

The Corporation of the City of Kenora

By-law Number 66 - 2015

A By-law to Regulate Buskers in the City of Kenora

Whereas it is deemed expedient to exercise the powers conferred on Council by the Municipal Act, 2001, S.O. 2001, c. 25; and

Whereas buskers can enhance the vibrancy of a City but can cause a concern to businesses and property owners if they set up in inappropriate places or create disturbances; and

Whereas street performances by buskers can interfere with pedestrian and vehicular traffic and diminish public safety if inappropriately set up or located; and

Whereas Council wishes to permit performances in the City by buskers but under conditions that do not make pedestrian and vehicular traffic unsafe and which minimize the potential for conflict and nuisance to the public and other people living and working in areas where buskers perform;

Now Therefore the Council of the Corporation of the City of Kenora enacts as follows:-

Interpretation

1. In this bylaw, unless the context otherwise requires:

- a) “busk” means to perform or entertain on a street or any public place for voluntary gratuity or other donation from the general public by playing an instrument, singing, dancing, juggling, miming, performing magic or providing other entertainment;
- b) “busker” includes a musician, singer, dancer, juggler, mime, magician, comedian or other person who performs or entertains upon a street or any public place for voluntary gratuity or other donation from the general public;
- c) “City” means The Corporation of the City of Kenora;
- d) “City Clerk” means the person appointed by the Council of the City of Kenora as the City Clerk and includes any person designated by the City Clerk to act on his or her behalf;
- e) “dangerous prop” means an item used by a busker during a performance that would constitute a threat to public safety or cause injury to members of the public including, but not limited to, swords, knives, fire, flammable liquids and chainsaws;
- f) “peace officer” includes a police officer and a City by-law enforcement officer;
- g) “special event” means, where permitted in writing by the City, an activity or event undertaken on any street or any public place including, but not limited to, a festival, concert, carnival, sport or other competition, tournament, derby, wedding, group picnic, group celebration, procession, performance, exhibition, ceremony, organized gathering or social, recreational event, convention, workshop, meeting, sales event, kiosk or concession; and

- h) “street” means a public highway under the jurisdiction of the City and includes all sidewalks, boulevards and other areas between the lateral property lines thereof.

Regulations

General

2. A person shall comply with all applicable laws when acting as a busker.
3. Performances by buskers shall not be discriminatory, hateful, defamatory, vulgar, obscene, profane, harassing or otherwise disrespectful of the rights of others.
4. A person acting as a busker shall immediately cease any busking activity and remove any performance materials at the request of a peace officer or the City Clerk.

Location

5. No person shall busk within 15 metres of any financial institution, ATM, or outdoor patio area.

Interference and Obstruction

6. No person acting as a busker shall unreasonably obstruct pedestrian or vehicular traffic.
7. No audience member of a busking performance shall unreasonably obstruct pedestrian or vehicular traffic.
8. No person acting as a busker shall obstruct a doorway to a building, a phone booth, a postal box, a fire hydrant or a bus shelter.
9. No person acting as a busker shall permit his or her audience to obstruct a doorway to a building, a phone booth, a postal box, a fire hydrant or a bus shelter.
10. Every person acting as a busker shall monitor the location where he or she is busking to ensure that no doorways to buildings, phone booths, postal boxes, fire hydrants or bus shelters are obstructed by the busker or his or her audience.

Audibility and Amplification

11. No person shall busk, with or without amplification, where the human voice, musical instrument, props and/or other equipment are audible beyond 75 meters.
12. No person shall busk:
 - a) with more than one amplifier; or
 - b) with any amplification other than a battery operated amplifier that does not exceed 15 watts.

Time

13. No person shall busk:
- a) before 10:00 am or after 10:00 pm seven (7) days a week;
 - b) for a single continuous time at or about the same location exceeding two (2) hours per day; or
 - c) at or about the same location on the same day where such person has already performed or has vacated the location.

Additional Prohibited Conduct

14. No person shall busk:
- a) except in accordance with the provisions of this by-law;
 - b) without removing all litter and garbage generated by the performance;
 - c) if seeking monetary compensation, in any way other than having an open container for donations at the entertainer location;
 - d) when directed by the City Clerk or a peace officer to cease busking;
 - e) at or about any location where a special event is taking place, unless permitted in writing to do so by the City or the special event organizer;
 - f) in a manner which is a nuisance, discriminatory, hateful, defamatory, vulgar, obscene, profane, harassing or otherwise disrespectful of the rights of others;
 - g) while consuming alcohol or illegal drugs or while under the influence of alcohol or illegal drugs during a performance;
 - h) using props in a manner that could injure or cause damage to a member of the public;
or
 - i) using dangerous props.

Penalty

15. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
16. Set Fines are attached and form part of this by-law as Schedule "A".

Severability

17. If any section or provision of this bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder of the bylaw shall not be affected.

Effective Date

18. This By-law shall take come into force and take effect on the date of its final passing.

By-law read a First and Second Time this 19th day of May, 2015

By-law read a Third and Final Time this 19th day of May, 2015

The Corporation of the City of Kenora:-

David S. Canfield, Mayor

Heather Kasprick, City Clerk