

CITY OF HAMILTON

COMMUNITY SERVICES DEPARTMENT
Culture Division

TO: Chair and Members Emergency & Community Services Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: December 7, 2011	
SUBJECT/REPORT NO: Street Performance Policy and Guidelines (CS11098) (City Wide)	
SUBMITTED BY: Joe-Anne Priel General Manager Community Services Department	PREPARED BY: Patti Tombs 905.546.2424, ext. 4693
SIGNATURE:	

RECOMMENDATION

- (a) That the “City of Hamilton Policy and Guidelines on Street Performance (Busking)”, attached as Appendix “A” to Report CS11098, be approved; and,
- (b) That the Street Performers Policy and Guidelines be considered complete and removed from the Emergency and Community Services Committee’s Outstanding Business List.

EXECUTIVE SUMMARY

Busking can play an integral part in animating public spaces, such as downtowns, and therefore street performances can be positive contributors to urban life. However, the distinction between legal busking and illegal panhandling may not always be clear to members of the public, or those responsible for ensuring public safety, such as the police.

A street performer, or busker, is one who provides entertainment in the public realm for a voluntary gratuity from audience members. A busker includes, but is not limited to

musicians, acrobats, jugglers, mimes, magicians and other performers. Other terms for busker include street entertainer, street performer, minstrel or troubadour¹.

At its meeting of October 10, 2010, Emergency and Community Services Committee approved the following motion:

- (a) That a Policy and Guidelines for Street Performers for the City of Hamilton be developed in consultation with local buskers/street performers, police and related stakeholders.

This report and the City of Hamilton Policy and Guidelines on Street Performance (The Policy), attached as Appendix A to Report CS11098, have been developed to promote street performance or “busking” as a positive activity, and to support the rights of individuals to express themselves in a creative manner. The Policy’s guidelines clarify expectations for the conduct of buskers in the city of Hamilton to minimize complaints, criticism and other potential issues that may be associated with busking activity in public spaces.

The content of the Policy and its guidelines for street performance/busking was developed in consultation with the public, local buskers, business representatives, and the Hamilton Police Service. The Policy and its guidelines have been informed by best practices in other communities and are in alignment with applicable provincial legislation and City of Hamilton bylaws.

Alternatives for Consideration – Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS
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Financial: There are no financial implications associated with the recommendations of Report CS11098.

Staffing: There are no staffing implications associated with the recommendations of Report CS11098.

Legal: There are no legal implications associated with the recommendations of Report CS11098.

¹ “Busking” *Wikipedia: The Free Encyclopedia*. Wikimedia Foundation, Inc. updated 14 June 2010, accessed web. 11 Aug. 2010. <http://en.wikipedia.org/wiki/Busking>

HISTORICAL BACKGROUND

In early 2010, local media and social networks reported information about incidents of tickets being issued to buskers by police in Hamilton's downtown core. Coverage of these incidents contributed to increased awareness among the public, arts community, buskers and the municipality of the issues and opinions associated with busking.

At its June 2, 2010 meeting, the Emergency and Community Services Committee discussed busking and approved the following motion:

“That staff be directed to review municipal best practices for working with street buskers and report back to the Emergency and Community Services Committee with recommendations for a “Made in Hamilton” program.”

During the period of June – September 2010 staff conducted research on municipal and agency practices internationally with respect to busking; clarified internal City of Hamilton past and present practices (including Hamilton Police Service, Downtown and Community Renewal Division; Municipal Law Enforcement; and Culture Division); sought views from stakeholders including the Arts Advisory Commission, Task Force on Cleanliness and Security in the Downtown Core and the Ward 2 Councillor; and consulted with selected municipalities and organizations who coordinate busking activities.

Report CS10096, submitted to Emergency and Community Services Committee on October 6, 2010 recommended the development of a Policy for Street Performance to provide a framework to articulate the City's position on street performance and provide guidelines to inform busking activities.

Following receipt of Report CS10096 at its meeting of October 6, 2010, Emergency and Community Services Committee approved the following motion:

(a) That a Policy and Guidelines for Street Performers for the City of Hamilton be developed in consultation with local buskers/street performers, police and related stakeholders.

Following the gathering and review of other existing municipal and agency policies and guidelines relating to busking activities, a preliminary draft Policy was developed in the summer of 2011.

Consultation with the public, business and other internal and external stakeholders was held in September and October 2011.

POLICY IMPLICATIONS

There are no policy implications associated with the recommendations of Report CS11098.

RELEVANT CONSULTATION

Public

A total of 162 surveys were completed through face to face interviews at Supercrawl and Locke Street Festival on Saturday, September 10, 2011.

Buskers/Street Performers

Flyers were distributed to working buskers at Supercrawl and Locke Street Festival on Saturday, September 10, 2011 to inform them of the development of the Policy and to seek their input. As follow-up, 11 telephone surveys with buskers were completed to explore their busking experiences, identify their challenges and information needs.

Arts Advisory Commission (AAC)

Members of the AAC assisted in facilitating contact with the buskers to complete interviews.

Business Improvement Areas (BIAs)

A survey was distributed to Hamilton BIAs to explore perceptions on busking, benefits, challenges and information needs. Two BIAs responded and completed the survey.

Businesses

A survey was distributed to Hamilton businesses through the Hamilton Chamber of Commerce and Business Improvement Associations (BIAs) to explore perceptions on busking, benefits, challenges and information needs. A total of two surveys were completed.

Hamilton Police Service

Police Service staff provided input on the content of the Policy and Guidelines.

City Staff

Manager, Licensing and Permits, Municipal Law Enforcement, Planning and Economic Development Department provided information on existing regulatory frameworks.

Downtown Ward Councillor

A meeting was held with the Ward 2 Councillor to review the policy and guidelines.

Legal Services

Senior Solicitor, Legal Services Division, City Managers Office reviewed the final report, Policy and Guidelines.

ANALYSIS / RATIONALE FOR RECOMMENDATION

Based on the research conducted in developing the Policy, busking is seen to be a positive activity. The Policy addresses the request for clarity and meets the needs of stakeholders including Hamilton Police Service, businesses and buskers.

The City of Hamilton's Cleanliness & Security in the Downtown Core Task Force and the Arts Advisory Commission have expressed ongoing interest in the issue and have been encouraging of the development of a policy that is supportive of busking activity.

Highlights from the Public Survey

The public survey results, attached as Appendix B to Report CS11098, suggest that Hamilton's citizens are very supportive of busking. The public survey indicates that there is very high agreement that busking adds to the vibrancy of an area (91%) and very high support for busking in Hamilton (91%).

The top answers to the question "name something you like about busking" were: busking has entertainment value; it is original and innovative; and it enriches culture and adds to the atmosphere of the street.

Nearly one quarter of respondents appreciated the original and innovative nature of busking – including the discovery of unique and diverse talent. Based on the results of this survey, it would seem that busking is deemed by the public to be entertaining, vibrant and fun.

The top answers to the question "name something that could make busking in Hamilton better" were: more venues and more buskers at events; relax the by-laws and be more tolerant; encourage more busking; designated areas; and raise awareness. Although the Dundas Busker Festival was mentioned as a great event for buskers, respondents still identified the need for more venues (e.g.: street closures, events) and more busker presence at existing Hamilton festivals. Nearly one-third or 32% stated that Hamilton needs either "more venues" for buskers (17%) or generally "more busking" (15%).

Hamilton Police Service Input

While it is not an offence to busk, according to Hamilton Police Service, buskers sometimes become involved in trespassing, noise disturbances, and aggressive solicitation. Hamilton Police Services are mandated to uphold the law and officers receiving complaints will investigate and issue appropriate charges where required.

The few complaints associated with buskers in Hamilton can generally be addressed within existing legislation or by-laws (e.g. Safe Streets Act or City of Hamilton By-Law No. 03-020 To Regulate Noise). Hamilton Police Services noted that clarity on "legitimate" busking activity particularly with respect to the difference between voluntary donations and solicitation; allowable locations; and allowable types of acts would be useful to Police and have been addressed in the Policy.

Busker Input

Interviews with buskers suggested clarity is needed on generally what is allowed and what is not. Buskers identified the need for accessible information regarding: existence of any fees or permits; where busking is permitted (or prohibited); hours; and restrictions on sound and equipment and type of performances.

The two major barriers to busking mentioned were police (negative interaction with, fines, or the perception that police are not supportive) and a lack of information on rules and regulations. The City of Hamilton website with links from other sites such as Tourism Hamilton, BIAs, and Arts Hamilton and social media sites (e.g. Facebook) were identified as appropriate for posting the Policy and other information of interest to buskers and other types of performers.

Policy Content

The Policy includes principles which identify busking as a positive activity, policy objectives and provides guidelines for busking in the key areas of:

- location;
- performance; and,
- financial transactions.

The guidelines are based on generally desired practice and are in alignment with applicable provincial legislation and City of Hamilton by-laws. For example, the guideline "Buskers may receive a monetary appreciation from the audience for their performance but may not actively solicit funds" is in alignment with the Safe Streets Act, 1999 which prohibits panhandling.

This Policy does not restrict businesses, event organizers or City facilities in implementing additional requirements to encourage or limit busking. For example, a BIA may implement auditions to invite selected buskers to participate in an event, or City staff may identify, or limit, busking locations as part of an event.

Communication

The Policy should be made available on the City of Hamilton's website. Based on the information from the consultation with buskers, communication could be effective through links to the Policy from other organizations' websites such as the BIAs,

Hamilton Arts Council (formerly known as Arts Hamilton) and the establishment of a social media site such as Facebook.

ALTERNATIVES FOR CONSIDERATION

Not applicable.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ◆ A culture of excellence
- ◆ More innovation, greater teamwork, better client focus
- ◆ Council and SMT are recognized for their leadership and integrity

Financial Sustainability

- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

Intergovernmental Relationships

- ◆ Maintain effective relationships with other public agencies

Growing Our Economy

- ◆ Newly created or revitalized employment sites
- ◆ Competitive business environment

Social Development

- ◆ Hamilton residents are optimally employed earning a living wage

Healthy Community

- ◆ Plan and manage the built environment

APPENDICES / SCHEDULES

- Appendix A to Report CS11098: City of Hamilton Policy and Guidelines on Street Performance (Busking)
- Appendix B to Report CS11098: Busking Survey to the General Public: Summary of Results

City of Hamilton Policy and Guidelines on Street Performance (Busking)

Street performance, or busking, involves an individual or group who provides entertainment in the public realm for a voluntary gratuity from audience members. Such entertainment may include, but is not limited to, playing an instrument, singing, dancing, juggling, miming, or other form of creative performance.

This Policy and its guidelines have been developed to support a vibrant street performance culture and help performers, residents, pedestrians, retailers, workers and visitors understand the code of conduct around performing in Hamilton's public spaces.

1. Principles

The City of Hamilton recognises that:

- Hamilton has a strong tradition of busking and a vibrant cultural community;
- Street performance is a form of creative expression that contributes to the animation and vitality of Hamilton's public spaces;
- Buskers provide entertainment and experiences to residents, visitors and members of the general public;
- Busking is a valid means for performers to make a living;
- Busking should not unduly interfere with urban life; and,
- Many citizens enjoy observing busking activity in public spaces.

2. Objectives

This policy has been developed to:

- Encourage busking as a legal activity that contributes vitality and animation to the City of Hamilton;
- Provide guidelines for conduct by buskers and the public; and,
- Minimize complaints, criticism and other problems associated with busking in the City of Hamilton while supporting the rights of individuals to express themselves in a creative manner.

Guidelines:

LOCATIONS

- Performances are allowed in outdoor public places in Hamilton except where the space has been permitted for a specific time and use. Outdoor public spaces include but are not limited to sidewalks, courtyards, squares, exteriors of buildings etc ;

- Performances are allowed in public parks during regular park hours only except when the park, or a portion thereof, has been permitted for a specific time and use;
- Busking is prohibited on private property without permission of the property owner;
- Busking is prohibited at transit stops, in transit vehicles, or near public toilet facilities; and,
- Buskers must not unreasonably interfere with pedestrian or vehicular traffic flow nor encourage audience formation in such a manner as to cause such interference.

PERFORMANCE

- Maximum performance time is three hours per busking location;
- Only battery operated amplification may be used;
- No high risk or unsafe performances, dangerous materials or dangerous implements which may put the performer or audience at risk (e.g. no knives, swords, chainsaws, fire or flammable liquids); and,
- Consideration must be given for other acts performing in close proximity.

FINANCIAL TRANSACTIONS

- Buskers may receive monetary appreciation volunteered by an audience for their performance but may not solicit funds; and,
- Buskers require a business license to offer goods for sale.

COMPLIANCE

- Performers must comply with all other statutory requirements, rules, regulations and bylaws of the City and/or other authority;
- Public Space, which is being permitted by the City for a specific use and time, may not be used for busking during the period of the permit; and,
- Performers must immediately cease any activity and remove any performance equipment or materials at the request of a Hamilton Police Service Police Officer or any person designated by the City for reasons of public safety.

PUBLIC

- Audience members are encouraged to provide donations for performances they enjoy; and,
- Effort should be made to address concerns and complaints with the performer prior to seeking involvement of Hamilton Police Service.

Exclusions

Street performers, or buskers, are not contracted entertainers nor are they licensed as performers by the City of Hamilton.

Festival and event organizers, having secured a permit for use of a specific public space, may implement additional or different guidelines within the parameters of the permitted occasion (e.g. may require auditions, or identify specific locations for busking activity).

5. Glossary of Terms

For the purposes of this Policy the following definitions apply:

1. **Street Performer:** An individual or group who provides entertainment in the public realm for a voluntary gratuity from audience members. Synonymous with Busker.
2. **Busker:** Synonymous with Street Performer.
3. **Performance:** Musical, dramatic or other entertainment substantially involving musical, theatrical or circus performance skills.
4. **Soliciting of funds:** The act of asking, begging, seeking or requesting money or goods from members of the public.
5. **Offer for sale:** The display or demonstration of items, particularly multiples of items, with an implication that they are available for sale or otherwise in exchange for money (for example, CDs).
6. **Dangerous materials or implements:** Materials and implements that pose risk, hazard or uncertain outcomes for people. Dangerous materials include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements, or anything giving off a level of heat or toxicity that poses a threat of harm or damage to members of the public and public property. Dangerous implements include but are not limited to knives, spears, swords, spikes, or anything which could cause harm or damage to members of the public and public property.

**Busking Survey to the General Public
Summary of Results
September 2011**

Methodology

Three university students were hired by the City of Hamilton’s Culture Division to gather input from the general public regarding busking in Hamilton.

The students approached attendees at the annual Supercrawl Event on James Street North on Saturday, September 10, 2011.

A total of 162 surveys were completed. Incentives were not provided to respondents to complete the survey. All responses were anonymous and confidential.

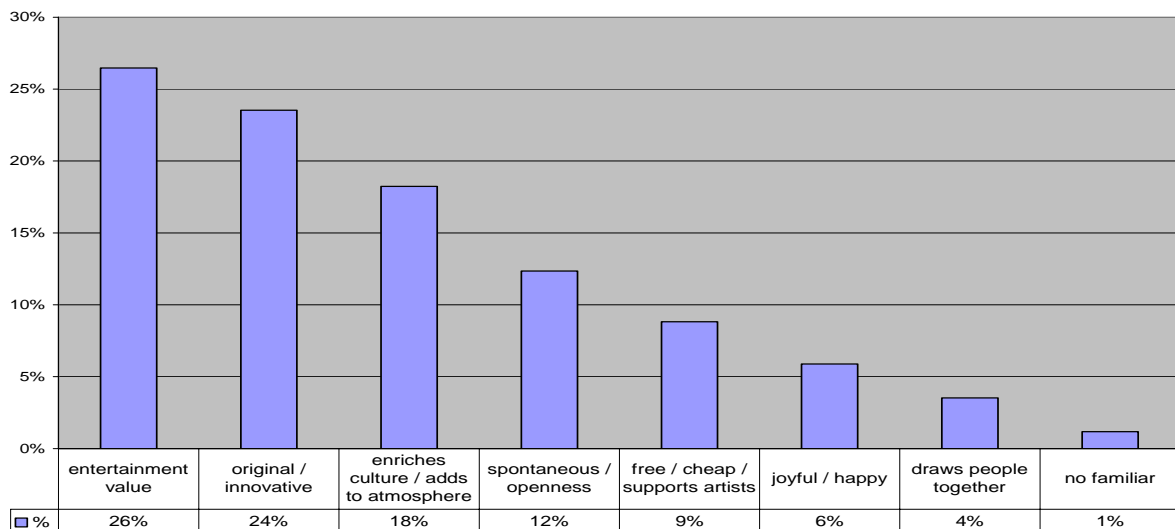
Results

Question 1: Name something you like about busking?

The top answers to the question “name something you like about busking” were: busking has entertainment value; that it’s original and innovative; and that it enriches culture and adds to the atmosphere of the street.

Nearly one quarter appreciated the original and innovative nature of busking – including the discovery of unique and diverse talent. Busking is deemed by the public to be entertaining, vibrant and fun.

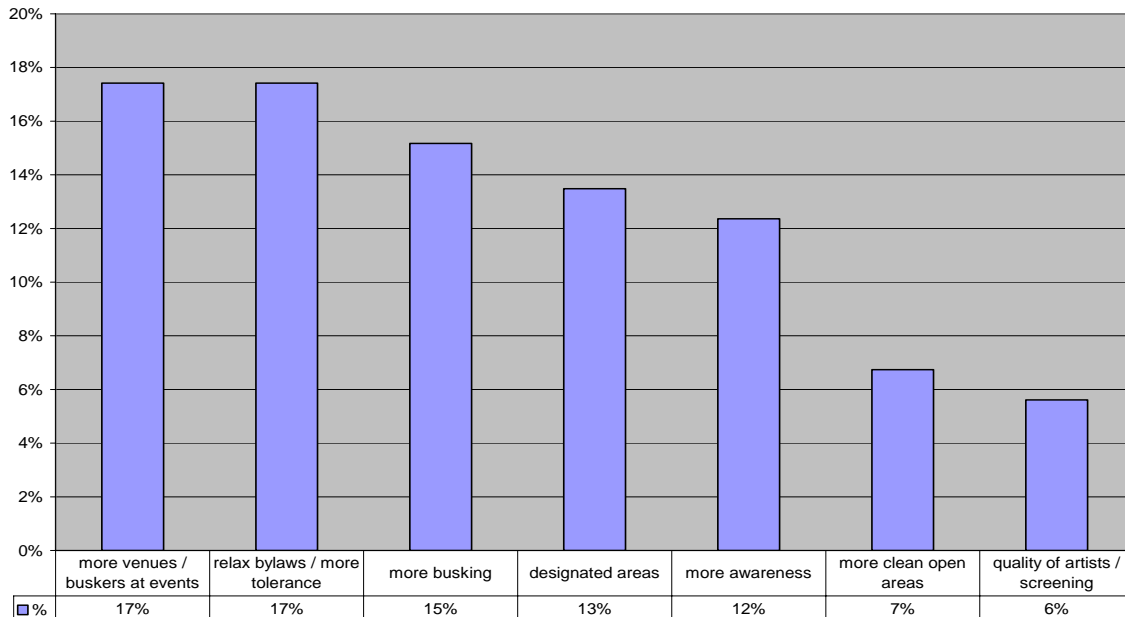
What People Like About Busking



Question 2: Name something that could make busking in Hamilton better?

The top answers to the question “name something that could make busking in Hamilton better” were: more venues and more buskers at events; relax the by-laws and be more tolerant; encourage more busking; designated areas; and raise awareness.

What Would Make Busking Be Better



Although the Dundas Busker Festival was mentioned as a great event for buskers, respondents still identified the need for more venues (e.g.: street closures, events) and more busker presence at existing Hamilton festivals. Nearly one-third or 32% stated that Hamilton needs either “more venues” for buskers or generally “more busking” (17% + 15%).

Twenty percent identified designated busking areas or more clean open spaces conducive to busking.

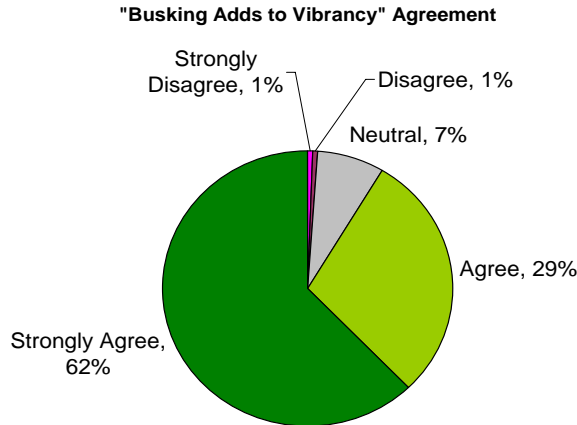
Seventeen percent of respondents also called for more tolerance and relaxed bylaws.

Twelve percent identified the need for more awareness in the form of advertising and promotion.

Question 3: To what extent do you agree “busking adds to the vibrancy of an area”?

There is very high public acceptance that busking adds to the vibrancy of an area.

Ninety-one percent of the public either agree or strongly agree with the statement.



Question 4: To what extent do you support busking in Hamilton?

There is very high public support for busking in Hamilton.

Ninety-one percent of the public either agree or strongly agree with the statement. Only 1% of the public disagreed with the statement.

