

Chapter 104. Amusements

Article IV. Public Shows, Exhibitions and Events

[Adopted 8-5-2014 by Doc. 49-A^[1]]

[1] *Editor's Note: This ordinance also repealed former Art. IV, Public Shows and Exhibitions, adopted as Ch. 35 of the 1963 City Code (Ch. 104, Art. IV, of the 1980 Code), as amended.*

§ 104-25. License required.

Except as otherwise permitted or excluded elsewhere in Chapter 104, Article IV, no person shall set up, promote, exhibit or maintain any theatrical exhibition, public show, public amusement or exhibition of any description to which admission is obtained by the payment of money, or by the delivery of any ticket or voucher obtained for money or by the delivery of any other valuable thing without first obtaining a license therefor from the City Council. Regardless of whether a fee is charged, no person shall set up, promote, exhibit or maintain a public event, which is defined as any event open to the public, such as a carnival, festival, fair, or other outdoor event at which the public will gather, without first obtaining a license therefor from the City Council.

§ 104-26. Application.

- A. The application for such a license shall be in writing at least 30 days prior to the scheduled date(s) and shall fully and specifically describe the conditions of the proposed public event, exhibition, show, or amusement and the premises upon which the proposed public event, exhibition, show, or amusement is to take place, to the extent that such conditions or premises would affect the public safety, health or order. The application shall include written proof of permission from the owner of the property where the event will take place [including documentation pursuant to § 104-27A(4)], copies of any event agreements, including leases and contracts for entertainers, performers, sound, stage, cleaning, security, vendor, catering or food services, and proof of adequate insurance coverage. The application shall also include the number of anticipated attendees' total parking spaces available on site or arrangements for off-site parking, any charges or fees for parking, plans for solid waste disposal and recycling collection, and the number of public restrooms available, permanent or portable.
- B. Upon request of any City official reviewing the application or the City Council, the applicant shall, in addition, furnish reasonable information concerning the conditions of the premises and actions to be taken in order to prevent danger to the public safety, health, or order. The application shall be submitted to the Police Chief, Fire Chief, Health Inspector or Board of Health, Building Inspector and Public Works Director for review and comment prior to the City Council hearing.
- C. For those applications where the anticipated persons attending is 1,000 or more, the City Clerk's office shall notify all direct abutters, as determined by the City Assessor, no less than 48 hours before the scheduled hearing date of the nature of the hearing along with the location, date and time of the hearing by use of the City's electronic message service system(s).

§ 104-27. Hearing.

- A. Within 27 days following receipt by the City Clerk’s office of a completed license application, the City Council shall open a hearing and upon conclusion of said hearing shall either grant or deny such license upon a finding that issuance of such a license would lead to the creation of a nuisance or would endanger the public health, safety or order by:
- (1) Unreasonably increasing pedestrian or vehicular traffic in the area in which the premises are located; or
 - (2) Increasing the potential or opportunity for illegal or disruptive conduct in the area in which the premises are located; or
 - (3) Unreasonably increasing the level of noise in the area in which the premises are located; or
 - (4) Failing to provide the City Council with proper prior approval from the department or oversight authority of land that is protected or restricted by agreement with the state or federal government; or
 - (5) Negatively impacting the quality of life in the surrounding area; or
 - (6) Violation of federal, state and local laws, regulations or ordinances.
- B. No applicant having been denied a license as aforesaid shall submit the same or a similar application within one year of said denial without including in said new application facts showing that the circumstances upon which the original denial was based have substantially changed.

§ 104-28. Conditions on issuance of license.

Licenses for public events, theatrical exhibitions, public shows, public amusements and exhibitions of every description shall be granted subject to all the provisions of law and to public safety, health or order, or to steps required to be taken to guard against creation of a nuisance, or to insure adequate safety and security for patrons or the affected public which are not inconsistent with law or ordinance as the City Council may from time to time determine and impose. No licensee shall exceed the number of attendees listed on the license without the express approval of the Police Chief or his/her designee.

§ 104-29. Application fee; maximum number of licenses.

[Amended 7-11-2017 by Doc. 82]

The application fee for nonprofit organizations conducting public events, theatrical exhibitions, public shows, public amusements and exhibitions shall be \$50. Otherwise fees shall be as follows:

- A. The nonrefundable application fee for public events, theatrical exhibitions, public shows, public amusements and exhibitions shall be as follows:

| Anticipated Persons Attending (Single Event) | Fee |
|---|------------|
| Less than 500 | \$50 |
| Less than 1,000 | \$100 |
| Less than 2,500 | \$150 |
| Less than 5,000 | \$300 |
| More than 5,000 | \$500 |

- B. The City Council may increase the above fee for any application for which the actual expenses of a review and hearing process exceed those fees stated above.
- C. In any calendar year, the City Council may grant a maximum of three public event licenses, with a minimum of 60 days between events, on any privately owned land parcel(s) throughout the City.
- D. In addition, any licensee licensed under the above provisions shall be responsible for the cost of any damage that occurs to public property or extraordinary expense necessary for public safety as a result of the public event, exhibition, show, or amusement.

§ 104-30. Cancellation of license.

Failure or neglect on the part of any licensee licensed under the above provisions to observe and obey the laws of the commonwealth, the ordinances of the City or the rules, regulations and orders of the City Council conditioning or relating to such license, or to observe and obey any order of the Mayor or of the Chief of Police in relation to the discontinuance, alteration, modification or removal of any performance, act, feature, picture or event according to the provisions of § 104-31 shall operate as a cancellation and determination of the license granted to the licensee.

§ 104-31. Right of entry; assignment of police officers.

- A. The Mayor, the City Council, individually or collectively, the Chief of Police and any police officer while engaged in the performance of his/her duty shall have the right to enter any public event, theater, exhibition hall, public show or other place of public amusement or exhibition at any time.
- B. The City Council may direct, either as a condition of the granting of a license or at any time in the interest of public peace, public morals or public safety, that one or more police officers and/or firefighters shall be assigned, at the expense of the licensee, to attend any licensed public event, theatrical exhibition or performance or other public show, exhibition or amusement for the purpose of seeing that the laws of the commonwealth, the ordinances of the City and the rules, regulations and orders of the City Council are observed and obeyed.

§ 104-32. Censorship.

All licensed theatrical or other public performances, acts, features, pictures or parts thereof performed or presented at any theatre, exhibition hall, public show, public event or other place of public amusement shall be subject to the censorship of the Mayor or the Chief of Police, and any person licensed under the provisions above shall forthwith discontinue, alter, modify or remove any such performance, act, feature or picture as may be determined by them to be injurious to the public peace, morals or safety, or in violation of any federal, state and local laws, regulations or ordinances.

§ 104-33. Applicability.

The provisions of §§ 104-25 to 104-32 shall apply to dance halls, skating rinks, picnic groves and other places of public amusement in which the public may take an active part, but to which admission is obtained by the payment of money or some other valuable consideration.

§ 104-34. Exemptions.

The provision of Article IV shall not apply to public events, theatrical exhibitions, public shows, public amusements and exhibitions by religious societies conducted on property owned by them, or to public shows and exhibitions given in school buildings by or for the benefit of the pupils thereof, or to any events on public property properly permitted and approved by the appropriate permit granting authority, or to enterprises holding appropriate entertainment licenses from the License Commission or to road races licensed pursuant to § 185-4.

§ 104-35. Hobby shops.

- A. An annual fee of \$50 shall be charged for a license to operate a hobby shop, under which license toy car races and similar amusements may be conducted. Said license shall run for a period of one year beginning May 1 and ending April 30.

- B. A license for the operation of said hobby shop on Sunday may be granted upon the payment of a license fee of \$2 for each Sunday in accordance with MGL c. 136, § 4.

§ 104-36. Street Performers.

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

PERFORM

Includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry, sidewalk art (working with nonpermanent, water-soluble media, i.e., chalk, pastels, or watercolors directly on the pavement), and reciting. "Perform" shall not include the production of items for sale, except for those permitted in Subsection **E(6)** herein.

PERFORMER

A person who has obtained a permit pursuant to this section.

PUBLIC AREAS

Public sidewalks, parks, playgrounds and other City of Haverhill pedestrian areas within the Central Business District as defined by this Code.

- B. Prohibition. No person may perform in a public area without a permit issued pursuant to Subsection **C** of this section, except those who are participating in an authorized street fair or public festival.
- C. Permit.
- (1) A permit shall be issued by the City Clerk to each applicant therefor in exchange for a completed application and a fee of \$10.
 - (2) A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.
 - (3) A permit shall be valid from the date on which it is issued through the end of that calendar year.
 - (4) A permit shall be nontransferable and shall contain the permit number of the applicant and the year in which the permit is valid. Each member of a group of performers who play together shall be required to obtain an individual permit. In no event shall any group of performers, identified as such in their application and noted on their permits, be charged more than \$100 total for permits for group members.
 - (5) Upon issuing a permit, the City Clerk shall also give the performer a copy of this section.
 - (6) If a performer loses a duly issued permit, one replacement permit per year may be obtained for a fee of \$15.
- D. Display of permit. A performer shall clearly display his or her permit while performing and shall allow inspection of the permit by any Haverhill police officer on request.
- E. Permitted performances.
- (1) Performances may take place in the following locations:
 - (a) In public areas;
 - (b) On private property, with the written permission of the owner or other person in control of such property;
 - (c) In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.
 - (2) Performances may take place at the following times:

- (a) Monday through Thursday, between 9:00 a.m. and 8:00 p.m.
 - (b) Friday and Saturday, between 9:00 a.m. and 10:00 p.m.
 - (c) Sunday, between 12:00 noon and 8:00 p.m.
- (3) Noise.
- (a) No performer or group of performers may generate noise exceeding a median sound level of 80 decibels measured at a distance of 25 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded. Upon a complaint by a resident, the Haverhill Police shall, with the permission of the resident, measure the sound level inside the residential dwelling. If the sound level exceeds a median sound level of 50 decibels, and exceeds the background noise by at least 10 Db(A), the performer or group of performers causing the excessive sound level shall either turn down the music or move to a distance from the residence so as to reduce the sound level within these limitations. Background noise for this purpose shall mean L90.
 - (b) Drums shall be inaudible at a distance of 150 feet.
- (4) A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.
- (5) No performer or group of performers may perform less than 50 feet from another performer or group of performers.
- (6) A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12 inches by 18 inches in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale recordings of their own work, in the form of records, cassettes, videotapes or compact discs. On sidewalks, displays must not obstruct handicap ramps, doorways, or windows (i.e., performers shall not tape or post signs or posters on windows or lean displays against windows so as to obstruct a clear view through the window), and must not exceed more than 20% of the width of the sidewalk from the property line of the premises in front of which the display is installed. Notwithstanding the foregoing, a performer may set up a display on the public sidewalk in front of a doorway to a business if the business is not open, assuming said display meets all other requirements of this section. In public areas other than sidewalks, no such display shall exceed 25 square feet, and it shall be prohibited to place a carpet, rug, blanket, or other such covering over grass in a public place.

F. Exclusion of public areas.

- (1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice.
- (2) By decision of the Chief of Police in the case of an emergency: Any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.
- (3) By decision of the Director of Public Works in the case of an emergency regarding a park or playground: Any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

- (1) Noncriminal disposition. Whoever violates any provision of this section may be penalized by a fine of \$25.
- (2) Suspension of permit. The City Council and/or the Haverhill Police Chief may suspend a permit for no more than 30 days if:

- (a) A performer is found to have knowingly provided false information in the application; or
 - (b) A performer has received two noncriminal violations of this section within one calendar year.
- (3) Revocation of permit. The City Council may revoke a permit for the remainder of the calendar year if a performer has received three noncriminal violations of this section during that calendar year.
- (4) Before suspending or revoking a permit, the City Council must hold a hearing, after 10 days' written notice to the performer, setting forth the facts constituting the basis for the proposed suspension or revocation.
- (5) A performer may not receive a permit unless all tickets from the previous year have been paid.
- H. Exclusivity. The provisions of this section take precedence over any other City regulations or ordinance applicable to street performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by street performances shall be governed by this section and not by the Haverhill City Noise Ordinance.^[1]
- [1] *Editor's Note: See Ch. 182, Noise.*
- I. Peace and quiet. A performance in accordance with this section shall be presumed not to constitute a disturbance of the peace or quiet.