



VOLUNTARY BEST PRACTICES GUIDELINES

Street performers, also known as buskers, make a valuable contribution to our vibrant urban fabric. We want to encourage street performances while respecting the reasonable expectations of the greater public to enjoy peace and quiet in their homes and the ability of businesses to conduct commerce. These voluntary guidelines seek to balance the interests of performers with those of residents, visitors and businesses. A respectful environment will create more opportunities for local street performers and make the region a welcoming destination for traveling artists.

Following a court challenge, the City of St. Louis repealed its overly broad street performer ordinance in October 2013. Elsewhere in the region, other municipalities have not adopted street performer ordinances. So, street performers are free to perform in any public location, although they are subject to other regulations prohibiting disturbing the peace, obstruction of public passageways, aggressive panhandling and intrusive noise.

Drafted by an interested group of participating street performers in collaboration with the St. Louis Volunteer Lawyers and Accountants for the Arts (VLAA) and the American Civil Liberties Union of Missouri (ACLU), this consensus document is based on the belief that street performers are largely self-regulating. Our common sense “time, place and manner” guidelines are not intended to prohibit or hinder artistic expression, which is protected by the First Amendment. The goal is to ensure that public areas remain safe and useful for their primary purposes while asserting the rights of street performers and other artists.

Street performers who want to follow these voluntary guidelines can obtain a free annual St. Louis Street Performers United badge by registering with St. Louis Volunteer Lawyers and Accountants for the Arts. Send your name, mailing address and email address to vlaa@stlrac.org.

You are encouraged to carry “Know Your Rights” and these guidelines to share with all parties should a dispute arise.

These guidelines will be posted on VLAA’s website and distributed to the St. Louis City’s mayor, board of aldermen, city attorney, street, police, fire and parks departments, Forest Park cultural institutions, sports stadiums, Better Business Bureau, Central West End Business Association, Downtown St. Louis, Convention and Visitors Commission, Regional Arts Commission and Metro. The guidelines will also be sent the University City mayor, city manager, police chief, chamber of commerce and Loop Special Business District.

Who are street performers?

Street performers entertain in public areas with music, singing, juggling, dancing, reciting, acting, puppetry, magic, fortune telling, mime, fire eating, sword swallowing, snake charming, creating sidewalk art and more. Street performers do not charge for their performance but they generally accept tips.

Do street performers need to audition?

Street performers are absolutely not required to audition with the City of St. Louis Street Department.

Do street performers need a license?

With the repeal of the city's ordinance, the need for a license was eliminated. To our knowledge, no other municipality in the bi-state region has a license or permit requirement.

How about selling CDs?

Generally, artists are considered "First Amendment" vendors. They are allowed to sell their artistic works, such as CDs, DVDs and caricatures.

What are public areas?

A "Public area" means and includes any public sidewalk, alley, path, park, playground or public right of way or easement located in any nonresidential dwelling district. These areas are known as "traditional public forums." Unfortunately, the exact line between city sidewalks and other "public areas" and the adjacent private property can be unclear, which may lead to conflicts.

There are special public areas in St. Louis that merit further explanation:

Arch Grounds

The Gateway Arch is a national park, so its grounds are Federal property. Street performers wishing to perform at the Arch should be aware of the National Park Service's permit procedures. More info: (314) 655-1600 or visit www.nps.gov/jeff/planyourvisit/permits.htm.

Busch Stadium

The Cardinals organization says it controls the sidewalks surrounding the ballpark as well as Clark Avenue (between 8th Street and Broadway, just north of the stadium) on game days. More accurately, the organization controls the private property immediately adjacent to the ballpark. In addition, the downtown vending ordinance requires vendors (but not street performers) to obtain permits. Performance areas recommended by the Cardinals include south of the stadium near Paddy O's sports bar on 7th Street, and along 8th Street across from the ballpark. For more information, call Mike Ball, director of stadium operations/guest services, (314) 345-9311.

Citygarden

Built on land owned by the City of St. Louis, Citygarden is operated by the Gateway Foundation.

Forest Park Cultural Institutions

The Saint Louis Zoo and the other cultural institutions located within Forest Park control their footprints, as designated by their leases with the city. Generally, sidewalks are “public areas.” But the patios leading up to the Zoo entrances are Zoo property. Be aware that balloons are not allowed on Zoo grounds because they present a potential choking hazard to the animals and that park rangers may discourage balloon twisting elsewhere in the park.

Kiener Plaza

Often used for special events, Kiener Plaza is part of the City’s park system.

Lambert International Airport

Although it seems reasonable to assume that public premises owned and operated by the government are public forums, some are not. In 1992, the U.S. Supreme Court ruled that airport terminals are non-public forums, so performing without permission is not allowed.

MetroLink Light Rail System

MetroLink’s platforms and stations are under the jurisdiction of the Bi-State Development Agency (Metro). While Metro does not have a specific policy governing street performance, anyone standing on a platform or riding a train is required to have a valid ticket, and security officers will ask people who are not using the property for the purpose of accessing transit to leave. Metro’s policies prohibit solicitation of funds or the sale of products on agency property. During the holiday season, Metro and the St. Louis Convention and Visitors Commission do sponsor live performances on designated station platforms and on certain trains. For more information: (314) 982-1400 or marketing@metrostlouis.org.

St. Louis America's Center & Edward Jones Dome

The St. Louis Convention & Visitors Commission, a quasi-government entity, says it controls the area surrounding the America’s Center complex. More accurately, the downtown vending ordinance requires, street vendors (but not street performers) to obtain permits.

Scottrade Center/Peabody Opera House

The complex is owned by the St. Louis Blues ownership group. When games or events are held, the center says it controls the sidewalks immediately surrounding its buildings. More accurately, under the downtown vending ordinance that also governs the ballpark and the dome, street vendors (but not street performers) must obtain permits. The performance spaces recommended by the facility’s management are across the street (14th and Clark Streets), near the Civic Center MetroLink station.

Soulard Farmers Market

The market and the adjacent park are owned by the City of St. Louis. Vendors must obtain licenses.

Tower Grove Park

Although Tower Grove Park is governed by a special Board of Commissioners appointed by the Missouri Supreme Court, it is owned by the City of St. Louis.

What common sense guidelines should street performers take into consideration?

Street performers should take both the greater surroundings and the specific location into account when they are planning to perform. Complaints typically concern blocking access, intrusive noise, late hours and length of stay. Below are some suggestions for keeping the urban environment livable for everyone, avoiding the need for legislation or police intervention and sharing sonic space.

- **Recommended Performance Hours**
 - 10:00 a.m. to 9:00 p.m. on Sundays through Thursdays
 - 10:00 a.m. to 10:00 p.m. on Fridays and Saturdays
 - In certain commercial locations with late closing bars, performing after 10:00 p.m. may be conducive to the environment.
- **Recommended Performance Areas**
 - Street performers are encouraged to respect quiet zones by not performing near schools and churches while in session or hospitals at any time.
 - Street performers should not perform in public areas where an authorized street festival, parade, or other special event is being held without the permission of the event sponsor.
 - Performers should not block the passage of pedestrians through a public area or perform on the public way that obstructs access to private property, except with the prior consent of the owner or manager of the property.
 - Street performers should not perform on any sidewalk or other location as to impede the free passage of vehicles or pedestrians, obstruct the entrance to or exit from private property, jeopardize the public safety, or otherwise inconvenience the public.
 - Street performers should make their best effort to respect the ambience of restaurants offering outdoor seating.
 - Street performers should not overpower performers who are hired by restaurants or other businesses.
 - Performers also are encouraged to be aware that, in some mixed-use neighborhoods, public areas may be directly adjacent to residential districts or offices.
- **Interacting with the Public and Other Street Performers**
 - Performers should attempt to space themselves at a minimum of 50 feet apart.
 - Performers should be mindful of the comfort and safety of others.
 - Performers should do their best to respect the wishes of nearby residents and visitors, especially when it comes to volume.
 - Performers are allowed to accept tips but should refrain from soliciting in a forceful manner. If a police officer determines that your performance is not in the spirit of entertainment but rather calculated to provoke a breach of the peace, you could be charged with aggressive begging or disturbing the peace.

What's too loud?

Complaints about high sound levels come from residents, retailers, restaurant and bar owners, office workers and even other musicians. While there is little agreement on an exact threshold of “too loud,”

most agree that uncooperative performers who exceed the highly subjective criteria also cause problems for responsible street performers.

Sonic footprints vary greatly by instrumentation, size of group and types of portable amplification used. Noise ordinances, often written in highly technical terms; street performer ordinances adopted by other cities; court decisions and recommendations from acoustic experts can provide some guidance regarding what constitutes intrusive noise:

- Sound levels should not exceed a median sound level of 80 decibels measured at a distance of 25 feet away. You can download a free decibel meter mobile app.
- Performers should not generate sound that is louder than an average conversational level at a distance of 100 feet or more, measured either horizontally or vertically from the point of generation. (Average conversational level means a level as which normal, un-amplified speech is clearly audible above the ambient noise level.)
- Drums should be inaudible at a distance of 150 feet.
- Performers may use amplification as long as accepted sound levels are not exceeded.
- Although amplified free speech is considered constitutionally protected, it may be subject to content-free restrictions on location and time of day.
- There is higher tolerance for volume when the length of stay in a given location is limited.
- Using common sense and being responsive to complaints can foster a street performer-friendly environment.

Special Safety Concerns

Performers are encouraged to use common sense precautions when using sharp or potentially dangerous objects, including juggling knives, hatches, chainsaws, or flaming objects. For performances using fire, experienced jugglers recommend these precautions: There should be a 25-foot buffer maintained between the performer, the audience and any combustible material. There should be at least two safety spotters at all times, each with a fire suppression blanket. Performers should not wear clothing made of synthetic materials. There should be at least one five-gallon bucket of sand and one fire extinguisher on scene at all times. You should be aware that Ordinance 6900, which adopted the International Fire Code/2009 Edition as the fire code of the City of St. Louis, includes many safety-related provisions and that permits may be required. For more information, call the Fire Department's Bureau of Fire Prevention (314) 289-1960.

Insurance

Wisconsin-based Specialty Insurance Agency offers a performance a policy designed for individuals who entertain in public. The policy provides protection against bodily injury or property damage to a spectator during your performance. For more information, call (715) 246-8908 or visit the company's website: www.specialtyinsuranceagency.com/performer-insurance.html

What should you do if a dispute arises?

The key is that everyone behaves reasonably and respectfully. Talking in a pleasant way may be all that is needed to work out a mutually acceptable solution. If police officers or park rangers get involved, they should try to resolve disputes without issuing a ticket, arresting anyone or making threats. If you feel that police officers or park rangers are treating you unfairly, take down names and badge numbers. Also, ask

bystanders to be your witnesses and write down their names and phone numbers. Remember to take note of the date, time and exact location of the incident.

The ACLU's new Mobile Justice app (Android with an iPhone version coming soon) was created to empower individuals to hold Missouri law enforcement agencies accountable for their actions. Among other features, the free app allows users to capture exchanges between police officers and themselves or other community members in audio and video files that are automatically emailed to the ACLU. For more information, visit www.aclu-mo.org/mobile-justice.

Who should you call for legal assistance?

St. Louis Volunteer Lawyers and Accountants for the Arts (314) 863-6930

American Civil Liberties Union of Missouri (314) 652-3111

VLAA also can provide neutral mediators to help find common ground between street performers and complainants.

STREET PERFORMANCE IN ST. LOUIS BACKGROUND

Street performers in St. Louis have a long and proud history. But their constitutional rights came into question in 2013. Thanks to legal action taken by the American Civil Liberties Union of Missouri (ACLU) on behalf of two performer plaintiffs, street performers are free to perform in St. Louis without the burden of overly broad regulations or the obligation to purchase annual permits.

The first city ordinance regulating street performers was adopted in 1997. The initial ordinance and subsequent revisions restricted performances in several city wards and redevelopment areas.

In 2012, following numerous complaints about a drum line that was performing in several locations, the cost of an annual permit was raised from \$25 to \$100. In addition, some street performers seeking permits were required to “audition” for Street Department staff. Several performers thought the fee increase was excessive and that the audition requirement violated their First Amendment rights. In May 2013, with the assistance of the ACLU, two musicians filed suit against the ordinance in Federal Court.

The case, *Pence v. City of St. Louis*, was argued at the preliminary pleading stage in July 2013. Judge Catherine D. Perry granted the performers a preliminary injunction to stop the city from enforcing the ordinance while the litigation continued. The injunction indicated that the judge believed the performers had a likelihood of succeeding on the merits of their case. Rather than pursue further legal action, the Board of Aldermen repealed the ordinance in October 2013.

Meanwhile, St. Louis Volunteer Lawyers and Accountants for the Arts (VLAA) and the ACLU co-hosted an open meeting of area street performers on September 9, 2013. An informal street performer task force reviewed a draft of a best practices guide on March 26, 2014. The task force also recommended adoption of the St. Louis Street Performers United name and creation of a Facebook page, logo (designed by Aaron Newton), identification badges and a “Know your Rights” document. During an open meeting held on May 14, 2014, performers approved the “Know Your Rights” document and the best practices guidelines (following the addition of information about popular performance sites).

To encourage further discussion and to update this guide, VLAA and the ACLU will co-host an annual St. Louis Street Performers United meeting.