

KILKENNY CITY MUNICIPAL DISTRICT

STREET PERFORMANCE AND BUSKING BYE- LAWS 2020

The Members of Kilkenny City Municipal District in exercise of the powers conferred on them by the provisions of Part 19 of the Local Government Act 2001 “the Act”, as amended by the Local Government Reform Act, 2014 and in the interest of the common good and having consulted with an Garda Síochána and Members of the Public, hereby make the following Street Performance and Busking Bye-Laws for the Administrative and Functional Area of Kilkenny City Municipal District.

PART 1

(Preliminary & General)

Citation: 1. These Bye-Laws shall be cited as “Kilkenny City Municipal District Street Performance and Busking Bye- Laws 2020”.

Commencement: 2. These Bye-Laws shall come into force on the xxxxxx

Area of Application: 3. These Bye-Laws shall apply to the part of Kilkenny City Municipal District as outlined in red on Map - Schedule 1 attached hereto.

Interpretation: 4. In these Bye-Laws:

“the Act” means the Local Government Act 2001 as Amended by the Local Government Reform Act 2014

“**The Council**” means Kilkenny County Council.

“**Amplification**” means using an electronic device to create or increase the volume of a Musical Instrument or vocal performance

“**Authorised Person**” means any person employed by the Council or any other person Authorised by the Council to carry out functions under these Bye-Laws pursuant to and for the purposes of Section 204 of the Local Government Act, 2001 and shall include designated employees of Kilkenny County Council and members of An Garda Síochána.

“**Backing Track**” means an amplified audio recording that performers play or sing along to.

“**Circle Acts**” shall mean street performers that have a structured performance or routine that requires the reservation of a specific space and requires the audience to stop, watch and / or to participate. Such 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.

“**Perform**” means to engage in any type of public performance or exhibition with the reasonable expectation or opportunity of receiving donations, and includes the playing of musical instruments, singing, reciting, dancing, acting, juggling, magical tricks, Street Theatre, pavement art, sand sculpture, modelling, carving.

“Protected Street Scape” means any laneway off Dean Street, High Street, Kieran Street and Parliament Street in Kilkenny City as outlined in red on Map - Schedule 2 attached hereto.

“Public Place” includes any street, footpath, footway or road, Open Space, Public Park, Green Space being in the charge or ownership of Kilkenny County Council

“Street Performer” means a person who performs in a Public Place.

PART 2

STREET PERFORMERS & PERFORMANCE TIMES

5. A person under 18 years of age can only perform in circumstances where an adult is present for the duration of the performance.
6. A Street Performer shall not perform in a Public Place either before 10:00 a.m. or after 8:00 p.m. **SAVE AND EXCEPT** as to silent acts such as human statues, pavement artists, balloon modelers which body of performers shall be excluded from the time limits and proximity rules as long as using such pitches is wholly consistent to their particular art form provided for hereinafter
7. A Street Performer is only permitted to perform for a maximum of **4 hours** in a Public Place. A Street Performer shall not be entitled to charge a fee to members of the public, other than gifts or donations by the public to acknowledge their performance. Once the period of **4 hours** has lapsed the Street Performer must relocate to a different place not within 35 meters of the previous place.
8. A Street Performer shall not act, say, do or sing anything that is likely to cause alarm, distress or offence to any member of the public, any business owner or occupier, the Council, authorised persons and / or any member of An Garda Síochána.
9. A Street Performer shall not obstruct the public’s access to and egress from any premises and a Street Performer must immediately cease a performance in circumstance where a crowd have gathered thereby stopping the movement of pedestrians.
10. A Street Performer shall not reserve a location / area while not performing thereby preventing its use by another Street Performer.

RESTRICTIONS ON CIRCLE ACTS & AMPLIFICATION

11. (i) Amplification and Backing Tracks as defined in these Bye-Laws shall be prohibited in all areas **SAVE AND EXCEPT** as directed by the provisions of any derogation granted under these Bye-Laws
(ii) The use of drum kits is expressly prohibited on the Protected Street Scape **SAVE AND EXCEPT** as directed by the provisions of any derogation granted under these Bye-Laws
12. Circle Acts as defined in these Bye-Laws shall be prohibited from performing on the Protected Street Scape up to 18:00 hours daily **SAVE AND EXCEPT** as directed by the provisions of any derogation granted under these Bye-Laws.

DEROGATIONS

13. The Chief Executive may on application to him / her and by Executive Order and in consultation with Members of Kilkenny City Municipal District, in circumstances of a major event or festival issue a derogation from any provision of these Bye-Laws.

PART 3

FIXED CHARGE NOTICE & OFFENCES

14. Where a Bye-Law is contravened an Authorised Person may serve a fixed payment notice as provided for in Section 206 of the Act in respect of the contravention. The Notice shall be in the specified form as directed by the Council setting out the name, address, the general nature of the contravention alleged to have been committed, it's location and the date of the offence. The Notice shall state that if the fixed payment of €75 or €150 is paid to the Council within 28 or 56 days respectively, 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. For the purpose of these Bye- Laws the amount of the Fixed Charge Notice shall be €75.00 for a period of 28 days after the date of issue of the Fixed Charge Notice, then the amount increases to €150.00 for a further period of 28 days, failing payment within 56 days after the date of issue of the Fixed Charge Notice summary proceedings will be issued against the accused.
15. 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 €1,500.
16. 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 €1,500.
17. 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 byelaws 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.
18. 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.
19. 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 the date of the Fixed Charge Notice to the City Engineer in charge of Kilkenny City Municipal District. 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.

GIVEN under the Common Seal of

KILKENNY COUNTY COUNCIL

on the **xx** day **xxxxxx** of 2020

ELECTED MEMBER

CHIEF EXECUTIVE

DIRECTOR OF CORPORATE SERVICES

SCHEDULE 1: MAP

