

OFFICE OF THE BOARD OF SELECTMEN



TOWN OF ARLINGTON
MASSACHUSETTS 02476-4908

STREET PERFORMANCE PERMIT POLICY

APPROVED: 6/23/2014

By Town Meeting vote of April 30, 2014, the Town of Arlington confirmed its commitment to Arlington street performers as a public amenity that enhances the character of the Town as well as its commitment to regulations so as not to allow such performances to interfere with the reasonable expectations of Town residents and business owners. As such, consistent with Town of Arlington Bylaws Title III (Public and Private Ways), Article 1 (Public Ways), Section 18 (Street Performances), the Board of Selectmen hereby adopts the following regulations and processes for regulating and licensing street performers in Arlington:

A. Definitions

1. "Perform" – Includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading and reciting, puppetry, sidewalk art (working with non-permanent, water-soluble media, i.e., chalk, pastels, or watercolors directly on the pavement), conducted live and in person, but shall not include presentations of audio/visual reproductions of such activities or the production of items for sale.
2. "Performer" – An individual artist, member of an ensemble, or sponsor of a street fair or public festival, who has obtained a permit pursuant to these regulations and is responsible for compliance with all applicable provisions.
3. "Public areas" – Public ways in Arlington as defined by the Arlington Town Bylaws, including pedestrian areas.

B. Permit Required

No person may perform in a public area without a permit issued pursuant to Paragraph "C" of this policy, and all performers must abide by the regulations set forth in Paragraph "D" of this policy and all its subparts.

C. Permits

1. Issuance

A permit shall be issued by the Office of the Board of Selectmen to each applicant in exchange for a completed application and a reasonable administrative fee as determined by the Board of Selectmen.

2. Form of Application.

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. The applicant's signature shall constitute a certification that she or he has received, read, and understood the text of these regulations.

3. Term of Permit

A permit shall be valid from the date on which it is issued through the end of that calendar year.

4. Form of Permit

A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid.

5. Permits for Performing Groups

At least one member of a group of performers who play together shall be required to obtain a permit. Said individual shall serve as the responsible permit holder and must be present throughout the duration of any performance.

6. Distribution of Street Performance Regulations

Upon issuing a permit, the Board of Selectmen shall also give the performer a copy of these regulations.

7. Display of Permit

A performer shall clearly display his or her permit while performing, or have the permit on her or his person, and shall allow inspection of the permit by any police officer upon request.

D. Regulations on Performers and Performances

1. Performance Location and Hour Restrictions

a. Location Generally

Performances may take place in public areas except:

- Within one hundred (100) feet of an elementary and/or secondary school, library or religious facility while in session; or
- Within one hundred (100) feet of a medical facility at any time; or
- Within one hundred (100) feet of public areas from which all performances have been excluded by vote of the Board of Selectmen.

b. Prohibition on Locations Causing Undue Interference

A performer may not create an undue interference with the passage of the public through a public area.

Performers may not block roadways, sidewalks, crosswalks, driveways, stairways, curb cuts, handicapped access ramps or block access to buildings, parks, public conveyances, businesses, crosswalks, or traffic control poles containing pedestrian crosswalk button(s), and they must remain *at least*:

- ten (10) feet from any fire hydrant;
- five (5) feet from any fire alarm or other emergency communication device, including public telephones; and
- twenty (20) feet of property used for outdoor seating in accordance with a permit issued by the Board of Selectmen.

If a performer attracts a crowd sufficient to obstruct the public way, such performer shall request that the crowd eliminate the obstruction. If such efforts to eliminate the obstruction fail, a police officer may ask the performer to stop the performance until that part of the crowd that is creating the obstruction disperses. Performers are hereby noticed that a police officer may disperse the portion of the crowd that is creating the obstruction.

c. Exclusion of Public Areas

- (i) A specific public area may be excluded from performances in accordance with Constitutional standards by decision of the Board of Selectmen after a public hearing, notice of which shall be advertised once in a local newspaper no less than fourteen days prior to said hearing; or
- (ii) By decision of the Town Manager in the case of an emergency or extraordinary circumstance, including -- but not limited to -- declared snow emergencies or infrastructure repair and maintenance. Any holder of a permit who disputes the need for said emergency exclusion may appeal to the Board of Selectmen for review.

d. Performance Hours

Notwithstanding the further regulation of performances employing amplification devices (and Town bylaws regarding same) as set forth further below, performances may take place at the following times:

- Monday through Thursday: 9:00 a.m. to 9:00 p.m.
- Friday and Saturday: 9:00 a.m. to 10:00 p.m.
- Sunday: 12:00 noon to 9:00 p.m.

e. Amplification and Performance Hours

Use of amplification equipment shall not be permitted after 9 p.m., and in all cases sound levels shall not exceed the limits prescribed in Title V, Article 12, Section 4 of the Bylaws of the Town of Arlington.

f. Peace and Quiet

A performance in accordance with these regulations shall be presumed not to constitute a disturbance of reasonable expectations of peace or quiet.

g. Street Fairs and Public Festivals

Notwithstanding the foregoing, performances may take place in public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Proximity to Other Performers

No performer or group of performers may perform less than fifty feet from another performer or group of performers.

3. Solicitation and Sale of Merchandise

A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall 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 of their own work, in the form of records, cassettes, videotapes, compact discs, DVDs or instructions for download from web sites or digital music services. On sidewalks, displays must not obstruct handicap 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 20% of the width of the sidewalk from the property line of the premises in front of which the display is installed.

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. In public areas other than sidewalks, no such 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.

E. Penalties for Violation of Regulations

1. Non-Criminal Disposition

Any person in violation of any provision of the regulations set forth in this policy may be penalized by a non-criminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the enforcement authority shall be the police department, acting on behalf of the Board of Selectmen. The penalty for each violation will be twenty-five dollars (\$25.00).

2. Suspension of Permit

In addition to the aforementioned fines, the Board of Selectmen may suspend a permit for no more than thirty days if:

- a. a performer is found to have knowingly provided false information in the application; or

- b. a performer has received three non-criminal dispositions within one calendar year.

3. Revocation of Permit

- a. The Board of Selectmen may revoke a permit for the remainder of the calendar year if a performer has received five non-criminal dispositions during that calendar year.
- b. Before suspending or revoking a permit, the Board of Selectmen 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.

4. Restrictions on Future Permits

An individual permit applicant may not receive a new permit unless any and all tickets/fines from the previous year issued pursuant to these regulations have been paid in full.

F. Exclusivity

The provisions of these regulations take precedence over any other Town of Arlington regulations applicable to street performances. To the extent other regulations are applicable and are inconsistent with these regulations, these regulations shall govern. Nothing in these regulations shall be deemed to limit the use of other lawful methods to enforce applicable state statutes relative to street performances.

G. Severability

The provisions of the sections of these regulations are severable, and if any part of these regulations should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of these regulations and the remainder of these regulations shall stay in full force and effect.

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STREET PERFORMANCE PERMIT APPLICATION
(TO BE FILLED OUT BY PERFORMER)

APPLICANT INFORMATION AND PERFORMANCE HISTORY

Name of Applicant(s): _____

Stage or Group Name, if any: _____

Home Address: _____

City: _____ State: _____ Zip: _____

Home Phone Number: _____

Cell Phone Number: _____

E-mail Address: _____

Date of Birth: _____

Have you previously possessed a street performance, busking, or public music permit in any Massachusetts city or town?

- Yes No

If yes, please list all cities or towns in which you currently or previously held such a permit:

PERFORMANCE INFORMATION AND CERTIFICATION OF COMPLIANCE

Please identify the general nature of the performances you will conduct:

Music _____ Dance _____ Theatre _____ Visual Media _____ Variety _____ or
Other _____

Please provide a brief narrative description of your intended performance(s):

If you are a musician or intend to use music as part of your performance, please indicate:

Instruments played: _____

Number of amps used, if any: _____

Any other electronic source(s) of music such as portable music devices, speakers of any kind, etc.:

I hereby certify that I have read, and understand all rules and regulations regarding street performances in the Town of Arlington and will personally comply with such rules and regulations as well as ensure compliance by any performance group of which I am member.

Signature: _____

Printed name: _____

FOR OFFICE USE ONLY

Approved By: _____ Fee Paid: _____

Comments: _____
