

**PROPOSED BOSTON REGULATION OF STREET PERFORMERS
and
STREET ARTISTS**

by

**Stephen H. Baird
Community Arts Advocates, Inc.**

The Boston City Council finds that the existence in the City of Boston of street performers and street artists provides a public amenity that enhances the character of the city and seeks to encourage such performances and artists to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes or the ability of businesses to conduct their business uninterrupted. This regulation seeks to balance the Constitutional First Amendment Rights of the performers and artists with those of the residents and businesses of the City of Boston.

The Boston City Council designates the Office of Cultural Affairs of the City to be the agent of the City of Boston primarily charged with the responsibility of supervising the provisions of these regulations.

Section 1 Definitions

The following terms are defined for the purpose of this regulation as follows:

(a) "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, puppetry, dancing, reciting and sidewalk drawings (working with non-permanent water-soluble media, i.e. chalk, pastels or watercolors directly upon the pavement).

(b) "Sidewalk art" means original works of art displayed in Public Areas. It shall not include: 1) any artwork produced by any person other than the sidewalk artist displaying the artwork, or 2) any artwork purchased or taken on consignment and held for resale, or 3) any entirely mass produced or commercially manufactured clothing.

(c) "Performer" and "artists" means an individual who has been issued a permit pursuant to the provisions of this Regulation.

(d) "Public areas" includes sidewalks, grounds, parks, playgrounds, and all other public ways located in the City of Boston.

Section 2 Prohibition

(a) No person may perform in public areas or display sidewalk art for sale without having obtained a permit issued under Section 3 of this Regulation.

(b) Any person who performs or displays sidewalk art for sale in a public area without a permit issued under Section 3 of this Regulation shall be fined not more than \$25. The proceeds of any such fine shall be directed to the General Fund and appropriated to the budget of the Boston Office of Cultural Affairs. Any person paying such a fine in excess of \$10 may obtain a permit under Section 3 of this Regulation without paying a fee therefor if application for such permit is made within 30 days of such payment.

Section 3 Permit

(a) A permit shall be issued by the Boston Office of Cultural Affairs to each applicant therefor in exchange for a completed application and a fee of \$10, subject to the provisions of Section 8 of this Regulation.

(b) A completed application for a permit shall contain the applicant's name, 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 January 31 of the following year.

(d) A permit shall contain the name and permit number of the applicant plus the year in which the permit is valid and any special allowance made by the Boston Office of Cultural Affairs pertaining to the permit.

(e) A permit shall be non-transferable. Each member of a group of performers or artists who play or display sidewalk art together shall be required to obtain an individual permit.

(f) Upon issuing a permit, the Boston Office of Cultural Affairs shall also issue the performer or artist a printed copy of this Regulation.

(g) If a performer or artist loses his or her permit, one replacement permit per year may be obtained for a fee of \$10.

Section 4 Display of Permit

A performer and artist shall clearly display his or her permit while performing or displaying sidewalk art and shall allow inspection of the permit by any police officer of the City of Boston or staff person of the Office of Cultural Affairs on request.

Section 5 Permitted Performances and Sidewalk Art Displays

(a) Performances and sidewalk art displays may take place in the following locations:

- 1.) in public areas, except within one hundred feet of an elementary and/or

secondary school, library, or church while in session, a hospital anytime and except those public areas excluded by the City Council, Boston Police Commissioner, the Traffic Director or Public Works Commissioner, pursuant to Section 7 of this Regulation.

2.) on private property, if the performer or artist has obtained the written permission of the owner of such property or other person with authority to grant such permission with respect to such property.

3.) and in a public area where an authorized fair or public festival is being conducted, if the performer or artist has obtained the written permission of the sponsor of such fair or festival.

(b) Performances and sidewalk art displays may take place between 7:00 a.m. and 10:00 p.m. Sunday - Thursday, 7:00 a.m. and 11:00 PM Friday and Saturday unless otherwise allowed by the Boston Office of Cultural Affairs.

(c) A performer may use electric or electronic amplification up to a median sound level of 80 decibels measured 25 feet from the source of the sound from 7:00 AM to 7:00 PM and 70 decibels measured 25 feet from the source of the sound from 7:00 PM to 11:00 PM. Upon a complaint by a resident, a designated person from the Office of Cultural Affairs or Boston Police Department shall with the permission of the resident, measure the sound within the residential dwelling. If the medium sound level exceeds 50 decibels and exceeds the background sound level by at least 10 decibels, the performer or group of performers causing the excessive sound level shall either turn down the level or move a distance from the residence so as to reduce the sound level within these limitations.

(d) Drums shall be inaudible at a distance of 100 feet.

(e) A performer or sidewalk art display may not block the passage of the public through a public area except as permitted by the sponsor of an event under paragraph (a) of this Section or otherwise allowed by the Director of Traffic and Parking or Public Works Commissioner. If a sufficient crowd gathers to see or hear a performer or view a sidewalk art display such that the passage of the public through a public area is blocked, a police officer may disperse the portion of the crowd that is blocking the passage of the public, but said police officer shall not cause the performer or artist to leave the location.

(f) Sidewalks displays must not obstruct handicap ramps, doorways, windows, or emergency safety equipment such as fire hydrants, shall 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. No display shall exceed twenty-five square feet and it shall be prohibited to place a carpet, rug, blanket, or other such covering over grass in a public place.

(g) No performer or group of performers shall perform at a distance of less than 100 feet from another performer or group of performers that already is performing.

Section 6 Legal Conduct

(a) A performer or artist may accept contributions of money or property at a performance or sidewalk art display. Contributions may be received in any receptacle. Performers may offer for sale representations and recordings of their own work, including records, cassettes, videotapes, compact disks or digital video disks. Artists may offer for sale original works of art.

(b) A performer who performs or artist who displays sidewalk art and accepts contributions under the provisions of this Regulation shall not be in violation of any Boston ordinance, rule, or regulation solely by virtue of those acts.

(c) A performer who performs or artist who displays sidewalk art under the provisions of this Regulation shall be presumed not to constitute a disturbance of the peace or quiet, unless it is determined by a police officer that such a performance is not in the spirit of entertainment but rather is gross and disorderly conduct.

Section 7 Exclusion of Public Areas

(a) Upon the written recommendation of the Boston Police Commissioner, the Director of Traffic and Parking, or the Public Works Commissioner, the City Council will designate to the License Commission the responsibility to conduct a public hearing and determine whether a designated public area shall be excluded from further performances or displays of sidewalk art. The License Commission shall notify the City Council of any such License Commission determination.

(b) No public area shall be excluded from performances or displays of sidewalk art except: by majority decision of City Council or its designated committee pursuant to subsection (a) of this Section 7; or by decision of the Police Commissioner in the case of an emergency; provided that no public area may be excluded from performances or displays of sidewalk art by the Police Commissioner under this Section 7 for more than 7 days.

(c) The exclusion of public areas in an emergency, as designated by the Boston Police Commissioner, shall be effective immediately. All other exclusions, by recommendation of the Boston Police Commissioner, Traffic Director, or Public Works Commissioner, shall also be effective immediately and a written notice of said exclusion will be mailed to all permit-holding performers and artists stating their right to a hearing before the License Commission or Boston City Council within 7 days.

(d) Upon issuing a permit, the Boston Office of Cultural Affairs shall also issue to the performer or artist a current and complete list of all public areas in the City of Boston that have been excluded from performances or sidewalk art displays.

Section 8 Penalties

(a) Noncriminal Disposition.

Whoever violates any provision of this regulation may be penalized by a noncriminal disposition as provided in Massachusetts General Laws Chapter 40, Section 21 D. For the purposes of this regulation the following officials shall be enforcing persons: Boston Police Officers and/or Office of Cultural Affairs staff. The penalty for each violation will be \$25.

Section 9 Suspensions and Revocation of Permit

(a) The Boston Office of Cultural Affairs may suspend a permit for not more than 30 days if any information contained in the application is found to be false.

(b) The Boston Office of Cultural Affairs may suspend a permit for not more than 30 days if a performer or artist has received three noncriminal dispositions within one calendar year.

(c) The Boston Office of Cultural Affairs may revoke a permit for the remainder of a calendar year if a performer or artist has received five noncriminal dispositions within one calendar year.

(d) After revocation of a permit, the former performer or artist may not obtain a new permit until such date as the Boston Office of Cultural Affairs may determine, provided that such date shall not be more than one year after the date of revocation.

(e) No permit may be suspended or revoked unless the Boston Office of Cultural Affairs holds a public hearing concerning that suspension or revocation, written notice of which has been given to the performer or artist not less than 10 days prior to said public hearing. Such notice shall set forth the facts constituting the basis for the proposed suspension or revocation.

(f) A performer or artist may not receive a permit unless all outstanding tickets from previous years have been paid.

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