

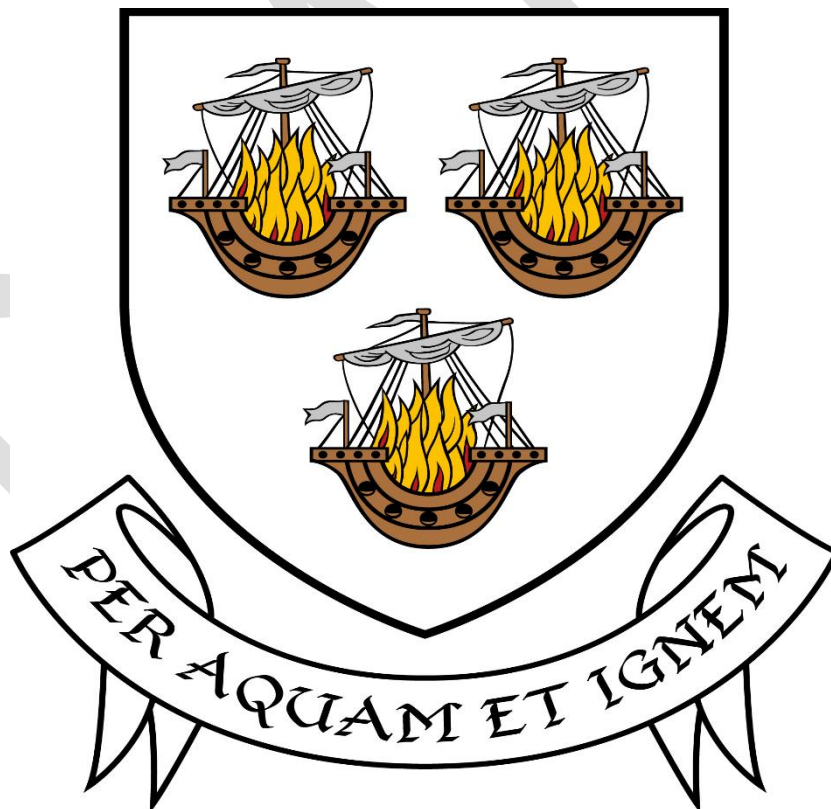
BOROUGH DISTRICT OF WEXFORD

STREET PERFORMANCE

BYE-LAWS 2024

(WEXFORD BOROUGH DISTRICT)

DRAFT



The Members of the Borough District of Wexford (hereinafter referred to as “The Borough District”) in exercise of the powers conferred on them by Section 199 of the Local Government Act, 2001, “the Act” as amended by the Local Government Reform Act, 2014, hereby make the following Street Performance Bye-Laws in relation to the Control of Street Performers, Busking and Amplification in the administrative area of Wexford Borough District.

PRELIMINARY:

Short Title: These bye-laws may be cited as the Street Performance Bye-Laws 2024

Area of Application: These bye-laws apply to the administrative area of Wexford Borough District.

Commencement Date: These bye-laws shall come into effect on the [] day of [] 2024.

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 as amended.

The Borough District Means Wexford Borough District

Amplification Means using an electronic device to create or increase the volume of a musical instrument/s, radio or human voice.

Authorised Person Means a “authorised person” within the meaning of Section 204 of the Local Government Act, 2001, as amended or a member of An Garda Síochána.

Backing Track Means an amplified audio recording that performers play or sing along to.

Circle Acts Means street performers that have a structured performance or routine that requires the audience to stop, watch and/or participate. Performances may incorporate, but not limited to, 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.

Dangerous Substances 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.

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 exhibition not specifically listed but which would be similar in character and the words Performance and to Perform shall be construed accordingly.

Public Place

Means any street, road, footpath, open space, beach, public park, green space and amenity areas and such like places in the charge or ownership of Wexford County Council/Wexford Borough District or to which the public have access as a right.

Schedule

Schedule 1 – Fixed Payment Notice. Applicable fees and fines set out in this Schedule may be amended from time to time by Wexford County Council by simple Resolution.

Street Performer

Means a person who performs in a public place.

GENERAL

Street Performers

1. A person under 18 years of age can only perform in circumstances where an adult is present for the duration of the performance.
2. A Street Performer shall only perform in a public place between the hours of 10:00a.m and 7.00 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 hereinafter.
3. A Street Performer is only permitted to perform at a specific location for a maximum of 2 hours in any one day. After this 2-hour period they must relocate to a different location not within 25 meters of their previous location.
4. A Street Performer shall not reserve a location/area while not performing thereby preventing its use by another Street Performer.

5. A Street Performer who plays music and sings songs must have a sufficient repertoire to avoid constant repetition.

Instrument/Equipment/Substances:

6. A Street Performer who performs in a public place shall be solely responsible for their 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 their performance.
7. The sound produced in the immediate vicinity of a Street Performer or Street Performers shall not exceed 65 dB(A) (decibels). This by-law is without prejudice to the bye-law herein prohibiting Amplification and Backing Tracks.
8. A Street Performer must conduct themselves in a safe, professional manner, fully cooperate with other street performers, members of the public, persons authorised by the Council, the Borough District and An Garda Síochána.
9. 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.
10. A Street Performer must keep the location they use clean while performing and ensure that it is left in the condition it was found.
11. A Street Performer, Circle Act or Dance Act or group of street performers using potentially dangerous substances in a performance in a public place must hold public liability insurance of a minimum of €6.5 million with a specific indemnity to Wexford County Council. The use of petrol or diesel generators is not permitted.
12. The Borough District'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.

Charges:

13. 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 2 hour has lapsed the Street Performer must relocated to a difference place not within 25 meters of the previous place.
14. 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 bye-law 14, measures shall include blocking or impeding the passage, going behind, ahead or alongside a person with the intent to solicit a donation or to intimate, coerce or threaten, by word or gesture, a person into making a donation.

Obstructions:

15. 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 or otherwise blocking a street and/or public place.
16. A Street Performer with instruments, equipment or props shall not block, obstruct or interfere with the free and safe movements of pedestrians.
17. A Street Performer shall not perform within 25 meters of another performer.
18. A Street Performer shall at all times ensure that no aspect of their performance endangers public safety in their use of the public space.
19. The Borough District may prohibit performances in a specific public place on a temporary basis by Executive Order in order to facilitate the construction, development, maintenance or repair of a public place or part thereof for other infrastructural work thereon or such work on adjoining private property or for any other operational reasons.

Restrictions on Amplification & Drum Kits

20. 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.
21. The use of drum kits is expressly prohibited **SAVE AND EXCEPT** as directed by the provisions of any derogation granted under these bye-laws.
22. Where any person or persons contravenes bye-laws 20 and 21 an authorised person or a member of An Garda Siochana shall be entitled to seize and impound any device (electronic or otherwise or of whatsoever nature) being used for the purposes of Amplification or drum kits for such period of time as may be reasonably necessary and the person so contravening these bye-laws shall bear the cost associated with such seizure or impounding as a condition of their return.
23. It shall constitute an offence under these bye-laws for any person who owns, manages, controls any premises to play or permit to be played or operated, within the administrative area of the Council any device (electronic or otherwise or of whatsoever nature) which amplifies sound on or in such premises, when such premises is being used as a place of business to which the public is generally invited, and when such sound disturbs the peace or is otherwise offensive to the public or to the occupants of any other premises in its vicinity.
24. It shall constitute an offence under these bye-laws for any person operating or controlling a mechanically propelled vehicle in either a public or private place within the administrative area of the Council to operate any device (electronic or otherwise or of

whatsoever nature) which amplifies sound in such a manner that, when operated, it is audible at a distance of 50 feet or, when operated, causes a person to be aware of the vibration accompanying the sound at a distance of 50 feet from the source or which otherwise disturbs the peace or is otherwise offensive to the public. This bye-law shall not apply to authorised emergency vehicles or horns or other warning devices,

EXEMPTIONS, OFFENCES & NOTICES, FIXED PAYMENT NOTICES

Exemptions:

25. These bye-laws shall not apply to activities taking place in a public place that are organised by Wexford County Council or The Borough District or are activities that have received formal consent subject to conditions (if applicable)
26. The Borough District may grant on a case-by-case basis an exemption or derogation 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.
27. 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.
28. Amplification of sound by employees of the Council while engaged in their official business.
29. 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 €2,500.
30. A person who obstructs or impedes or refuses to comply with a request of an Authorised Person acting in the exercise of the function conferred on an authorised person by the Act or a member of An Garda Síochána shall be liable on summary conviction, a fee not exceeding €2,500.
31. 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 these 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 €2,500.
32. Pursuant to Section 204(3)(d) of the Act where a member of An Garda Síochána is of the opinion that person is committing or has committed an offence under these bye-laws, that member may arrest the person without warrant.

Fixed Payment Notice:

33. Where a bye-law is contravened an authorised person or a member of An Garda Síochána may serve a Fixed Payment Notice in respect of the contravention.
34. The Notice shall specify the name and address of the alleged offence and in general terms the nature of the contravention alleged to have been committed and the date and place of the alleged contravention.
35. 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 the prosecution of the alleged contravention in Court.
36. 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 Administrative Officer in charge of Wexford Borough 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.

MADE AND ADOPTED UNDER THE COMMON SEAL OF WEXFORD COUNTY
COUNCIL THIS DAY OF 2024.

**PRESENT WHEN THE SEAL OF WEXFORD COUNTY COUNCIL
WAS AFFIXED HERETO: -**

CHIEF EXECUTIVE

COUNTY SECRETARY

COUNTY COUNCILLOR



Schedule 1

**FIXED PAYMENT NOTICE
(Section 206 Local Government Act 2001)**

**Wexford Borough District,
Borough District Offices,
61 The Bullring,
Wexford.
Y35 EA00**

Name: _____

Address: _____

It is alleged that you have contravened the provisions of a bye-law made under Part 19 of the Local Government Act, 2001 entitled..... by (in general terms specify nature of contravention) aton.....

During the period of 21 days beginning on the date of this notice, you may pay the sum of €..., producing/attaching this notice at the offices of Wexford Borough District, Borough Offices located at 61 The Bullring, Wexford.

A prosecution in respect of the alleged contravention will not be instituted during the said period and if the sum of €... is paid during that period, no prosecution will be instituted at any time.

Signed: _____ Date: _____
(Authorised Person)

N.B. Payment will be accepted at the Borough District Offices, 61 The Bullring, Wexford and must be accompanied by this notice. Payment may be made by cash, cheque, debit/credit card. A receipt will be issued.