

Ordinance #O.16.02

**An Ordinance AMENDING CHAPTER 110.39 OF THE CODE OF ORDINANCES OF THE CITY OF GALENA, ILLINOIS.**

Adopted by the City Council of the City of Galena this 25<sup>th</sup> Day of January 2016.

Published in pamphlet form by authority of the City Council of the City of Galena, Jo Daviess County, Illinois, this 25<sup>th</sup> Day of January 2016.

STATE OF ILLINOIS            )  
  )  
COUNTY OF JO DAVIESS )        City of Galena

CERTIFICATE

I, Mary Beth Hyde, certify that I am the duly elected municipal clerk of the City of Galena, Jo Daviess County, Illinois.

I further certify that on the 25<sup>th</sup> Day of January 2016, the Corporate Authorities of said municipality passed and approved Ordinance No. O.16.02 entitled **AN ORDINANCE AMENDING CHAPTER 110.39 OF THE CODE OF ORDINANCES OF THE CITY OF GALENA, ILLINOIS**, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. O.16.02 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing the 25<sup>th</sup> Day of January 2016 and commencing for at least ten (10) days thereafter.

Dated at Galena, Illinois, this 26<sup>th</sup> Day of January 2016.



Mary Beth Hyde  
City Clerk

(Seal)

**AN ORDINANCE AMENDING CHAPTER 110.39 OF THE CODE OF ORDINANCES  
OF THE CITY OF GALENA, ILLINOIS**

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**WHEREAS**, the City Council seeks to continue to encourage creative expression in public spaces while at the same time protecting the public health, safety and general welfare, and

**WHEREAS**, Chapter 110.39 of the Galena Code of Ordinances, Street Performers, regulates the performing of music or otherwise entertaining in public while collecting donations, and

**WHEREAS**, the City Council desires to update the Street Performers ordinance with attention to the constitutional protections of free speech and expression and in a manner consistent with the overall public interest.

**THEREFORE, BE IT ORDAINED** by the City Council of the City of Galena, Jo Daviess County, Illinois, as follows:

**SECTION I:** The definition of “Street Performers” in Chapter 110.02, entitled “**DEFINITIONS**”, of the Galena Code of Ordinances shall continue in full force and effect as follows:

***STREET PERFORMER.*** A person engaging in a performance that includes, but is not limited to, the following activities: playing musical instruments, singing, dancing, acting, pantomiming, puppeteering, juggling, reciting, or creating visual art in its entirety as a performance.

**SECTION II:** Chapter 110.39, entitled “**STREET PERFORMERS**”, of the Galena Code of Ordinances shall be replaced in whole with the following:

**§ 110.39 STREET PERFORMERS.**

(A) *Intent.* The City of Galena finds that street performers provide a public amenity that enhances the character of the community and seeks to encourage such performances in a manner consistent with the overall public interest. The City of Galena also recognizes that street performers seek to and do draw crowds to their performances. This can create safety problems by impacting the ability of pedestrians to move safely on sidewalks and through crosswalks and impeding the response time of safety personnel. It can also impact access to and egress from businesses. This section imposes reasonable time, place, and manner

restrictions on street performers to the extent necessary to ensure the safety of performers, their audience, and the general public and to prevent unreasonable interference with the enjoyment of peace and quiet by residents in their homes or the ability of businesses to operate and conduct their business.

(B) *License required.* It shall be unlawful to perform in public without first obtaining a street performer license.

(1) An application for a street performer license shall be made to the City Clerk.

(2) The fee for a street performer license shall be \$25 per year. Said fee shall be paid at time of application.

(3) The street performer license shall be valid from the date of issuance through April 30.

(4) The license holder shall post the license in a conspicuous location at the location of the performance.

(5) The street performer license is non-transferable.

(C) *Rules and regulations.*

(1) Performing is limited to 10:00 a.m. to 8:00 p.m.

(2) No performance shall prevent the public from utilizing any public benches, waste receptacles, informational signs or other amenities during the performance. No performance shall restrict the width of any sidewalk to less than five feet or otherwise inhibit the free movement of pedestrians on the sidewalk. No performer shall perform on any street or in any public parking space.

(3) To prevent congestion on sidewalks, no performer shall perform less than 20 feet from another performer or group of performers on the Main Street, Warren Street, Green Street, Washington Street, Hill Street, Perry Street or Diagonal Street right-of-ways.

(4) No performer shall perform within 10 feet of the doorway or an open window of any business or residence. If a sufficient crowd gathers to observe a performer such that the passage of the public through a public area is blocked or obstructed, a police officer or fire official may disperse that portion of the crowd that is blocking or obstructing the passage of the public. If a performer cannot conduct a performance in a location without blocking or obstructing the passage of the public, a police officer or fire official may cause the performer to leave the location, but shall not prevent the performer from occupying another location in compliance with this Chapter.

(5) Performance space is allocated on a first-come, first-serve basis. Performance space shall not be reserved and no performer shall leave his or her instruments, props, equipment, or

other items unattended, or otherwise occupy a performance space, before 10:00 a.m. or after 8:00 p.m.

(6) Not more than five performers may perform as a coordinated unit or group in one location.

(7) No performer shall construct, erect, or maintain any stage, platform, tent, canopy or similar structure for use during any performance. A table, not to exceed 30 inches by 30 inches in area, may be used by each performer. A performer may sit on a stool or chair while performing and make available a stool or chair for the public.

(8) No performer shall require someone to pay a fee or set or negotiate a fee for a performance. Voluntary donations may be accepted by performers. Selling of any items or services is prohibited.

(9) Each performer may display a sign at the performance location not to exceed 12 inches by 18 inches. Signs shall not be located in the street or in a location to obstruct or block the passage of the public. A sign may display not more than the name of the performer and the type of performance. Any street performer sign approved by the City prior to January 1, 2016 shall be considered grandfathered, but shall not be changed or structurally altered to prolong the life of the sign. Signs in the National Register Historic District shall be constructed and painted in a workmanlike manner, utilize historic colors and earth tones, and shall be compatible with their surroundings in the Historic District.

(10) No performer shall utilize any speaker, microphone or mechanical amplification device.

(11) No performer shall generate any sound by any means so that the sound is louder than 70 decibels (70dB) on the Capital A Scale of an ANSI approved sound level meter measured at a distance of 50 feet or more, either horizontally or vertically from the point of generation.

(12) No performer shall use any knife, sword, torch, flame, aerosol, spray paint, axe, saw, or other object, liquid, gas, toxin or carcinogen that could be flammable, explode or otherwise cause serious bodily injury to any person.

(13) The use of animals is not permitted.

(14) The use of chalk on the sidewalk is prohibited.

(15) No performer shall plug any electrical device into any outlet, use a generator, or use lighting.

(16) No street performer shall engage in the application of tattoos or body piercing. No street performer shall include obscenity in a performance. No street performer shall engage in harassment or coercion of a passersby or other performer.

(D) Exemptions. Performances or performers sponsored by or within a licensed street dance, fair, festival, carnival, circus, or similar event, and for the purpose of entertainment, when no solicitation for money is made shall be exempt from the license requirements of this section.

(E) *Violation—Penalty*

(1) Complaints regarding any street performer shall be received by the police department and shall include the complainant, date, time, place, and details of the complaint. All complaints shall be forwarded to the mayor.

(2) The mayor may suspend a license for not more than 60 days if:

- a) A performer violates any of the provisions of this Chapter.
- b) A performer has not complied with a request to follow verbal or written guidelines from either the mayor or the police department.
- c) The City has received at least three documented verbal or written complaints regarding violations of the provisions of this Chapter and stating the complainant, date, time, place and details of the complaint.

(3) The mayor may request that the city council revoke a license that has been suspended. The revocation of a license shall be for a period not to exceed one year.

(4) A performer whose license has been suspended or revoked may request and is entitled to a public hearing concerning the suspension or revocation. Written notice of the date, place and time of the hearing will be given to the individual at least seven days prior to the hearing. The written notice will set forth the facts constituting the basis for the suspension or revocation. A hearing panel comprised of the mayor and city council will hear oral testimony, receive written evidence and provide a written decision to the performer. A majority vote of the full city council shall be required to uphold or modify the original action.

(F) *Severability*

If any provision, clause, sentence, paragraph, section or part of this chapter shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter. It is hereby declared to be the legislative intent of the council that this chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not been included.

**SECTION III:** All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed.

**SECTION IV:** This ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

**SECTION V:** Passed on this 25<sup>th</sup> day of January, A.D., 2016, in open session.

**AYES:** Lincoln, Westemeier, Bernstein, Hahn, Kieffer

**NAYS:** Fach



A handwritten signature in blue ink that reads "Terry Renner". The signature is written in a cursive style and is positioned above a solid horizontal line.

**TERRY RENNER, MAYOR**

**ATTEST:**



A handwritten signature in blue ink that reads "Mary Beth Hyde". The signature is written in a cursive style and is positioned above a solid horizontal line.

**Mary Beth Hyde, City Clerk**