the Code Compliance Division, or such other office as may be designated by the City Manager, approximately 15 days prior to the start of each calendar quarter (January, April, July and October).

c. The business tax office, the Code Compliance Division or such other office as may be designated by the City Manager shall implement a procedure for the reassignment of any permits voluntarily surrendered or involuntarily suspended or revoked, should reassignment be necessary.

d. No permit shall be issued until the permit processing fee is paid in full.

**Sec. 18-906. Regulations, procedures, and prohibitions.**

Street performances and artist vending shall be conducted in accordance with the following rules and requirements:

(1) Permitted artist vending and street performances on Lincoln Road, and artist vending and street performances from a portable table on Ocean Drive, Collins Avenue, Washington Avenue and the city's beachwalks shall only be conducted in designated zones.

a. ~~Zone locations will be determined prior to the permit period; and such~~ The zone location list shall be available for review as set forth in the Administrative Rules. ~~at the business tax office ten business days prior to the permit period. Zone locations shall be assigned randomly via lottery. A separate lottery will be conducted for artist vendors and for street performers. Applicants for artist vending or street performer permits shall, in the order they are selected in the lottery, select their preferred artist vending or street performer zone. Artist vendors and street performers must be present at the lottery in order to select an available artist vendor or street performer zone. Artist vendors and street performers not present at the time of the lottery shall be randomly assigned a remaining zone via a subsequent lottery. The procedure for the assignment of artist vending and street performance artist zones shall be set forth in the Administrative Rules pertaining to artist vending and street performer permits.~~



- b.
1. A total of ~~18-26~~ 26 artist vending and street performance artist zones shall be available on Lincoln Road for allocation of a permit each of the designated calendar quarters; ~~fifteen~~ nine of the zones shall be designated for the category of artist vendors and ~~nine~~ eleven of the zones shall be designated for the category of street performance artist;
  2. A total of 12 artist vending and street performance artist zones shall be available on Ocean Drive for allocation of a permit each of the designated calendar quarters; nine of the zones shall be designated for the category of artist vendors and three of the zones shall be designated for the category of street performance artist
  3. A total of six artist vending zones shall be available on the street end of Lincoln Road and the beachwalk for allocation of a permit each of the designated calendar quarters.
  4. A total of six artist vending zones shall be available on the street end of 17th Street and the beachwalk for allocation of a permit each of the designated calendar quarters.
  5. A total of six artist vending zones shall be available on the street end of 18th Street and the beachwalk for allocation of a permit each of the designated calendar quarters.
  6. A total of two artist vending zones shall be available on Ocean Drive south of 5<sup>th</sup> and 2<sup>nd</sup> Street.
  7. A total of eight artist ending and street performance artist zones shall be available on Collins Avenue for allocation of a permit each of the designated calendar quarters; six of the zones shall be designated for the category of artist vendors and two of the zones shall be designated for the category of street performance artist;
  8. A total of four (4) artist vending zones shall be available on Washington Avenue for allocation of a permit each of the designated calendar quarters.
  9. A total of two (2) artist vending zones shall be available on the street end of 21<sup>st</sup> Street and the Beachwalk for allocation of a permit each of the designated calendar quarters.
  10. A total of two (2) artist vending zones shall be available on the street end of 22<sup>nd</sup> Street and the Beachwalk for allocation of a permit each of the designated calendar quarters.
- c. If the number of permit applications received by the business tax office is less than the number of available zones for either the artist vendor or the street performance artist category, ~~or if zones remain~~

~~available in a category after the lottery and any subsequent lottery is concluded for that category, the business tax office or code compliance division, or such other office as may be designated by the City Manager, shall make available the zone to permit applicants from the other category, but at no time shall the total number of zones permitted on Lincoln Road exceed 18; the total number of zones permitted on Ocean Drive exceed 14; the total number of zones permitted on the street end of Lincoln Road and the beachwalk exceed six; the total number of zones permitted on the street end at 17th and the beachwalk exceed six; the total number of zones permitted on the street end of 18th Street and the beachwalk exceed six; the total number of zones permitted on Collins Avenue exceed eight; and the total number of zones permitted on Washington Avenue exceed four; the total number of zones permitted on the street end at 21<sup>st</sup> and the Beachwalk exceed two; and the total number of zones permitted on the street end at 22<sup>nd</sup> street and the Beachwalk exceed two.~~

~~1. Only one permit shall be assigned to each zone on Ocean Drive south of 5th and 2<sup>nd</sup> street, Collins Avenue, Washington Avenue, and the street ends at the Beachwalk on 17<sup>th</sup>, 18<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup>, except that if the number of permit applications received for one quarter for either artist vendors or street performers exceeds two times the number of available zones for artist vendors or street performers, then the city manager may assign~~

~~2. More than one permit shall may be assigned to a zones on Lincoln Road, and Ocean Drive from fifth to fifteen street and the Beachwalk at Lincoln Road as follows; and pursuant to the applicable Administrative Rules;~~

- ~~I. A permit for artist vending or street performance from Thursday to Sunday; or~~
- ~~II. A permit for artist vending or street performance from Sunday to Wednesday.~~

d. Zone locations available for permits may change from time to time and additional zones may be added after city commission approval by resolution, as may be deemed necessary by the city manager or his designee.

~~e. The permitted street performance artist or artist vending zone shall not exceed 36 square feet of space.~~

(2) Artist vending and street performance in areas of the city other than those included in subsection 18-906(1) shall be available on a daily, first-come first-served basis. No artist vendor or street performer shall make efforts to reserve a location in those areas not included in subsection 18-906(1).

(3) All artist vendor and all street performers, whether or not in a permitted artist vending or street performer zone, shall comply with the following:

a. Artist vendor and street performers shall engage in their activities on the public rights-of-ways of the city in such a manner that at all times

there shall remain open for the passage of pedestrians a space of at least five feet in width, as measured on a line perpendicular to the curb line, between the edge of the sidewalk farthest from the curb and the edge of the artist vendor's or street performer's activities. No portion of an artist vendors's or performance artist's activities shall be included in measuring the five feet clear pedestrian passageway. 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.

b. The street performance artist or artist vendor shall not exceed 36 square feet of space for their performance or artist vending. Such space shall be inclusive of:

i. Displays may only be from a table and there may be no more than one display table. The display table may not exceed 50 percent of the total square footage allotted and the table must be skirted to the ground in solid black, dark blue or dark green fabric. A work area of no more than two feet by two feet shall be permitted, but this work area must also be within the 36 square feet of artist vending space.

ii. Artist vendor shall neatly display all art on the table. No art shall be displayed in any other area or upon any other display that is not a table. Tabletop displays, such as those used to display jewelry, shall be no more than 24 inches tall. Any boxes or additional art shall be stored wholly underneath the table, so that the boxes and additional art will not be visible. 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. Street performers 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.

iii. Push carts, mobile display racks and stands are not permitted.

iv. No lounge chairs may be used. No more than two 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.

v. Sunshades and tents are prohibited. Artist vendor and street performers may have one traditional sidewalk cafe type umbrella of no greater size than six feet by six feet square or nine feet in diameter, with a maximum height of no greater than eight feet at the center, or a minimum height of less than six feet and eight 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.

vi. No artist vendor or street performer shall allow the table or any item relating to the artist vending or street performance

activity to lean against or handg from any building, structure, tree or other plant.

vii. The table shall be removed from city property daily, and the artist vendor and street performer shall clean the artist vending or street performer zone area, including within a radius of 15' from the artist vending or street performer zone, and deposit trash in proper receptacles.

viii. No table shall be located within 24 inches of the curb line of any sidewalk.

ix. Sprinkler inlets, standpipe inlets (both wet and dry) are to be kept clear for five feet on each side, measured from the outer edge of standpipe bank from the building line to the sidewalk edge.

x. No table shall be within five feet from the outer edge of any entrance to any building including, but not limited to, doors, driveways, emergency exits measured in each direction parallel to the building line and thence at a 90-degree angle to the curb.

xi. No table shall be five feet from a fire escape.

xii. No table shall be on any sidewalk adjacent to curb which has been duly designated as a bus zone, passenger loading zone, commercial loading zone or valet ramp.

xiii. No table shall be within five feet of any crosswalk or ADA ramp.

xiv. No table shall be within five feet of the display of any other street artist, unless otherwise provided for in this article.

xv. Tables shall have a five-foot sidewalk clearance from a fire hydrant.

c. No street performance artist or artist vendor shall create a fire hazard or connect to any electric outlets or power sources. The street performance artist or artist vendor must provide their own power sources, if any is required. No generators, car, truck, motorcycle, or boat batteries or any other power sources deemed hazardous to the public health, safety or welfare by a police or code officer shall be permitted. Extension cords are prohibited.

d. No street performance artist or artist vendor shall engage in the application of tattoos or body piercing, nor shall use fire or an animal as part of his/her act while on public property, nor engage in the use of spray paint/airbrush equipment.

e. No food or drink, whether made by a certificate or permit holder or otherwise shall be displayed or offered for sale, or sold through the street performance artist or artist vendor.

f. No street performer or artist vendor shall interfere with a motorist, either regarding the passage of a vehicle or the sight of its driver.

g. No artist vendor or street performer shall keep any animal in the permit area except for service animals.

h. No artist vendor shall sell, offer for sale, or solicit offers to purchase, from any vehicle.

i. No street performer, street performance or artist vendor may create noise that violates the city noise ordinance.

j. 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.

k. No street performer or artist vendor may include obscenity in a street performance or artist vending activity.

l. No street performer or artist vendor shall engage in physical or verbal harassment or coercion.

m. The street performer and artist vendor shall maintain their performance or vending ~~area~~zone free of trash and debris, including within a radius of 15 feet of the performance or vending area, and deposit trash and debris in proper receptacles.

n. The certificate holder 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 certificate holder's name shall be legibly displayed on such sign.

o. The certificate holder shall not block a sidewalk, street, bikepath or restricted lane for any purpose, including loading or unloading their equipment.

(4) The city manager or his designee may cause the immediate removal or relocation of all or parts of the art and/or equipment associated with a certified artist vendor or street performer in emergency situations or for safety considerations.

a. Upon the issuance of a hurricane warning by the county, the certified artist vendor or street performer shall forthwith cease operation and remove all items associated with the art vending or street performance from the public right-of-way. The issuance of such a hurricane warning shall constitute an emergency situation as referenced in this division. As additional means of enforcement, the city may remove any equipment and/or merchandise found on public property two hours after the issuance of a hurricane warning. Any and all costs incurred by the city for removal and/or storage of art vending or street performance equipment and/or merchandise shall be the responsibility of the certified artist vendor or street performer. The city is not responsible for any damages or loss of equipment or merchandise which is lawfully confiscated.

b. If the zone assigned for a street performance artist or artist vending through a permit, or an area used by a street performance artist or artist vendor without a permit, is needed for a special event, municipal repairs or other city business, or relocation or suspension is otherwise in the best interest of the public, the city manager or designee may temporarily or permanently relocate the street performance artist or artist vendor to a different zone or location, or temporarily suspend (if no alternative is available) the street performance or artist vending activity whether permitted or not.

~~(6)~~(5) The city manager or his/her designee shall develop and impose Administrative Rules pertaining to an artist vending or street performance artist permit including, but not limited to, rules regarding the permit lottery and abandonment of permit zones. All permittees shall comply with the administrative rules; failure to do so shall result in the application of fines and penalties ~~as described in~~ pursuant to section 18-910 of this article.

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**Sec. 18-909. Disclaimer, display, and expiration of permit or certificate.**

(a) *Disclaimer.* On each certificate the following words shall appear: The issuance of this certificate does not constitute an endorsement by the City of Miami Beach of articles sold pursuant to the terms of this certificate. On each permit the following words shall appear: The issuance of this permit does not constitute an endorsement by the City of Miami Beach of articles sold pursuant to the terms of this permit.

(b) *Display.* The city shall issue a certificate to an artist vendor which shall contain a photograph of the certificate holder, contact information and a description of the art that has been certified to be sold by the artist vendor. The certificate shall be prominently worn by the artist vendor at all times when selling or soliciting offers to purchase any art or craft. The city shall issue a permit to an artist vendor or street performance artist for Lincoln Road, Ocean Drive, Collins Avenue, Washington Avenue and the beachwalks, containing a photograph of the permittee, contact information, the permit location and, for artist vendor, a description of the art that is permitted to be sold by the artist vendor. The permit shall be displayed at the table by the permittee at all times when selling or soliciting offers to purchase any art or craft work or while performing.

(c) *Expiration.* All artist vendor certificates shall list the expiration date, which shall be the last day of the fiscal year quarter, or of the fiscal year. All permits shall list the expiration date which shall be no greater than 90 days from the date of issuance.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 3. SEVERABILITY.**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATES.**

This Ordinance shall take effect the 20 day of March, 2010, except as to the amendments to a) the definition of "Lincoln Road" in Section 18-901, and b) the provisions in Section 18-906(1)(b) which increase the artist vending and street performance artist zones on Lincoln Road, which shall take effect the 1<sup>st</sup> day of April, 2010.

**PASSED and ADOPTED** this 10 day of March, 2010.



ATTEST:

  
CITY CLERK ROBERT PARCHER

  
MAYOR MATTI HERRERA BOWER

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

Underline denotes additions  
Strike through denotes deletions  
Shading denotes changes for new first reading

  
City Attorney  3/18/10  
Date