



STREET PERFORMER / STREET ARTIST PERMIT APPLICATION

(Revised 12/16/2019)

CITY OF KEY WEST

PO Box 1409 (1300 White St.)

Key West, FL 33041

licensing@cityofkeywest-fl.gov

Type: _____ A - Performer _____ B - Artist
Name: _____
Address: _____
Email: _____

Date: _____
Phone #: _____
Zip Code: _____

Performer Description

(Check all that apply):

- Acting Pantomime
- Juggling Comedy
- Dancing Magic
- Acrobatics Puppetry
- Singing
- Musical Instrument: _____
- Animal: _____
- Other: _____

Art Description

Please write a short description:

Note: The license holder acknowledges that the acquisition of this city permit does not waive any concurrent federal, state, or county licensure requirements.

AFFIDAVIT:

By signing below, I swear or affirm that the art I intend to sell pursuant to section 6-2, City of Key West Municipal Code, is my own original creation.

By signing below, I certify that the above information is true, complete, and correct. I have received a copy of sections 6-1 through 6-25, City of Key West Municipal Code, and have read and agree to abide by the terms of the ordinances.

Signature: _____

NOTARY: State of _____, County of _____

The foregoing instrument was acknowledged before me on this ____ day of ____, 20____, by _____.

Notary signature: _____ ___ Produced ID ___ Personally known

REQUIRED ATTACHMENTS:

- Permit fee \$150.00
- Passport photo (1)
- Certificate of insurance in individual's name (\$300K / right-of-way clause / animals / City of KW)
- FL sales tax registration (Street Artists only)
- Copy of badge issued

OFFICE USE ONLY:

Permit # issued: _____
Expiration date: _____
Licensing rep: _____



STREET PERFORMER / STREET ARTIST PERMIT ADDENDUM

(Revised 12/16/2019)

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HOLD HARMLESS AGREEMENT

Applicant Name: _____

By signing below, the applicant for a Street Performer or Street Artists under sections 6-1 through 6-25, City of Key West Municipal Code, agrees to indemnify, hold harmless, and defend the City of Key West, its officers, agents, and employees against any and all claims, losses, and liabilities, including attorney fees, court costs, and expenses, caused by the conduct, misconduct, negligence, omission, or act of applicant, his or her agents, employees, or anyone acting on applicant's behalf, accruing, resulting from, or related to the subject matter of this application, for any and all claims, demands, or causes of action of any nature whatsoever resulting in injuries or damages sustained by any person or property. This indemnification provision shall survive the expiration or earlier termination of the permit obtained by the applicant.

Signature: _____ Date: _____

INSURANCE REQUIREMENTS

- 1) "Insured" must include legal name of vendor (individual), regardless of whether it indicates the name of a business.
- 2) Minimum of \$300,000 coverage for bodily injury and property damage respectively, per occurrence.
- 3) "Certificate Holder" must indicate "City of Key West, 1300 White St., Key West, FL 33040."
- 4) "Description of Operations" must indicate:
"Policy provides coverage for all claims and damage to property or bodily injury, including death, which may arise from street performances or art vending on city rights-of-way."

The following companies offer insurance applicable to street performers & street artists:

RJF Agencies Inc

7225 Northland Dr N #300
Minneapolis, MN 55428
(715) 246-8908

RLI Insurance Co

9025 N Lindbergh Dr
Peoria, IL 61615
(844) 249-2684

Insurance Canopy

Ross Graham
Affiliated Marketing & Licensed Agent
(801) 642-2410

www.insurancecanopy.com/vendor-insurance

FLORIDA SALES TAX REGISTRATION

(305) 470-5001

www.floridarevenue.com

ARTICLE I. - STREET PERFORMERS AND STREET ARTISTS

Sec. 6-1. - Definitions.

Art shall mean painting, sketching, photography, palm weaving, crafts and sculpture and other mediums that are established and recognized in the artistic community, including by professional institutions such as museums and art galleries.

Animal shall mean any living or nonliving warm or cold-blooded creature including, but not limited to: reptiles, amphibians, arachnids, birds, or mammals.

Artisan and Performer Corridor shall mean those portions of public sidewalk on Duval Street from Front Street to Petronia Street including all intersecting streets up to, but not including, Whitehead Street and Simonton Street, and the 1400 block of Duval Street; including that portion of South Beach pier up to the Emma Cates Memorial, as described in attached "Exhibit A" to Ord. No. 11-07 and Exhibit A1.

Duval Street Corridor Cultural District shall mean those portions of public sidewalk on Duval Street from Petronia Street to South Street including all portions of the concrete pier commonly referred to as the South Beach Pier from the Emma Cates Memorial to the Atlantic Ocean as depicted in the attached "Exhibit C1", including all intersecting streets up to, but not including, Whitehead Street and Simonton Street and incorporated as described in "Exhibit C" to Ord. No. 11-07.

Historic District shall mean all property located within the following zoning districts of Key West: HRO, HRCC-1, HRCC-2, HRCC-3, HRCC-4, HMDR, HHDR, HNC-1, HNC-2, HNC-3, HCT, HCL, HPS, HPS-1 and HPRD.

Street performance (or street performer) shall mean the following activities (or one who engages in them): acting, singing, playing a musical instrument, pantomime, juggling, magic, dancing, comedy, acrobatics, puppetry, joke telling, character impersonation and other similar types of public performance done for the purpose of public entertainment or amusement.

Vending of art (or art vendor) shall mean the following activities (or one who engages in it): the creation, display and/or sale of art that is created only by the permit holder. An art vendor shall not include a person who creates a work of art while in a public area, but has no intention to display for sale or sell the work of art in that area at any point in time.

Weapons shall mean any dirk, knife with a blade longer than two inches, scissors or shears with a blade longer than four inches, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, machete, axe, plastic gun or blunt-bladed table knife or other deadly weapon, excluding firearms which are governed by F.S. ch. 790, that is not otherwise regulated and approved by the Cultural Preservation Society for performances only at Mallory Square sunset celebration.

(Ord. No. 05-02, § 1, 1-4-2005; Ord. No. 11-07, § 1, 4-5-2011; Ord. No. 11-17, § 1, 10-18-2011; Ord. No. 12-28, § 1, 9-5-2012)

Sec. 6-2. - Permit required; application; appeal; fees.

(a) A permit system for street performers and street artists is hereby established. It shall be unlawful for any person to engage in any street performance or art vending on public property in the Historic District within the area defined in section 6-1 as the Artisan and Performer Corridor without first obtaining a permit as required by this article. This ordinance shall not apply to impromptu behavior by persons not holding themselves out as public performers.

(b) The city through its licensing division shall issue street performer permits (Permit "A") and art vending permits (Permit "B") for use in the area defined in section 6-1 as the Artisan and Performer Corridor. Each Permit "A" and "B" shall be effective for a period of one year from the date of issuance. Those permits which have not been paid for in full and picked up at the licensing department within 14 days of notification that the permit is ready shall be forfeited.

(c) The licensing division shall establish a standard application form for "A" and "B" permits. This application form shall include, but not be limited to:

(i) Name, address and telephone number of the applicant;

(ii) A photograph of the applicant;

(iii) A declaration under penalty of perjury that the applicant for a "B" permit shall vend art that is only of his or her own original creation;

(iv) A hold-harmless agreement releasing the city and its employees from all claims and actions arising out of the street performance or art vending on public property; and

(v) A description of the performance or the art.

All applications to the licensing division must be made in person by the applicant;

(vi) Permittee shall furnish and maintain public liability and property damage insurance providing coverage for all claims and damage to property or bodily injury, including death which may arise from street performances or art vending on city rights-of-way under this ordinance. Such insurance shall provide coverage of not less than \$300,000.00 for bodily injury and property damage respectively, per occurrence. The city shall be named as an additional insured. All policies required under this ordinance shall provide such policies may not be terminated or cancelled without 30 days' written notice sent via certified mail to the licensing official for the City of Key West. Performers are permitted to submit a group policy provided that the individual members possess coverage consistent with this section.

(vii) Applications for a Permit "B" shall also include a valid sales tax receipt issued by the State of Florida.

(d) A permit is nontransferable.

(e) A person whose permit application is denied for any reason may appeal to the circuit court.

(f) There shall be a limitation of five permits issued for palm weaving per year to be determined by lottery system established by the licensing department. All other requirements under chapter 110 for palm weavers must be complied with. Coconut fruits are expressly excluded from this permitting section.

(g) There shall be a fee of \$150.00 collected at the time of permit application for either Permit "A" or "B".

(Ord. No. 05-02, § 2, 1-4-2005; Ord. No. 06-03, § 1, 2-7-2006; Ord. No. 06-08, § 1, 4-4-2006; Ord. No. 08-05, § 1, 5-20-2008; Ord. No. 11-07, §§ 2, 10, 4-5-2011)

Sec. 6-3. - Locations.

(a) The following locations in the Historic District shall not be used by street performers or street artists permitted under this ordinance:

i. Mallory Square.

ii. Wall Street.

iii. In front of or abutting a federal, state or local government building.

iv. In front of or abutting a church, synagogue or other place of worship.

v. In front of or abutting a theatre.

vi. The Key West Bight Harborwalk.

vii. The Truman Waterfront property.

viii. The area commonly known as the Southernmost Point extending from the center of the intersection of South and Duval Streets westward to the Southernmost Point monument then continuing northward to center of the intersection of United and Whitehead Streets.

ix. The area defined in section 6-1 as the Duval Street Corridor Cultural District.

x. Whitehead Street from Front Street to Eaton Street.

xi. The area commonly known as Clinton Square including those portions of Whitehead, Greene and Front Streets.

(b) The use of a location on public property by a permit holder is on a daily, first-come, first-served basis. No permit holder shall make efforts to reserve a location; and each permit holder shall abandon a location at the end of his or her working day, including the removal of all personal property of the permit holder.

(c) The White Street Pier shall not be used by street performers or street artists.

(d) A license holder cannot establish themselves within 20 feet of the closest intersection or within ten feet of another permit holder. Street performers may combine performances subject to the limitation as set forth in subsection 6-4(k).

(e) A permit holder within this article shall establish themselves in an area that is at least five feet from the adjacent property line and at least 12 inches from the adjacent street curb as described in attached "Exhibit B" to Ord. No. 11-07.

(Ord. No. 05-02, § 3, 1-4-2005; Ord. No. 11-07, § 3, 4-5-2011)

Sec. 6-4. - Permit regulations; prohibitions.

- (a) Throughout the period of time the permit holder is located on public property and engaged in performance or vending art, he or she shall maintain the permitted area, within a radius of ten feet, free of trash and debris and deposit the trash and debris in proper receptacles.
- (b) A performer or art vendor shall not create noise that violates the Key West sound control ordinance set forth in chapter 26 of the Code of Ordinances.
- (c) A performer or art vendor shall not create an undue interference with the passage of the public through a public area. If a performer or vendor attracts a crowd sufficient to obstruct the public way, a police or code enforcement officer may disperse the crowd that is creating the obstruction. The officer may ask the performer or vendor temporarily to suspend a performance or vending activity or to leave the location when such action is necessary to protect the public safety or public order.
- (d) A performer may request donations of money or property at a performance. Art vendors holding a Permit "B" shall present a valid State of Florida sales tax receipt at the time of application. Art vendors may offer for sale their own original art (or a reproduction thereof so long as it is identified as a reproduction), provided that the display of the art is contained in an area within the immediate reach of the art vendor.
- (e) No performer or art vendor shall create a fire hazard or use fire or a weapon as defined in section 6-1 in a performance or creation of art or crafts.
- (f) No performer or art vendor shall engage in the application of tattoos or body piercing.
- (g) No performer or art vendor shall include obscenity in a performance or vending activity.
- (h) No performer or art vendor shall engage in harassment or coercion of passersby.
- (i) Spray painting shall be permitted, so long as the artist provides ground cover, a wind screen, and confines the spray painting to an area not greater than five feet by five feet; and otherwise ensures that the spray paint shall not damage or implicate property not involved in the subject art.
- (j) No food or drink, whether made by a permit holder or otherwise, shall be permitted to be displayed or offered for sale.
- (k) No tables, lounge chairs, push carts or mobile display racks, including all accoutrements, shall be placed on public property other than one display that is no larger than six feet high, four feet wide and four feet deep including all attachments for either Permit "A" or Permit "B" holders. One small chair or stool shall be allowed; a portrait artist may provide a folding chair for the customer which shall be stored when not in use. Permit holders shall not occupy an area larger than 25 square feet.
- (l) No performer or art vendor shall block access to an entrance to a building, bicycle rack, or to a trash receptacle.
- (m) No performer or art vendor shall interfere with a motorist, either regarding the passage of a vehicle or the sight of its driver.
- (n) A permit holder shall not engage in fraudulent practices or solicitations, including, but not limited to, misrepresentation about any sale or solicitation, misrepresentation about the nature and type of any organization with which the permit holder is associated, misrepresentation or concealment of any material fact in the application process, or misrepresentation regarding any art being vended.
- (o) No performer or art vendor shall engage in off-premises canvassing as set forth in chapter 18 of the Code of Ordinances; provided, however that an art vendor may distribute a catalogue of his or her work.
- (p) No performer or art vendor shall connect to electric outlets or power sources owned by the city or on private property, and must provide his or her own safe power sources, if any are required. Extension cords that traverse the city right-of-way are prohibited.
- (q) Permit "A" holders are permitted to have one animal as part of their performance. Such animal is limited to a domesticated dog, domesticated cat, a bird with a wingspan no larger than 36 inches or tortoise with a shell no longer than 36 inches.
- (r) Persons operating under Permit "B" shall not engage in performances of any kind, except for the creation of an original work of art.

(s) The licensing division may promulgate administrative rules to effectuate this section.

(t) No permit holder may actually or constructively possess any alcoholic beverages, nor be under the influence of same while conducting their business or performance.

(u) Palm fronds used by a permit holder shall be limited in length to three feet.

(v) Any permit holder who is a minor as defined in subsection 42-12(a) of the Code of Ordinances for the City of Key West shall abide by the provisions of subsection 42-12(b) and shall have a parent or legal guardian with them at all times while performing any activity under this chapter.

(w) Amplification in any form is prohibited.

(Ord. No. 05-02, § 4, 1-4-2005; Ord. No. 05-20, § 1, 8-2-2005; Ord. No. 11-07, § 4, 4-5-2011)

Sec. 6-5. - Display of permits, prices.

(a) Permits "A" and "B," as applicable, shall be displayed at the performance or art vending location at all times. The permit must contain a photograph of the permit holder. The permit shall be clearly visible.

(b) Holders of permit "B" who are vending art shall display the sales price for each work of art for sale. The sales price either may be affixed to the work of art or be on a temporary sign whose dimensions shall not exceed 8½ by 11 inches.

(Ord. No. 05-02, § 5, 1-4-2005; Ord. No. 06-03, § 2, 2-7-2006)

Sec. 6-6. - Events.

(a) If in the opinion of the city manager, a special event or major festival approved by the city commission will cause extraordinary sidewalk congestion, then the city manager may suspend permits issued under this article during the period of the festival. The city manager may contract with a sponsor of a special event to allow additional street performers and art vendors in the public right-of-way during the special event.

(b) Nothing in this article is intended to govern the "Sunset Celebration" at Mallory Square, sponsored by the Cultural Preservation Society.

(Ord. No. 05-02, § 6, 1-4-2005)

Sec. 6-7. - Revocation of permit.

(a) A permit obtained through fraud or through material misrepresentation on the permit holder's application is deemed void ab initio. The city manager shall revoke the permit. Prior to revocation, the city manager or his designee shall provide the permit holder notice and an informal opportunity to be heard on the decision to revoke.

(b) If a permit holder is found by the code enforcement special master or the county court to have violated the regulations set forth in this article two times within a three-year period, then the city manager may revoke the permit. Permits whose insurance is cancelled prior to the expiration of the insurance policy will be subject to revocation. Prior to revocation, the city manager or his designee shall provide the permit holder notice and an informal opportunity to be heard on the decision to revoke.

(c) Any revocation of a permit under subsections (a) or (b) shall be for the duration of the current permitting period and for the next subsequent permitting period.

(d) The decision of the city manager or his designee, special magistrate or county court judge to revoke a permit, or any disciplinary action or fine under this section shall be provided in writing to the permit holder. The revocation decision shall constitute final administrative agency action and shall be appealable directly to circuit court.

(Ord. No. 05-02, § 7, 1-4-2005; Ord. No. 11-07, § 5, 4-5-2011)

Sec. 6-8. - Reserved.

Editor's note— Section 6 of Ord. No. 11-07, adopted April 5, 2011, deleted § 6-8, which pertained to fees for street performers or artists, and derived from Ord. No. 05-02, adopted Jan. 4, 2005. See § 6-2 for similar provisions.

Sec. 6-9. - Penalty.

(a) A person charged with violating sections 6-1 through and including 6-8 hereof shall be subject to prosecution and fine under the civil citation procedures of sections 2-676 through 2-680, or section 1-15 of the Key West Code of Ordinances or brought before the special magistrate under F.S. ch. 162.

(b) A street performer or street artist who is located in whole or in part on private property without the consent of the private property owner is subject to prosecution for trespass, F.S. ch. 810.

(Ord. No. 05-02, § 9, 1-4-2005; Ord. No. 05-20, § 2, 8-2-2005; Ord. No. 11-07, § 7, 4-5-2011)

Secs. 6-10—6-25. - Reserved.