

## Port of San Francisco

# FISHERMAN'S WHARF STREET PERFORMER PROGRAM

## PROGRAM INTRODUCTION

The Port of San Francisco welcomes Street Musicians and Street Performers to Fisherman's Wharf. Live performances make a positive contribution to the culture and ambience of the Wharf. The Port may delegate administration to a Program Administrator ("Administrator") responsible for the day-to-day management of the Program.

The Fisherman's Wharf Street Performer Program ("Program") is a program that will be modified or terminated as circumstances indicate. A pilot Program was implemented starting November 1, 2007 and will be completed on March 31, 2008. Upon approval by the Port Commission, the permanent program will go into effect April 1, 2008.

The Fisherman's Wharf Community ("Community") is comprised of merchants, restaurateurs, visitors (14 million per year), local residents, fishermen and fish processors, recreational boaters and swimmers, artists, performers, and local government. The program is designed with the Community's input and support. The Port looks forward to ongoing participation and cooperation among all members of the Community.

The purpose of this Program is to manage the time, place, and manner of use of the designated performance locations ("Locations"). The following Guidelines are established to ensure fair and equitable access for all skilled performers while not interfering with the safe day-to-day operations of the Wharf. The Port and Administrator reserve the right to restrict or schedule Performers and Locations at any time.

This Program encourages all performers to participate in the Program. Street Musicians and Street Performers ("Performers"<sup>1</sup>) are not required to audition or obtain a license to perform at the Wharf. However, Performers may not impede access to sidewalks, streets, or places of business. Performances may not disturb or interrupt local commercial businesses or other Performers. The Port assumes no responsibility for the content of the performances.

The Program serves Street Performers including musicians, mimes, magicians, jugglers, human statues, dancers, and other forms of expression and any other activity protected by the First Amendment. It does not include non-permitted merchandise vendors. Nor does it include Street Artists who already have a permit program with the SF Arts Commission. Use of the designated performance spaces is subject to the Program Guidelines and Rules as described further in this document.

The Freedom of Speech provisions of the First Amendment to the Constitution allow public agencies to control only the time, place, and manner of use of public areas. Thus, it is not mandatory to obtain a license to express yourself on public property.

The Program works by managing a License or Permit and Monthly Schedule Selection (described on pg. 5) process whose participants agree to comply with the Guidelines and Rules. The Program covers Port lands between the western edge of Pier 39 to Hyde Street and from the southern side of the Jefferson Street sidewalk to The Embarcadero and the Bay.

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<sup>1</sup> A "Performer" is defined as an individual or group who performs in a public area, for the purpose of providing public entertainment and self-expression. Performing shall not include: (1) the provision of personal services such as hair weaving or massage; (2) the completion or other partial creation of visual art; (3) the creation of visual art which is mass produced or produced with limited variation or (4) the creation of handcrafts, or (5) activities regulated by the SF Health Department. This list of exclusions is not intended to be exhaustive.

Non-exclusive Use Licenses are issued to Performers by the Port or Administrator. Licensees are also referred to as Street Performer Cardholders. The benefit of participating in the Program is that licensed Performers can schedule their performances at designated locations and perform for longer time periods.

Licensed Performers may participate in a Monthly Schedule Selection meeting for the currently identified thirteen (13) designated Locations. There are four 3-hour time slots each day at each Location. Based upon a seven day week, one-third of the time slots will remain unscheduled and available for unlicensed Performers. Unscheduled performances are limited to one and a half (1 ½) hours if another unscheduled Performer is waiting to use the Location. This allows ample opportunity for both performer groups, licensed and unlicensed, to perform. Each week there will be 238 3-hour time slots for licensed Performers and 252 1½ -hour time slots for unlicensed Performers. Licensed Performers may also use unscheduled Locations on a first-come first-served basis.

Unlicensed Performers may use designated Locations on a first-come, first-served (FCFS) basis accessing those time slots remaining after the Monthly Schedule Selection process. Performers may not exceed the maximum decibel level for each location and are subject to all laws regarding obstruction of public right-of-way and noise ordinances. Unlicensed Performers are subject to the Street Performer Guidelines and Rules.

All Performers, licensed and unlicensed, must clear the performance area in enough time to allow the next Performer to begin setting up at the start of the time slot for which they are either scheduled or waiting to perform on a FCFS basis.

Designated Locations are categorized by volume of sound allowed, size of performing group and audience, and sidewalk access for pedestrians. Performances at undesignated locations must not restrict pedestrian access or interfere with businesses or performance Locations. Fifty foot (50') buffer zones around each performer minimize interference with the performance in each Location. The Guidelines further define the Program. See Table 1 and Street Performer Location Map for Locations and Volume information.

All Performers are subject to the provisions stated in these Guidelines. Schedules and Guidelines are posted near each Location, on the Port's website, and possibly, on other websites. The schedule will be distributed to SFPD officers, Port security personnel, the Performers and the Street Performer Program Administrator.

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## GUIDELINES FOR STREET PERFORMERS

Both licensed and unlicensed Performers, including groups, may perform at the designated Locations. Unlicensed Performers may use the unscheduled time slots but are required to observe the law and the Street Performer Guidelines and Rules.

### Licensed Performer's Responsibilities

Scheduled Performers are required to follow the Guidelines and Rules and remain within designated Locations. Performers should familiarize themselves with the Guidelines before performing at the Wharf. The Rules are attached hereto and are also available at [www.sfport.com](http://www.sfport.com) in the Real Estate section under Street Performers. The message boards near each Performance Location contain a summary of the Guidelines and Rules.

### Group Definition and Parameters

This Program is designed for adults; therefore licenses will only be issued to individuals 18 years and older. Scheduled Performers and groups must remain in the area marked on the pavement for performing. The size of the marked area will limit the amount of equipment and persons performing. Performance Locations will, on average, accommodate one to five persons and their equipment. Additional members may wait to perform outside of the marked area. Larger groups are acceptable within the marked area as long as pedestrian access and volume limits are maintained.

Each Performer must hold a separate insurance certificate even if they hold a group license, unless they are able to get Port-approved group insurance. The license for an entity such as a church or school will require written consent of the organization. Groups may include family members under 18 years old. The Application will list the names of the group members. One license is allowed per group. The primary group leader will receive a license and photo ID badge. All secondary group members must obtain a group ID badge for an additional charge of \$10 per badge without photo or \$25 per badge with photo. Badge purchases are a one-time charge, not a monthly expense. Licensed performance groups must always have the primary group leader present during scheduled performances.

Scheduled performers may not reserve first-come first-served ("FCFS") time slots immediately following their scheduled performance. However, if no other unscheduled Performer is present to use a FCFS space, the Performer or group or members of the group may continue performing at that location. If this process is abused by group Performers, the Port may place restrictions on group uses. Individual license holders may not reserve additional space through the Schedule Selection process for group performances. Group license holders may not allow uninsured Performers to perform during their scheduled time. Use of unscheduled locations by both insured and uninsured individuals and groups is allowed.

### Street Performer Licenses

Applications are available on line at [www.sfport.com/Real Estate/Street Performers](http://www.sfport.com/Real Estate/Street Performers). Complete Applications including a photograph for the ID badge, payment and proof of insurance, must be submitted by 5:00 p.m. on Tuesday before the Thursday Schedule Selection meeting. Check the Key Dates Calendar posted on the Port's website. Licensees will receive a Street Performer Card showing that they are licensed participants in the Program.

Individuals who do not have a Street Performer Card may perform during the available unscheduled time slots but will be required to observe the law and the Street Performer Program Guidelines and Rules.

### Sales

Licensed Performers may sell recordings of their music or other performance-related products and artwork using a display area no larger than six (6) square feet, which must be located within the marked performance Location. A performance-related product is any product that directly relates to the performance and is created by the Performer. The product may be priced at the discretion of the performer. The price must be disclosed to the audience in advance of selling the product. If an audience member decides not to purchase a product, the

Performer must respect that person's decision and not harass the person or require the sale. No other product(s) may be sold. Performers must be aware that other federal, state, and local laws may apply to their activities and sales, including without limitation, local, state, and federal tax laws. It is each Performer's sole responsibility to ensure that they are familiar with and comply with such laws.

### **License Benefits**

A Street Performer Card grants Performers scheduled, publicized, longer performance times at designated Locations, use of controlled sound amplification and, with the Port's written authorization, use of controlled performance materials and power generators.

#### Street Performer Card

Licenses will be issued a Street Performer Card which provides identification confirming their status with the Port and which must be worn or displayed conspicuously by Performers during their scheduled performance.

#### Schedule

Licenses may participate in a Monthly Schedule Selection process that allows them, on a rotation-basis, to select the date, time, and location where they want to perform. The scheduled performances are posted near each Location, as well as on the Port and possibly other websites. Performers may create a link to their website so that visitors will know when and where they are performing. Street Performer Cardholders in good standing (current with license requirements such as fees and insurance, no citations) with the Port and Administrator, may be given scheduling priority for applicable neighborhood-wide special events.

#### Volume

The Port's Street Performer license replaces the S.F. Entertainment Commission's Loudspeaker Permit for use at designated Locations only.

### **License Fees**

A Street Performer License is \$50 per calendar month or \$500 per year with evidence of applicable liability insurance coverage. This fee structure was based on the cost of an annual Peddler's Permit and Street Artist permit issued by the City and County of San Francisco. Performers may pay for each month on or in advance of the Schedule Selection meeting. Personal checks and cash are accepted. Checks returned for insufficient funds will result in suspension of the License, restriction from use of personal checks for a period of six months and all other actions permitted by law. Fees are non-refundable unless approved by the Port's Director of Real Estate at his or her sole and absolute discretion.

Performers must have a complete approved Application with proof of insurance on file to participate in the Schedule Selection process. The deadline to submit an application and insurance is 5:00 p.m. on the Tuesday before the Thursday morning Schedule Selection Meeting. Licenses may not be sold or transferred. The sale or transfer of a license will be cause for the immediate cancellation of the license.

### **Insurance**

Licenses (Street Performer Cardholders) will be required to carry Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverage for Personal Injury, Broadform Property Damage<sup>2</sup>. All policies must list the City and County of San Francisco, the San Francisco Port Commission and their respective officers, directors, agents and employees and other Additional Insureds as determined by the Port. A sample certificate of insurance can be downloaded from the Port's website.

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<sup>2</sup> Some performers have succeeded in getting this insurance at an annual rate averaging \$190 from **Performers of the US**. The Port and Administrator do not endorse this coverage. This information is provided for reference only.

### **Monthly Schedule Selection Process**

The Port and/or the Administrator or its representative will conduct a monthly meeting to allow licensed Performers to schedule performances. The Monthly Schedule Selection Meetings are scheduled at 9:30 a.m. at Pier 1 on the second Thursday of each month to create the performance schedule for the next month. The time and location may be changed in the future with adequate notice. Please see Key Dates Calendar on the website for specific locations, dates and times on the website.

All Locations for each month will be scheduled concurrently, starting with the first week, then the next week and so on. Street Performer Card holders may be represented by proxy, as authorized in writing by the Performer. During the Schedule Selection meeting, slots may be traded between Street Performer Cardholders, or an authorized proxy, to accommodate their schedules. Current (paid and insured) licensed Performers that miss the meeting may call the schedule Administrator within 24 hours after the meeting to select their schedule for the remaining time slots. Once the Schedule Selection is closed, no adjustments will be made to the posted schedule. The Port reserves the right to modify this procedure at its sole and absolute discretion.

Performers are not required to participate at the Schedule Selection meeting every month. As long as the Port or Administrator holds a valid application and insurance, Licensees can purchase their license for only the month that they wish to participate in the Schedule Selection process. Purchasing the monthly license may be done prior to the start of the scheduling meeting. The Performer's name will continue to be on the Rotation List whether or not they have bought a monthly license. If a Performer does not wish to participate in a Scheduling Meeting their name is skipped during the scheduling for that month and the sequential order of names is retained.

Licensed Performers may trade (not sell) time slots amongst each other. No one may sell first-come first-served (FCFS) unscheduled time slots. The posted Schedule and websites will reflect the Schedule created at the Monthly Schedule Selection meeting. It will not be updated to reflect any post-Schedule Selection schedule changes.

Licensed Performers will be scheduled for only one time slot per day. They may still use the unscheduled sites if no unlicensed Performers are waiting to use the unscheduled time slot. As each Location reaches the allowed scheduled capacity, the remaining time slots for unscheduled performers will be blocked out for access by unlicensed Performers. For example, Location #1 allows scheduled licensed performances up to 75% of the available time slots. Once 75% is scheduled (21 out of 28 slots per week), the remaining slots will be marked as available on a first-come first-served basis for unlicensed Performers.

The schedule will be posted on a message board near the designated Locations and on the Port's website, [www.sfport.com](http://www.sfport.com). The schedule will include a disclaimer that "Schedule and Performers may change without notice."

### **Hours and Occupancy Practices**

No performances are allowed before 10 a.m. or after 10:00 p.m. Performances are scheduled at each Location for four (4) three-hour performance slots every day from 10 a.m. to 1 p.m., 1 p.m. to 4 p.m., 4 p.m. to 7 p.m., and 7 p.m. to 10 p.m. Each act must cease performing soon enough to clear the space for set-up by the following act by the designated start time if the next Performer has arrived. This rule applies to all Performers, licensed and unlicensed.

Scheduled Performers may continue performing into an unscheduled time slot until another Performer, licensed or unlicensed, arrives. The Performer must vacate the Performance Location within fifteen (15) minutes to accommodate the newly arrived Performer. Scheduled Performers forfeit their time if they arrive 30 or more minutes late. Unscheduled Performers occupying this scheduled site must leave immediately if the Scheduled Performer arrives within the 30 minute grace period.

FCFS time slots are available in 1 ½ hour increments starting at the beginning of a time slot. For example, if no licensed Performer is scheduled for the 1 p.m. time slot, a FCFS Performer may perform from 1:00 to 2:30, a second FCFS performer would then perform from 2:30 to 4:00 p.m.

### **Volume Limitations and Methodology for Measuring Sound**

One goal of the Program is to keep sound levels within normal comfort levels between 10:00 a.m. and 10:00 p.m. The sound limits, referenced on map (see p. 8), were established based on decibel readings recorded on August 23, 2007, by a volunteer task force of performers, an SFPD patrolman, members of the business community, Port staff and the City's Entertainment Commission's sound inspector. The maximum sound limit is specific for each site with an average of 15 decibels over ambient sound. The Street Performer license replaces the SF Entertainment Commission's current Loudspeaker Permit requirement.

Sound is measured by decibels (dB). All Locations have a baseline ambient sound level reading, which is the average level of street noise without the Performers. Ambient sound levels will spike as a large truck or other source of loud noise passes by. Baseline ambient readings will be made when spiking influences are not present.

Proximity to the sound source has a large bearing on the outcome of the measurement of decibels. Source readings will be taken fifteen (15) feet from the source of sound, most often the instrument or amplifier speaker. Volume may not exceed the maximum dB specified by these Guidelines for any location (see levels VL1, VL2, and VL3 described below.)

Live music performances have a far wider range of decibel readings than recorded music. Thus, the allowed decibel levels include an average and a maximum reading. This range will help allow for freedom of expression while providing a measurable tool for enforcement. Common sense and a 'good neighbor' behavior should prevail in sound level assessments. The Street Performer Locations Map shows the required direction to aim amplifier speakers. This is to minimize sound impacts to nearby businesses and other performance Locations. If maximum levels are determined to be too high or too low at the Location, the levels may be revised by the Port's Executive Director.

In many cases the appropriate volume will be lower. Performers recognize that it is in everyone's best interest to keep the volume at a level that does not disturb visitors or businesses. If the SFPD, Port staff and/or Administrator determine the performance to be too loud, disruptive, or in any way unsafe, the Performer will be required to lower the volume or cease their performance.

### **Locations and Volume Levels**

Scheduled Performances may take place only in the areas designated on the Street Performer Location Map. Each Location is identified by signage and is marked on the pavement. Performers must contain their use to the marked area. Performances at unauthorized locations must not restrict pedestrian access, interfere with businesses, or compete with the Performers at the designated performance Locations. All unauthorized locations have a Volume Level 1 rating and may not exceed 73 decibels.

The Port requires fifty foot (50') buffer zones to minimize interference with the performance in a designated Location. The Port may add, remove or alter designated Locations as deemed necessary. The success and appropriateness of each site may be re-evaluated added, removed or altered by the Port's Executive Director.

Locations are determined by noise level and size of performing group appropriate to the area. Each location is considered on its ability to accommodate performers, audience and pedestrians. The sidewalks must remain accessible for pedestrians and in compliance with all disability access laws. Pedestrians must not be forced into the roadway in order to circumnavigate the Performers or the audience. Performers must control their audiences in order to accommodate passers-by.

Performers are expected to work cooperatively with each other to ensure that each Performer gets a fair chance to perform in the various locations appropriate to their type of performance.

**‘Volume Level One’** (“VL1”) is for Performance Locations with a volume level average of 73 dB, not to exceed 79 dB, and is deemed appropriate for quiet performers such as mimes, storytellers, magicians, human statues, acrobats, jugglers, clowns etc.

**‘Volume Level Two’** (“VL2”) is for Performance Locations with a volume level average of 79 dB, not to exceed 84 dB, using no or low sound amplification, but which generates some sound volume that may negatively impact the community if performed in a VL1 site. These are good sites for human statues with quiet background music, variety acts using voice amplification and musical performers.

**‘Volume Level Three’** (“VL3”) is for Performance Locations with a volume level average of 84 dB, not to exceed 89 dB. These are good sites for individuals and/or groups with higher volume.

Each location is rated on a scale of One to Three. A quiet Performer can work in a ‘VL1’, ‘VL2’ and ‘VL3’ location. This means that Locations accommodating the loudest and largest “VL3 ” users are available to all performers.

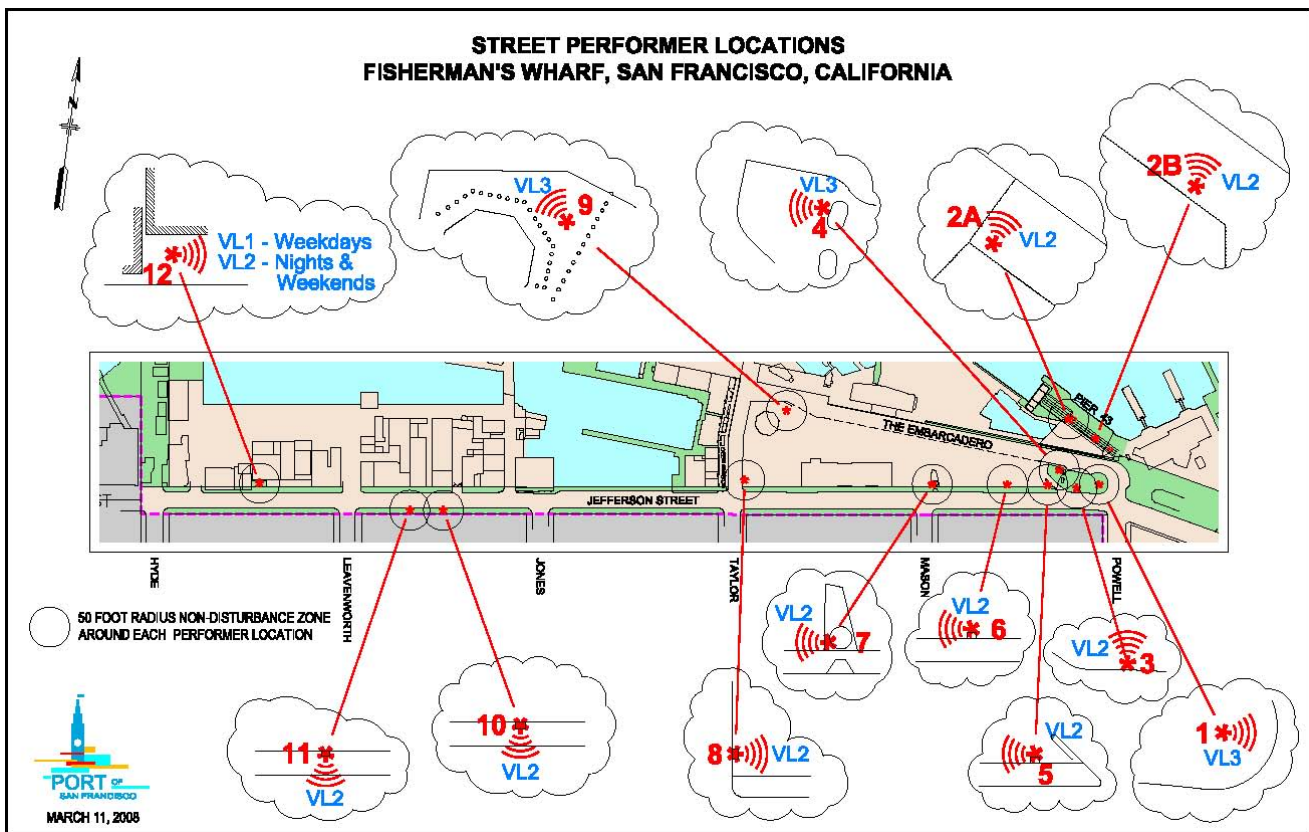
Some locations have specific sound restrictions to ensure minimizing a discordant crossover effect. Performers need to be familiar with these restrictions when selecting their schedule.

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**TABLE 1- Locations and Volume Levels**

Overall, two-thirds of the time slots will be made available to licensed Performers and one-third to unlicensed Performers

Location- See map on next page	Permitted Volume Level
#1- “The Circle” East end of Triangle Parking Lot, at The Embarcadero and Powell St.	1-2-3
#2A- NW corner of Pier 43	1-2
#2B- SW corner of Pier 43- (voice amplification only, no music if #2A is performing music)	1-2
#3- North side of Jefferson east of driveway into the Triangle Parking Lot at curbside	1
#4- West of the northern DeCaux bathroom	1-2-3
#5- West of the Jefferson Street driveway into the Triangle Parking Lot.	1-2
#6- North side of Jefferson, between Powell and Mason	1-2
#7- North side of Jefferson across from Mason Street	1-2
#8- NE corner of Jefferson at Taylor, north of the Crab Sign	1-2
#9- NE corner of Octagon Building near Taylor and The Embarcadero	1-2-3
#10- South side of Jefferson, at open area facing the Anchorage Courtyard	1-2
#11- South side of Jefferson, west of the Anchorage Courtyard	1-2
#12- Lot across from The Cannery, between office and driveway	1 on weekdays until 7 pm, 1-2 all other times





## **STREET PERFORMER RULES**

1. All elements of the Street Performer Guidelines are incorporated into these Rules.
2. Entertainment should be appropriate for audiences of all age groups and walks of life in a public setting and in accordance with local laws.
3. There shall be no charge for performances. Money given for the performance shall be on a donation only basis. It is expected that Performers will be performing whether or not they receive compensation for their performance. Performers may not charge a set fee for their performance or use aggressive measures to solicit donations.
4. Aggressive collection behavior involving harassment or intimidation of any person is subject to enforcement of applicable SF Police codes. Complaints by the Community will be kept on file by the Port or Administrator and may be used as evidence in disciplinary actions.
5. Performers may sell recordings of their music or other performance-related artwork, using a display area no larger than six (6) square feet within the designated performance Location. Suggested donations and prices for performance-related products must be conveyed to the prospective buyer in advance of delivery of the artwork. No unrelated merchandise is permitted.
6. Performers are responsible for controlling their audience and performance area including, but not limited to, keeping the sidewalk clear for pedestrians, keeping the audience out of the street and properly disposing of any waste or debris after the performance. Enforcement officials may stop the performance to clear the area if necessary.
7. The SFPD, Port security patrols and/or Administrator will monitor that Street Performer Card holders have access to their scheduled location at the commencement of their scheduled time on an ad-hoc basis.
8. A performance in any Location must not exceed the time designated on the posted Schedule of Street Performances if another Performer is waiting to perform.
9. Unscheduled Locations and times are available to Performers appropriate to each designated Location on a no-fee first-come, first-served (FCFS) basis.
10. Time slots available as FCFS may be used by Licensed Performers (Street Performer Cardholders) if no other Performer is waiting. The FCFS time slot allows for two performances, each up to 1 ½ hours in duration. The first performance would start on the hour and the second performance begins 1 ½ hours later. If a Performer starts performing late, they must still surrender the Location when the next performance time slot starts. Licensed and unlicensed Performers must follow the allotted time limit of 1 ½ hours if another Performer is waiting to perform during the second portion of the performance time slot. Alternatively, Performers may also take the second portion of the time slot if no other Performer is waiting.
11. Under no circumstances may a license or time slot be ‘sold’ or ‘rented’ or ‘loaned’ to any other licensed or unlicensed Performer. Licensed Performers may trade time slots but that change will not be reflected on the posted Schedule.
12. Scheduled time slots must be claimed by the scheduled Performer within thirty (30) minutes of the scheduled start time. Unclaimed scheduled time slots are forfeited and become FCFS time slots. The

next scheduled start times of 10 a.m., 1 p.m., 4 p.m., and 7 p.m. will not change regardless of when an unscheduled Performer starts their performance.

13. Performances outside of the designated Locations must be fifty feet (50') from designated Locations and are limited to Volume Level 1. All other rules apply regarding access, safety, displays and non-interference with others.
14. All equipment must remain under the control of the Performer or designee. No equipment shall be left unattended for any length of time, nor shall equipment reduce pedestrian access. Abandoned equipment deemed a Homeland Security risk may be confiscated or destroyed.
15. No Performer shall use any object or engage in activities likely to cause harm to the Performers, the public, personal or Port property or the environment. This may include knives, guns, swords, torches, flames, axes, saws, aerosol spray cans or other objects that can cause bodily injury. Licensed Performers with specific risk insurance coverage may be permitted to use these objects, with the Port's prior written permission. Under no circumstances will flames or other spark-producing devices be permitted on or near any flammable structure or pier. Approval is at the sole discretion of the Port and may be revoked at any time.
16. Performers using gas generators must be licensed and carry the specified liability insurance as described in the Guidelines. Performers may not fill or refill any gas powered generator on Port property, use wet cell battery(ies) with removable fill caps, or any other power source that poses a fire or public safety hazard. Sealed, maintenance-free batteries are permitted.
17. Performers may not use gas powered generators at Locations #2, 3, 10, 11, or 12.
18. No Performer shall connect or maintain an electrical cord to an adjacent building or to a City or Port power source.
19. Performers may not perform in driveways or streets.
20. The Guidelines for Street Performers and the Monthly Performance Schedule are posted on a message board near each performance location and on the Port's web site, [www.sfport.com Real Estate/Street Performers](http://www.sfport.com/RealEstate/StreetPerformers) and possibly other websites. Performers are expected to check it on a regular basis for changes in rules, information on scheduled events and announcements about the Program.
21. Performers must wear or display their Performer Card for easy identification by enforcement personnel. Wearing or displaying a counterfeit or out-of-date Street Performer Card will be cause for immediate removal from the Performance Location, possible warning or citation as applicable and may result in the denial of a future Street Performer license.
22. A total of three (3) reprimands or citations within a one-year period for failure to comply with any of the Guidelines and Rules upon Port confirmation of the infraction(s) may be cause for suspension of the Street Performer License for the remainder of the month and for an additional one month period. No pro-rata refund will be made for the remaining term of the License. Three subsequent reprimands or citations will result in removal from the Program for a six month period. Revocation of the Street Performer license may be appealed pursuant to rules and procedures in the Port Code.
23. Performers must comply with all laws. Violators are subject to removal from Port property and/or citation from the San Francisco Police Department.

24. The Port and Administrator reserve the right to take and publish photographs and recordings, which may include Street Performers.