

Chapter 12 Section 12.16.170 Street Performers (Councillor Kelley's amendments in yellow)

A. Introduction.

The City Council of the City of Cambridge (the "City") finds that the existence in the City of street performers provides a public amenity that enhances the character of the City and seeks to encourage such performances 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 to~~ the ability of businesses to conduct their businesses uninterrupted, or for the free flow of traffic and movement on public ways, public sidewalks, and other public pedestrian areas (collectively hereinafter referred to as "Public Ways"). This ~~section~~Section seeks to balance the interests of the performers with those of the residents and businesses of the City.

B. Enforcement.

The City Council designates the Cambridge Arts Council ~~Council~~ (the "Arts Council") ~~of the City~~ to be the agent department of the City primarily charged with the responsibility of supervising and enforcing the provisions of this ~~section~~Section.

AC. Definitions.

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, reciting; puppetry, and sidewalk art (working with non-permanent, water-soluble media, ~~i.e., such as~~ chalk, pastels, or watercolors, ~~etc.~~ directly on the pavement), ~~and reciting.~~

"Perform" shall not include the production of items for sale, such as jewelry making or craft production, but may include the creation of visual artworks that are demonstrated live in a large-scale performative manner.

2. "Performer" means a person who has obtained a permit~~Permit~~ pursuant to this ~~section~~Section.

3. "Public areas" means public ~~w~~ays, including sidewalks, parks, plazas, and playgrounds. ~~and other Cambridge pedestrian areas.~~

BD. Prohibition.

1. No person may perform in a public area without a permit~~Permit~~ issued by the Arts Council pursuant to ~~sub~~Subsection ~~E~~ of this ~~section~~Section.

2. In accordance with the Cambridge Fire Department's (the "Fire Department's") rules ~~issued~~promulgated by the Cambridge Fire Chief (the "Fire Chief") ~~under~~ pursuant to his authority under G. L. c. 148, § 28 and the Code of Massachusetts Regulations promulgated pursuant thereto, the use of fire in a public assembly, including, but not limited to, street performing, is not permitted in the City of Cambridge (the "City").

~~E~~. Permit.

1. A permit shall be issued by the Cambridge Arts Council to each applicant ~~therefore~~ in exchange for a completed application and a fee of forty dollars (\$40); the Permit application fee shall be reduced to twenty dollars (\$20) for applicants who are students and present a current, valid student photo identification from an accredited school, college or university, or appropriate home school documentation, with the completed Permit

application; the Permit application fee shall be waived in its entirety for applicants who request an application fee waiver based on indigence or homelessness and submit an affidavit signed under pains and penalties of perjury attesting to such indigent or homeless status at the time of submitting the completed Permit application. Each applicant for a permitPermit must present a valid photo identification at the time of submitting the application for a Permit.

2. A completed application for a ~~p~~Permit, ~~and the permit itself~~, shall contain the applicant's name, residential ~~lee~~ address, ~~and contact information to include email and telephone number~~, group name, if applicable, instrumentation, and type of performance, and shall be signed by the applicant.

3. A ~~permit~~Permit shall contain the performer's name; group name, if applicable; ~~permit~~Permit number; date issued; year in which the permitPermit is valid; and a brief description of the type of performance permitted. A permitPermit shall be valid from the date on which it is issued through the end of that calendar year.

4. A ~~permit~~Permit shall not be ~~non~~transferable, ~~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 performing group~~ who ~~play performs~~ together shall be required to obtain an individual ~~permitPermit in person. Performing groups of four or more performers shall pay the sum total of one hundred and sixty dollars (\$160) or eighty dollars (\$80) in the case of performing groups which consist of performers who are all students in exchange for one permit per person in the group regardless of the total number of performers in the performing group.~~ In no event shall any ~~group of performers performing group~~, identified as such in each of their permitPermit applications and noted on their permitPermits, be charged more than one hundred and sixty dollars (\$160) total for non-students or eighty dollars (\$80) total for students for ~~permitPermits for group members of a group. All personsperformers acquiring a permitPermit for a group performance must perform as a group; group permitPermits do not authorize individual performance.~~ Each member of a student performing group must submit a valid student photo identification from an accredited school, college or university in person at the time of submitting their application for a group Permit.

5. Upon issuing a ~~permit~~Permit, the ~~Cambridge~~ Arts Council shall ~~also~~ give the performer a copy of this ~~Section~~section.

6. If a performer loses ~~their~~ his or her ~~permit~~Permit, one replacement ~~p~~Permit per calendar year may be obtained for a fee of fifteen dollars (\$15).

~~D~~F. Display of Permit.

1. A performer shall clearly display his or her ~~their permitPermit~~ while performing, and shall allow inspection of the ~~permitPermit~~ by any Cambridge ~~p~~Police ~~O~~fficer ("Police Officer") or staff person of the ~~Cambridge~~ Arts Council upon request. Refusal to allow inspection of a permitPermit upon request by a Cambridge Police Officer or staff person of the Cambridge Arts Council, or refusal to display a permitPermit, may result in the revocation of the permitPermit.

~~E~~G. Permitted Performances.

1. Performances may take place in the following locations:

a. In ~~p~~Public ~~a~~Areas when not interfering with use of a park permit, special events permit, or regular use of playgrounds, except: within one hundred (100) feet of an elementary and/or secondary school, library, ~~or~~ church, synagogue, temple, mosque, or other house of worship while in session;; or a hospital at any time;; and any except public areas excluded by the City Council, the Commissioner of the Cambridge Public Works Department (the "Commissioner of Public Works"), ~~or~~ the ~~Chief of~~ Police Commissioner of the Cambridge Police Department (the "Police Commissioner"), or the Fire Chief, pursuant to ~~sub~~Subsection HF of this ~~s~~Sectionsection;

b. On private property, with the written permission of the owner or other person in control of such property;

c. In ~~p~~Public ~~a~~Areas where an authorized street fair or public festival is being conducted, but only with the express permission of the sponsor or producer of such fair or festival.

2. Performances may take place at the following times:

~~a~~Monday through Thursday, between 7:00 a.m. and 11:00 p.m.; Friday, between 7:00 a.m. and 12:00 midnight; ~~p.m.~~
Saturday, between 7:00 a.m. and 12:00 midnight; ~~p.m.~~
Sunday, between 12 noon and 11:00 p.m.

~~b. In the public space at the intersection of Mt. Auburn Street and JFK Street, known as Winthrop Park, performances may take place at the following times:
Monday through Thursday, between 7:00 a.m. and 10:00 p.m.
Friday, between 7:00 a.m. and 11:00 p.m. Saturday, between 8:00 a.m. and 11:00 p.m. Sunday, between 12:00 noon and 10:00 p.m.~~

3. Sound and Noise Regulations:

a. No performer or group of performers may generate noise exceeding a median sound level of eighty decibels (80 db(A)) measured at a distance of twenty-five (25) feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as eighty decibels (80 db(A)) measured at a distance of twenty-five (25) feet from the performer or group of performers ~~this sound level~~ is not exceeded. Upon receipt of a complaint ~~by a resident~~, a designated staff person from the Cambridge Arts Council shall, with the permission of the ~~resident/complainant~~, measure the sound level inside the ~~residential dwelling structure wherein the occupant has complained of noise from a street performance~~. If the sound level inside the structure wherein the occupant has complained of noise from a street performance exceeds a median sound level of fifty decibels (50 db(A)), and exceeds the background noise by at least ten decibels (10 D 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 structure~~ so as to reduce the sound level to a level within these limitations. Background ~~a~~Noise will be measured using the L₉₀ statistical value for this purpose shall mean L₉₀. For the purpose of this Ordinance, L₉₀ is the sound pressure level that has been exceeded 90 percent of the time; the level is taken to be the background sound pressure level.

~~b. It shall be prohibited to use prerecorded music as part of a performance, except as backup accompaniment to a live performance. All prerecorded music shall be turned off when the performer or group of performers is not performing. The volume of prerecorded music shall not exceed fifty (50) decibels db(A) on its own or eighty (80) decibels db(A) with music/audio accompaniment.~~

~~b~~c. Drums shall be inaudible at a distance of one hundred fifty (150) feet.

4. A performer or group of performers may not create an undue interference with the passage of the public through a ~~p~~Public ~~a~~Area. If a performer or group of performers attracts a crowd sufficient to obstruct ~~the a~~ ~~p~~Public ~~w~~Area as defined in this Ordinance Section, the performer or group of performers shall encourage the crowd to relocate and no longer obstruct the pPublic Area way. a ~~a~~ ~~p~~Police ~~e~~Officer or Cambridge Arts Council Staff may disperse the portion of the crowd that is creating the obstruction. The ~~p~~Police ~~O~~fficer or Cambridge Arts Council

~~Staff~~ 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 ~~p~~Police ~~e~~Officer ~~or Cambridge Arts Council Staff~~ 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 within than~~ fifty (50) feet ~~off from~~ another performer or group of performers.

6. A ~~P~~performer ~~or group of P~~performers may request contributions ~~or of~~ money or property at a performance, provided that ~~no~~ signs requesting contributions shall ~~not~~ exceed twelve (12) inches by eighteen (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 items~~ of their own ~~artistic~~ works, ~~in the form of records, cassettes, videotapes or compact discs if said items directly relate to the performance for which they are permitted to perform.~~

7. On sidewalks, displays must not obstruct ~~handicap accessibility~~ 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 ~~twenty percent (20%)~~ of the width of the sidewalk from the property line of the premises in front of which the display is installed. ~~Displays and/or performer setups must be located at least ten (10) feet away from business doorways.~~ ~~Notwithstanding~~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~~section. ~~A performer or group of performers shall leave the be required at all times to maintain four and one half (4 1/2) feet of sidewalk between their setup and the edge of the sidewalk for in order to allow for accessibility for te persons with disabilities.~~

8. In ~~P~~public ~~A~~areas other than sidewalks, no such display shall exceed twenty-five (25) square feet, and it shall be prohibited to place a carpet, rug, blanket, ~~tent~~ or other such covering over grass in a ~~p~~Public ~~Area~~place. ~~No tents may be erected in Ppublic aAreas without a tent permit from the Cambridge Fire Department. Any tent permit received from the Cambridge Fire Department must be current and on display at all times while any such tent is erected. Tables and chairs may be used as long as they do not exceed the maximum footprint outlined in this OrdinanceSection.~~

9. ~~Performance locations/spaces are first come, first served, and cannot be 'reserved' with equipment, apparatus, or by persons not permitted to perform. Live performance must take place at all times while a performer, or group of performers, is set up. Fifteen (15) minute breaks between sets are allowed once per hour.~~

~~10. It shall be prohibited to use public furniture, whether movable or immovable, or Public Art structures as part of a performance setup or for the storage of equipment, displays, supplies, or materials used in any performance.~~

~~F~~H. Exclusion of Public Areas.

1. A specific ~~p~~Public ~~a~~Area may be excluded from performances in accordance with ~~constitutional standards by a~~ decision of the City Council after a public hearing, notice of which shall be advertised once in a local newspaper ~~and on the Cambridge Arts Council's website,~~ no less than fourteen (14) days prior to said hearing. In addition, a written notice shall be sent to the ~~Street Artists Guild Community Arts Advocates, Inc., or its successor(s),~~ not less than ten (10) days prior to said hearing. ~~or~~

a. Based upon evidence presented to the City Council during its deliberations on the adoption of this ~~e~~Section~~rdinance~~ ~~codified in this section,~~ the City Council designateds Brattle Street on both sides from the northerly side of Church Street to the northerly lot line of 76 Brattle Street as an excluded area, thereby prohibiting performances in that area.

~~b. Due to the proximity of Quincy Park to a residential area, a hotel, and a library, the City Council designates Quincy~~

~~Park an excluded area, thereby prohibiting performances in that area.~~

~~c. During the major reconstruction of the Central Square area scheduled to begin during 1996, the City Council finds that, based upon evidence elicited at public hearing, issues of serious public safety will occur during said reconstruction of streets, sidewalks and infrastructure, and finds further that it will be necessary to temporarily exclude performances from said areas of reconstruction. The City Council hereby authorizes the City Manager or his designee to issue notices of exclusion from areas to be defined by the City Manager as the reconstruction proceeds. The City Manager shall report to the Council when the reconstruction has been completed.~~

2. In the case of an emergency, By decision of the Chief of Cambridge Police Commissioner or the Fire Chief may prohibit a performer or group of performers from performing in a particular location. In the case of such an emergency, ~~any~~ holder of a ~~license~~ Permit who disputes the need for said emergency ~~exclusion~~ performance prohibition may appeal to the City Council for review.

3. In the case of an emergency, By decision of the Commissioner of Public Works may prohibit a performer or group of performers from performing in a particular park or playground. In the case of such an emergency, ~~regarding a park or playground:~~ ~~any~~ holder of a ~~license~~ Permit who disputes the need for said emergency ~~performance prohibition~~exclusion may appeal to the City Council for review.

~~G~~I. Penalties.

1. Non-criminal Disposition.

Whoever violates any provision of this ~~section~~Section may be penalized by a non-criminal disposition as provided in G. L. c. 40, ~~s. §~~ 21D. For purposes of this ~~section~~Section, the following officials shall be enforcing persons: ~~p~~Police ~~O~~Officers and/or ~~Cambridge~~ Arts Council staff. The penalty for each violation will be twenty-five dollars (\$25).

2. Suspension of Permit.

The ~~Cambridge~~ Arts Council and/or the Cambridge ~~p~~Police Department may suspend a ~~permit~~Permit for no more than thirty (30) days if:

- a. a performer is found to have knowingly provided false information in the application; or
- b. a performer has received three (3) noncriminal dispositions within one (1) calendar year.

3. Revocation of Permit.

The ~~Cambridge~~ Arts Council may revoke a ~~permit~~Permit for the remainder of the calendar year if:

a. A performer has received five (5) non-criminal dispositions during that calendar year;

b. A performer fails to clearly display his or her ~~permit~~Permits while performing; or

c. A performer fails to allow inspection of his or her ~~the permit~~Permit by any ~~Cambridge Police~~ Officer or any ~~Cambridge Arts Council staff~~ member upon request.

4. Before suspending or revoking a ~~permit~~Permit, the ~~Cambridge~~ Arts Council must hold a public hearing, after ten (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~~Permit unless all tickets issued pursuant to this Section from the previous calendar year(s) have been paid in full.

J. Regulations.

The Cambridge Arts Council shall have the authority to establish rules and regulations, with the approval of the City Manager, as may be appropriate or necessary for the implementation of this ~~section~~Section.

~~HK~~. Exclusivity.

The provisions of this ~~section~~Section take precedence over any other City regulations or ordinances applicable to street performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this ~~section~~Section, this ~~section~~Section shall govern. Sound levels generated by street performances shall be governed by this ~~section~~Section and not by the Cambridge City ~~n~~Noise ~~e~~Ordinance.

IL. Peace and Quiet.

A performance in accordance with this ~~ordinance~~Section shall be presumed not to constitute a disturbance of the peace or quiet.

JM. Severability.

The provisions of this ~~section~~Section are severable, and if any part of this ~~section~~Section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of ~~this~~ ~~section~~Section and the remainder of ~~this~~ ~~section~~Section shall stay in full force and effect. (Ord. No. 1176, Revised, 04/22/96; Ord. No. 1176, Revised, 04/22/96; Ord. No. 1176, Revised, 04/22/96, ~~Ord. No. ??? Revised 12/19/16~~).