

Offered by Councilor Salvatore LaMattina and Councilor Bill Linehan
Councilor McCarthy

CITY OF BOSTON

IN THE YEAR TWO THOUSAND SIXTEEN



**AN ORDINANCE REGARDING STREET PERFORMERS IN
THE CITY OF BOSTON**

WHEREAS, Currently the City of Boston does not regulate or require permits for street performers; and,

WHEREAS, Street performers enhance the character of the city and the City of Boston seeks to encourage street performers while maintaining the reasonable expectations of residents to the enjoyment of peace and quiet in their homes as well as the ability of businesses to conduct their services uninterrupted; and,

WHEREAS, It is in the interest of the City of Boston to reasonably regulate street performers in order to balance the interests of performers with those of the residents and businesses of the city.

NOW, THEREFORE,

Be it ordained by the City Council of Boston, as follows:

CBC Chapter XVI is hereby amended by adding at the end thereof, the following new sections and subsections.

16-59.1 Definitions.

- (a) "Perform" includes but shall not be limited to the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry, and reciting. Perform shall not include the production of items for sale.
- (b) "Performer" means a person who has obtained a permit pursuant to this section.
- (c) "Public areas" means public sidewalks, parks, playgrounds and other pedestrian areas.

16-59.2 Prohibition.

No person shall perform in a public area without a permit issued pursuant to section 16-59.3.

16-59.3 **Permit.**

- (a) A permit shall be issued by the Commissioner of Public Works or designee to each applicant in exchange for a completed application. For the Faneuil Hall Marketplace Area, the Department of Property and Construction Management shall have jurisdiction to enforce the provisions of this ordinance.
- (b) 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.
- (c) A permit shall be valid from the date on which it is issued through the end of the calendar year.
- (d) A permit shall be nontransferable, and shall contain the permit number of the applicant and the year in which a permit is valid. Each member of the group of performers who play together shall be required to obtain an individual permit. If a performer loses his or her permit, one replacement permit per year may be obtained for a fee of fifteen dollars (\$15.00).
- (e) A performer shall clearly display his or her permit while performing, and shall allow inspection of the permit by any Boston police officer or staff person or employee of the City of Boston authorized to enforce the provisions of these sections upon request.

16-59.4 **Permitted Performances.**

- (a) Performances may take place in public areas, except within one hundred feet of an elementary and/or secondary school, library, or church while in session, a hospital at any time, and except public areas excluded by the Commissioner of Public Works, the Boston Police Department, and the Department of Property and Construction Management. The Commissioner of Public Works, the Boston Police Department, and the Department of Property and Construction Management shall also designate by regulation the time, place, and manner that street performances are allowed under the provisions of these sections. Any regulation must be narrowly tailored in order to allow access for street performers while also ensuring the safety and convenience of users of public sidewalks and streets.
- (b) A performer may not create an undue interference with the passage of the public through public areas.
- (c) No performer or group of performers may perform less than fifty feet from another performer or group of performers.
- (d) The Commissioner of Public Works, the Boston Police Department, and the Department of Property and Construction Management may by regulation exclude certain public areas from street performers in the interest of public safety and in accordance with constitutional standards.

16-59.5 **Penalties.**

- (a) **Noncriminal Disposition.**
Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c.40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: Boston Police Department officers, Municipal Police Officers, and authorized personnel from the Department of Public Works.

- (b) The Commissioner of Public Works and/or Boston Police may suspend a permit for no more than thirty days if a performer is found to have knowingly provided false information in the application; or a performer has received three noncriminal dispositions within one calendar year.
- (c) The Commissioner of Public Works and/or Boston Police may revoke a permit for the remainder of the calendar year if a performer has received five noncriminal dispositions during that calendar year.
- (d) Before suspending or revoking a permit, the Commissioner of Public Works shall hold a hearing after ten days written notice to the performer setting forth the facts constituting the basis for the proposed suspension or revocation. The Commissioner of Public Works shall issue a decision within ten (10) days and any decision shall be subject to M.G.L. c. 30A.

16-59.6 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

16-59.7 Effective Date.

The provisions of these sections shall be effective immediately upon passage.

Filed in City Council: March 16, 2016