

DRAFT Street Performers Bye-Laws 2016

Long Title:

The Lord Mayor and Members of Dublin City Council (hereinafter referred to as "The Council") in exercise of the powers conferred on them by Section 199 of the Local Government Act 2001, hereby make the following Bye-Laws in relation to Street Performers in the administrative area of Dublin City Council.

Preliminary:

Short Title: These Bye-Laws may be cited as the Street Performers Bye-Laws 2016

Area of Application: These Bye-Laws apply to the administrative area of Dublin City Council.

Commencement Date: These Bye-Laws shall come into effect on the Xth XXXX 2016.

Definitions:

In these Bye-Laws the following words or phrases shall have the meanings hereby expressly given to them that is to say:-

The Act: Means the Local Government Act, 2001

Amplification: Means using an electronic device to increase the volume of a musical instrument.

Authorised Person: Means a person authorised in writing by the Council pursuant to and for the purposes of Section 204 of the Local Government Act 2001 or a member of An Garda Síochána.

Circle Act: Means street performers that have a structured performance or routine that requires the audience to stop, watch and/ or participate. Performances may incorporate elements of street theatre, puppetry, dance, comedy, fire manipulation, juggling and acrobatics and may involve the use of dangerous properties as part of the act.

Dance Act: Means a group of dancers who work together to perform dances as a spectacle or entertainment.

The Council: Means Dublin City Council

Dangerous Properties: Means substances that are flammable, toxic or hazardous and items including but not limited to sharp implements or those that pose a risk /capable of causing bodily harm such as swords, knives and axes.

Public Place: Means any street, road, footpath, open space, beach, public park, green space and amenity areas, including the Liffey Boardwalk, and such like places in the charge or ownership of Dublin City Council.

Perform: Means to engage in any type of performance or exhibition in a public place with the reasonable

expectation or opportunity of receiving donations including the playing of musical instruments, singing, reciting, dancing, acting, pantomiming, puppeteering, juggling, magic tricks, circus based skills, human statues, balloon modelling, street theatre, pavement art, sand sculpture, modelling, carving and any other type of performance or exhibition not specifically listed but which would be similar in character, and the words Performance and to Perform shall be construed accordingly and shall not include the Excluded Activities.

Excluded Activities:

Means any activity/practice where a service or goods are offered to members of the public in exchange for payment including but not limited to face painting, caricature painting, hair braiding, temporary tattoos (including henna), fortune telling, jewellery making, pre-fabricated paintings, photographic or printed images, games of chance, or any activity/practice which involves charging a member of the public to participate.

Permit Holder:

Means a person who holds a Performance Permit issued pursuant to these Bye-Laws.

Street Performer:

Means a person who performs in a public place.

Street Performance Permit:

Means a Permit to perform in a public place issued pursuant to these Bye Laws

Visitor Street Performance Permit:

Means a temporary Permit issued to visitors to the City to perform in a public place issued pursuant to these Bye-Laws.

Performance Permit:

Means a Street Performance Permit or a Visitor Performance Permit issued by the Council in accordance with these Bye-Laws.

Permit To Use Amplification:

Means a permit to use amplification that has been issued to a Permit Holder pursuant to these Bye-Laws and in the interest of clarity applies to the use of one amplifier device only.

Prohibited Place:

Means any place outside the GPO as shown highlighted on map index **SM-2015-0085**, any place on the street known as Temple Bar between the junction at Fownes Street/Fownes Street Lower and the junction at Temple Lane South and any place on East Essex Street between the junction at Temple Lane South and the junction at Eustace Street. The prohibited places in Temple Bar are as shown highlighted on map index **SM-2015-0040**.

Amend definition of Prohibited Place:

Means (a) any place outside the GPO as shown highlighted on map index SM-2015-XXXX
(b) any place on the street known as Temple Bar between the junction at Asdill's Row and the junction at Temple Lane South,
(c) any place on Fleet Street between the junction at Anglesea Street and the junction at Asdill's Row and
(d) any place on East Essex Street between the junction at Temple Lane South and the junction at

Eustace Street.

The prohibited places in Temple Bar are as shown highlighted on map index SM-2015-0040 (map to be redrawn).

Add definition of Wind and Percussion Instruments:

Wind Instruments means (a) Brass instruments including horns, trumpets, trombones, tubas and similar (b) woodwind instruments including recorders, flutes, oboes, clarinets, saxophones, bassoons, bagpipes, uilleann pipes, pan pipes, digeridoo and similar.

Percussion Instruments mean drums of any sort including cajon, bodhran, djembe, bongos, congas, tambourine, cymbals and similar

Permits:

1. A person may not perform in a public place without a Performance Permit issued by the Council.

A person may not perform in a public place using Amplification without a Permit To Use Amplification and a Performance Permit issued by the Council
1. (a) A person may not perform in a prohibited place with or without a Street Performance Permit issued by the Council.
 - Amend Bye-Law 1 (a) to read: "A person may not perform in a prohibited place with or without a Performance Permit issued by the Council SAVE AND EXCEPT as otherwise provided for in Bye-Laws 1 (b) and 1(c).
 - Add a Bye-Law to be known as 1(b) "A person who holds a Performance Permit issued by the Council may perform in the prohibited place outside the GPO between the hours of 7.00pm and 11.00pm Monday to Saturday inclusive and between the hours of 11.00am and 11.00pm on Sundays."
 - Add a Bye-Law to be known as 1(c) "A person who holds a Performance Permit issued by the Council may perform in the prohibited place in the Temple Bar area shown coloured pink on Map Index Number SM-2015-XXXX subject to the following strict conditions:
 1. The use of amplification equipment is NOT permitted
 2. The use of wind instruments of any sort are NOT permitted
 3. The use of percussion instruments of any sort are NOT permitted
2. A person may apply for and be granted a Performance Permit by the Council upon completion of the requisite application form for a permit, payment of the fee and on the production of evidence of identity and address together with two recent photographs of the applicant.

Add a Bye-Law: "A Performance Permit will not be granted to any person less than 14 years of age and the application form for a person under 18 years of age must be signed by that person's parent or guardian."
2. (a) The Permit granted will be valid for 1 year from the date of issue.
 - Amend Bye-Law 2(a) to read "A Street Performance Permit granted will be valid for 1 year from the date of issue **BUT** will be subject to a probationary period of 6 weeks during which period any breach of these Bye-Laws may result in revocation of the permit."

2. (b) The cost of A Street Performance Permit will be €30 per annum.
- Add a Bye-Law: "A Visitor Street Performance Permit granted will be valid for a period of 2 weeks from the date of issue. This permit may be renewed once only in a calendar year"
 - Add a Bye-Law: "The cost of a Visitor Street Performance Permit will be €10."
3. All Street Performers will require an additional permit if they wish to use amplification.
3. (a) The cost of a Permit to Use Amplification for a holder of a Street Performance Permit will be €60 per annum.
- Add a Bye-Law: "The cost of a Permit to Use Amplification for a holder of a Visitor Street Performance Permit will be €20 for the duration of the Visitor Street Performance Permit."
4. All permits granted pursuant to these Bye-Laws will contain a photograph of the Permit Holder and must be on display and clearly visible at all times during a performance in a public place. Permits may only be used by the performer named on the permit, and may not be used by, or transferred to, any other person.
4. (a) The Permit Holder must be present at all times during a performance.
- Delete Bye-Law 4(a) and replace with a Bye-Law: "Each and every member in a group engaging in a performance in a public place must hold a Performance Permit"
 - Add a Bye-Law: "Persons in groups using Amplification must have a Permit to Use Amplification for each amplifier if more than one amplifier is used."

Performance Times:

5. A Street Performer shall not perform in a public place after 11pm and before 9am on any day SAVE AND EXCEPT on pedestrianised streets where a person shall not perform before 11am.
- Amend Bye-Law 5: " A Street Performer shall not perform in a public place after 11 pm or before 9 am on any day SAVE AND EXCEPT on pedestrianised streets **to which delivery vehicles have access** where a person shall not perform **or set up to perform** before 11.00 am."
6. A Street Performer is only permitted to perform in a specific location for a maximum period of two hours in any day. After this two hour period he/she must re-locate to a different street not within 50 metres of his/her previous location.
- Amend Bye-Law 6: "A Street Performer is only permitted to perform in a specific location for a maximum of **TWO** hours SAVE AND EXCEPT in the locations specified in Bye-Law 6 (a). After this period he/she must re-locate to a different place not within 100 metres of his/her previous location and may not return **within 100 metres of any previous location** until the following day."
 - Add a Bye-Law: "A Street Performer is only permitted to perform on Grafton Street (exact description to be agreed) for a maximum period of **ONE** hour. After this period he/she must relocate to a different place not within 100 metres of his/her previous location and may not return **within 100 metres of any previous location** until the following day."
 - Add a Bye-Law: "The maximum performance periods set out in Bye-Laws **X** and **X(a)** shall include any time spent setting up before a performance and packing up afterwards."
 - Add a Bye-Law: "All performances must commence and end on the hour mark".
7. A Street Performer shall not "reserve" a location/area i.e. arrive prior to performance and wait.
- Amend Bye Law to read" A Street Performer shall not "reserve" a location/area **by occupying that location/area while not performing thereby preventing its use by another Street Performer."**

Add a section titled **“Special Restrictions – Grafton Street”**

- Add a Bye-Law: “Dance Acts, Circle Acts and large bands may not perform at any time on Grafton Street between the junction at Nassau Street/Suffolk Street and the junction at South King Street/St. Stephen’s Green.”
- Add a Bye-Law: “the performance area at South King Street/St. Stephens Green shall be reserved for use by Dance Acts, Circle Acts and large bands between the hours of 11.00am to 7.00pm”.

Instruments/Equipment/Properties:

8. A Street Performer who performs in a public place shall be solely responsible for his/her instruments, equipment and props and shall not leave them unattended in a public place and shall remove them from the public place at the end of his/her performance.
9. The sound produced in the immediate vicinity of a Street Performer or Street Performers during a performance shall not exceed 80 decibels, SAVE AND EXCEPT in Temple Bar, as shown highlighted on map index SM-2015-0084, where the sound produced in the immediate vicinity of a Street Performer or Street Performers during a performance shall not exceed 75 decibels.

- An amendment to Bye-Law 9 is necessary. Four options were put out to public consultation:

Option 1	A total ban on the use of amplification
Option 2	A ban on amplification at certain locations and/or at certain times
Option 3	Amend the existing Bye-Law of a sound limit of 80 decibels to include a set measurement distance and recording interval
Option 4	Introduce a revised sound limit of 100 decibels at a distance of one foot from the front of an amplifier.

(Option 4 has has been suggested by street performers on the basis that there is almost no ambient noise distorting the reading at such a distance and that the decibel level further away would be significantly lower.)

- Add Bye-Law: “The use of backing tracks is not permitted except in any circumstances.”

10. A Street Performer, Circle Act or Dance Act or group of street performers using potentially dangerous properties in a performance in a public place must hold public liability insurance of at least €6.4 million and indemnify Dublin City Council.
11. A Street Performer shall not connect to or maintain an electrical connection by way of a cord or wire to an adjacent building or to any mains power source.

- Add Bye-Law: “The use of generators is not permitted.”

Charges/Donations:

12. A Street Performer shall not charge Members of the Public a fee for a performance in a public place. Members of the public may however leave or give money to Street Performer.
13. A Street Performer shall not use any measures to solicit donations from the public other than a receptacle for receipt of donations.

Without prejudice to the generality of this bye-law such measures shall include: blocking or impeding the passage, going behind, ahead or alongside a person with the intent to solicit a donation or to intimidate, coerce or threaten, by word or gesture, a person into making a donation.

Obstructions:

14. A Street Performer shall not obstruct the public's access to and egress from any premises.
15. A Street Performer shall immediately cease performing if the crowd they have attracted is blocking a street.
16. A Street Performer shall not perform within 50 metres of another performer.
17. A Street Performer shall not perform in a public place within 3 metres of the outer edge of the entrance to any business or premises including, but not limited to: doors, vestibules, driveways, outdoor dining areas, entries, and emergency exits, during the hours that the business on the premises is open to the public or to persons having or conducting business in those premises.
17. (a) A Street Performer shall not perform in a public place within 3 metres of the outer edge of any residence at any time.
18. A Street Performer with instruments, equipment or props shall not block, obstruct or interfere with the free and safe movement of pedestrians.

Add a Section titled "Behaviour & Conduct"

- Add a Bye-Law: "A Street Performer must conduct themselves in a safe, professional manner and fully co-operate with other street performers, members of the public, persons authorised by the Council and An Garda Síochána
- Add a Bye-Law: "A Street Performer must not use lewd, offensive or racist language or conduct (including song lyrics) as part of his/her act.
- A Street Performer who plays music and sings songs must have a sufficient repertoire to play without repetition for at least 30 minutes.

Health and Safety:

19. A Street Performer shall at all times ensure that no aspect of his/her performance endangers the public safety in his/her use of the public place.

Amend Bye-Law to read: "A Street Performer shall at all times ensure that no aspect of his/her performance **endangers the safety of any member of the public.**"

Add a Bye-Law: "A Street Performer must keep the location he/she uses clean while performing and ensure that it is left in the condition that it was found."

Miscellaneous Provisions:

20. The Council may by Executive Order prohibit performances in a specific public place on a temporary basis in order to facilitate the construction, development, maintenance or repair of a public place or part thereof or for other infrastructural work thereon or such work on adjoining private property or for other operational reasons.
- Add a Bye-Law: "The Council's assessment as to what constitutes Street Performance for the purposes of these Bye-Laws shall be at its sole discretion and shall be final".
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Exemptions:

21. These Bye-Laws shall not apply to activities taking place in a public place that are organised by the Council or are activities that have received consent from the Council by way of event approval or have received a Public Event Licence under Part XVI of the Planning and Development Act 2000.
- Add a Bye-Law: "These Bye-Laws shall not apply to activities taking place which have received the permission of An Garda Síochána for a cash collection in a public place under the Charities Act 2009."
 - Add a Bye-Law: "The Council may grant on a case by case basis an exemption from these Bye-Laws to certain groups or individuals in instances where the nature of the activity constitutes performance as defined in these Bye-Laws but the collection of donations is for the purpose of fundraising."
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Fixed Payment Notice:

22. Where a Bye Law is contravened an authorised person or member of An Garda Síochána may serve a Fixed Payment Notice in respect of the contravention. The Notice shall specify the name and address of the alleged offender and in general terms the nature of the contravention alleged to have been committed; and the date and place of the alleged contravention. The Notice shall state that if the fixed payment of €75 is paid to the Council within a period of 28 days that no legal proceedings will be instituted against the person in respect of the alleged offence. The Notice shall contain a statement to the effect that the alleged offender is entitled to disregard the Notice and defend a prosecution of the alleged contravention in Court.

Move to new Section "Revocation and Refusals"

23. Any permit issued by the Council may be revoked in circumstances where the holder of the permit **contravenes or fails to observe these Bye-Laws on three or more occasions**, whether prosecuted or not for such contraventions; provided however written notice is given to the holder of the permit by the Council of the alleged breaches and is given an opportunity to reply before the permit is revoked.

The Council reserves the right to refuse to grant a permit at its discretion.

Without prejudice to the previous the Council may refuse to issue a permit in circumstances where the applicant for a permit has failed to observe these Bye-Laws whether prosecuted or not for such contraventions; provided however that an applicant is given written notice of alleged breaches and given an opportunity to respond prior to the taking of a decision to refuse to grant a permit in these circumstances.

Offences:

24. Any person who contravenes any of these Bye-Laws shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1500.
25. A person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred on an authorised person by the Act or a member of An Garda Síochána shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1500.
26. Where an authorised person or a member of An Garda Síochána is of the opinion that a person is committing or has committed an offence under either of the two preceding bye-laws the authorised person or member of An Garda Síochána may demand the name and address of such a person and if that demand is refused or the person gives a name and address which is false or misleading, that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1500.

27. Pursuant to Section 204 (3) (d) of the Act where a member of An Garda Síochána is of the opinion that a person is committing or has committed an offence under the preceding three bye-laws, that member may arrest the person without warrant.

Appeals:

28. Where Dublin City Council decides to refuse to grant a permit or revoke an existing permit the affected Street Performer may appeal that decision to the Administrative Officer in charge of the Dublin City Council's Licensing Section. If still dissatisfied after this appeal he/she can appeal to a Senior Executive Officer in the Culture, Recreation, Amenity and Community Department. No appeal beyond this will be accepted.
29. A person who has been served with a Fixed Payment Notice pursuant to these Bye-Laws may appeal a decision to serve the said Notice within 21 days of receiving the Notice to the Administrative Officer in charge of Dublin City Council's Licensing Section. A decision on the appeal will be notified within 21 days of receipt of appeal. Where the decision on appeal is to affirm the Fixed Payment Notice, the Council will allow a further period of 28 days for payment. No further appeal will be accepted.