

# THE NEW ORLEANS JAZZ & HERITAGE FESTIVAL AND FOUNDATION, INC.



## BRAND AND TRADEMARK GUIDELINES

### WHY ARE THESE GUIDELINES IMPORTANT TO THE FOUNDATION?

#### 1) Preventing consumer confusion.

Consumers have become quite savvy about trademarks. When members of the public see use of a famous mark like Jazz Fest, they assume some sort of sponsorship, endorsement or affiliation with the trademark owner (i.e., the Jazz & Heritage Foundation).

#### 2) Preventing fraud and helping the community.

Misuse of Foundation Marks means that consumers will not know what their dollars support. The Foundation relies on income from sales of merchandise and from other fundraising to cover the costs of its community services, educational programs and free festivals and concerts.

#### 3) Sponsorships.

Jazz Fest and the other Foundation festivals cannot take place without sponsorships. Those sponsorships won't happen unless the Foundation has exclusive rights over the use of the festival name and all festival-associated trademarks.

*Simply put: Maintaining the integrity of the Foundation Marks is important to the Foundation and to the viability of its year-round work.*

### WHEN IS A LICENSE REQUIRED FOR USE OF FOUNDATION MARKS?

**Most uses of Foundation Marks require a license.** Use of a Foundation Mark without advance permission and/or a license will usually amount to trademark infringement, copyright infringement or both, except in limited circumstances. This section of the Guidelines covers the most common situations requiring a license from the Foundation. Just because a particular situation is not listed here does not mean that a Foundation Mark can be used without permission or a license. When in doubt, contact us via email at [permissions@jazzandheritage.org](mailto:permissions@jazzandheritage.org).

#### 1) Any Commercial Use

“Commercial use” means any use of a Foundation Mark to promote the products or services of a person or entity other than the Foundation. All commercial uses of a Foundation Mark require written permission or a license from the Foundation to avoid the potential for consumers to believe that the Foundation is associated with or is

sponsoring the products or services of someone else. Even use of a Foundation Mark by a non-profit can be commercial use.

**Examples of infringing commercial use:**

- Advertisements, fliers, social media and signage promoting the products and services of a company, such as: “Stop by our store and get a 15% Jazz Fest discount,” or “Make us your Jazz Fest hotel.”
- Using photographs showing a Jazz Fest stage in a print advertisement or television commercial.
- “[Company Name] hosts a Jazz Fest after party.”
- Making “JazzFest” into one word is *not* an acceptable work-around.

**2) Merchandise**

Any apparel, posters, jewelry, souvenir or any other kind of merchandise bearing a Foundation Mark, or any confusingly similar variations of a Foundation Mark, require a written license agreement.

**Examples of infringing merchandise:**

- Posters with the words “New Orleans Jazz & Heritage Festival” or “Jazz Fest.”
- Coffee mugs with figures from the Jazz Fest “second-liners” logo.
- Food packaging, barware or cocktail napkins with a Foundation Mark, even if these items are not sold to the public.

**3) Contests & Giveaways**

Contests, competitions, raffles, giveaways, auctions, sweepstakes and similar activities are another type of commercial activity. No Foundation Mark should be used in any of these activities without written permission from the Foundation.

**Examples of infringing activities:**

- Running a social media promotion where entrants are eligible to win “two Jazz Fest tickets, airfare and hotel accommodations.”
- Advertising Jazz Fest tickets in a charity auction.

**4) Commercial Use in Social Media & the Internet**

Use of any a Foundation Mark in websites, social media, applications or elsewhere on the Internet is a commercial use when it promotes the products or services of a person or entity other than the Foundation. This type of use of a Foundation Mark requires written permission or a license from the Foundation.

**Examples of infringing commercial use on the internet:**

- Setting up a hashtag such as “[Company Name]JazzFestHotels.”

- Selling an application related to Jazz Fest through online digital media stores, such as a “Night Time Jazz Fest Cubes” app.

**Examples of non-infringing, non-commercial use on the Internet:**

- Posting Instagram® photos to a personal (nonbusiness) account showing attendance at Jazz Fest or another Foundation event.
- Commenting on experiences and performances at Jazz Fest or another Foundation event.
- A personal social media invitation to friends, such as: “Come to my Jazz Fest crawfish boil.”

*Please note that no content should suggest, directly or indirectly, that the Foundation has approved or endorsed the content or was the source of the content*

**WHAT LIMITED CIRCUMSTANCES DO NOT NEED A LICENSE?**

Foundation Marks can be used without obtaining a license or permission from the Foundation for editorial content and for “fair use” references to Jazz Fest or one of the Foundation’s events, programs, assets or services. However, it is *never* “fair use” to suggest that the Foundation is the source of content or that the Foundation has approved, sponsored or endorsed content. The specific words used – and the order in which they appear – matter in “fair use.”

**1) Editorial Content**

“Editorial Content” means physical or digital written content such as news reporting, commentary, opinions and reviews about the Foundation and its activities. Editorial content should clearly indicate the source of the content or opinions and should not suggest any kind of approval by the Foundation.

**Correct usage:** Title of article/post: “[Magazine/Blog/Handle]’s Review of X’s Performance at Jazz Fest” (It is clear that these are the author’s opinions.)

**Correct Usage:** Title of article/post: “Top 50 things to do at Jazz Fest”

**Incorrect usage:** Title of article/post: “Jazz Fest’s Top 10 Performances” (This suggests that the Foundation or the festival have released a ranking or is otherwise the source of the information.)

**Incorrect usage:** “The Jazz Fest Guide”

**2) “Fair Use”**

“Fair use” means using a Foundation Mark to refer to a Foundation festival or other activity *without* suggesting that any type of affiliation, sponsorship or endorsement by the Foundation. “Fair use” also means using only the minimum amount necessary to

identify the Foundation activity being referenced (i.e., using a Foundation logo will rarely be “fair use” and generally will be considered an infringement).

**Correct usage:** “[Business name] is extending its hours on Friday after Jazz Fest.”

*This states a factual matter; however, it should not be used in any commercial manner (as an advertisement, for example) or displayed in a misleading way to imply association with Jazz Fest.*

**Incorrect:** “Special Jazz Fest Show on Friday,” “Special Jazz Fest Hours” or “Jazz Fest After Hours”

*These examples imply that the events/shows are associated with Jazz Fest.*

## **WHAT USES OF FOUNDATION MARKS ARE ALWAYS PROHIBITED?**

### **1) Unapproved Events.**

In association with the naming, promotion or operation of an event, only Foundation sponsored events may ever use the Foundation Marks. Use of a Foundation Mark, and any confusingly similar variations, is strictly prohibited for any event that has not been approved by the Foundation.

**Incorrect usage:** “Jazz Fest After Party” or “Jazz Fest Late Night Concert”

### **2) Wrongful Assertions of Ownership.**

Any use or display of a Foundation Mark suggesting ownership by anyone other than the Foundation is strictly prohibited.

### **3) Disparaging Uses or Violating Laws.**

Any use or display of a Foundation Mark in a disparaging manner or in a way that violates the law is strictly prohibited.

## **WHO TO CONTACT FOR A LICENSE/PERMISSION**

If you would like to request a license or permission to use one of our trademarks or service marks, or if you have questions about using our marks, please send us an email at this address: [permissions@jazzandheritage.org](mailto:permissions@jazzandheritage.org).