

CITY OF SOMERVILLE  
ORDINANCE NO. 2013-\_\_\_\_  
In Board of Aldermen\_\_\_\_\_

AMENDING SECTIONS 8-121 THROUGH 8-128 AND SECTION 1-11(b) OF THE CODE OF ORDINANCES OF THE CITY OF SOMERVILLE

Be it ordained by the Board of Aldermen, in session assembled, that the Code of Ordinances of the City of Somerville is hereby amended by striking the provisions contained in Chapter 8, Sections 8-121 through 8-128 and replacing them with the following

Chapter 8 - STREET PERFORMERS

Section 8-121: Street Performers

The Board of Aldermen finds that the existence in the City of Somerville of street performers provides a public benefit 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 business without interruption. This section seeks to balance the interests of the performers with those of the residents and businesses of the City of Somerville.

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 exclusively for the enjoyment of the public.
2. "Public areas" means public sidewalks, paths, parks, playgrounds and other public ways and public property located in the City of Somerville.

B. Prohibited Performances.

1. No person shall perform where such person conducts the activity:
  - a. within one hundred feet of an elementary and/or secondary school, library, or place of worship while in session, a hospital or nursing home at any time, or within public areas excluded by the Commissioner of Public Works, or the Chief of Police pursuant to subsection C of this section; or
  - b. in public areas where an authorized street fair, festival, or other public event is being conducted, unless written permission from the sponsor of such fair or festival is obtained; or
  - c. between the hours of 10:00 p.m. and 7:00 a.m., unless otherwise permitted by the Commissioner of Public Works.
  - d. in such a manner as to violate the Somerville Noise Ordinance.
  - e. in such a manner as to create an undue interference with the passage of the public through a public area.

f. in such a manner as to block roadways, sidewalks, crosswalks, driveways, stairways, curb cuts, handicapped access ramps or block access to buildings, parks, public conveyances, businesses, crosswalks, traffic control poles containing pedestrian crosswalk button(s), or within ten feet of a fire hydrant or within five feet of any fire alarm or other emergency communication device, including public telephones.

g. within 20 feet of property used for outdoor seating in accordance with a permit issued under Somerville Code of Ordinances Section 12-14.

2. Nothing in this section shall prevent any street performer from requesting contributions or money or property at a performance, provided that no sign requesting contributions shall exceed twelve inches by eighteen inches in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.

3. No performer may display or sell any goods, wares or other merchandise, except for recordings of their own performances, without obtaining a Hawkers and Peddlers license pursuant to the ordinances at Chapter 8, Article IV.

#### C. Exclusion of Public Areas.

1. A specific public area may be excluded by decision of the Chief of Police in the case of an emergency.

2. A specific public area may be excluded by decision of the Commissioner of Public Works in the case of an emergency.

#### D. Penalties.

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. Each day of violation shall constitute a separate and distinct offense. The penalty for each violation will be as set forth in Section 1-11 of this Ordinance.

#### E. Exclusivity.

The provisions of this 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, this section shall govern. Nothing in this ordinance shall be deemed to limit the use of other lawful methods to enforce applicable state statutes relative to street performances.

#### F. Peace and Quiet.

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

#### G. Enforcement.

The provisions of this section may be enforced by the Police Department.

H. Severability.

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

Be it further ordained by the Board of Aldermen, that section 1-11(b) of the Code of Ordinances is hereby amended by adding the following:

| Offense           | Fine   | Enforcing Personnel |
|-------------------|--|---------------------|
| Street Performers | 1 <sup>st</sup> offense: \$100<br>2 <sup>nd</sup> offense: \$200<br>3 <sup>rd</sup> offense: \$300 | Police Department   |

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President  
Board of Aldermen