



POLICY AND PROCEDURE

Subject: Distribution, Use and Reporting of Tickets and Passes Distributed by the City under FPPC Regulation 18944.1	Index: City Council Number: 1201-10
Effective Date: September 17, 2019	Prepared By: City Clerk
Supersedes: None	Approved By: City Council

1.0 **PURPOSE:**

The purpose of this Policy is to ensure that Tickets and passes provided to and distributed by the City are distributed in furtherance of a governmental and/or public purpose as required under Section 18944.1, Title 2, California Code of Regulations ("Regulation 18944.1").

In addition, the purpose of this policy is to ensure that Tickets distributed by the City under this policy are disclosed on Form 802 and posted to the City's website within forty-five days of distribution, as required by Regulation 18944.1.

2.0 **APPLICATION:**

2.1 This Policy applies to Tickets and passes which provide admission to a facility or event for an entertainment, amusement, recreational or similar purpose, and are:

- a. gratuitously provided to the City by an outside source;
- b. acquired by the City by purchase;
- c. acquired by the City as consideration pursuant to the terms of a contract for the use of a City venue; or
- d. acquired and distributed by the City in any other manner.

3.0 SCOPE: This Policy applies to all City Officials.

4.0 DEFINITIONS:

Unless otherwise expressly provided herein, words and terms used in this Policy shall have the same meaning as that ascribed to such words and terms in the Political Reform Act of 1974 (Government Code section 81000 et seq., as the same may from time to time be amended) and the Fair Political Practices Commission (“FPPC”) Regulations (Title 2, California Code of Regulations, section 18100 et seq., as the same may from time to time be amended.)

4.1 “City” or “City of San Clemente” means the City of San Clemente, California, and any other affiliated agency created or activated by the San Clemente City Council, and any commission, committee, board or department thereof.

4.2 “City Official” means every member, officer, employee or consultant of the City of San Clemente, as defined in Government Code section 82048 and Regulation 18700.3. Such term shall include, without limitation, any Council member or other appointed official or employee or consultant required to file an annual Statement of Economic Interests (Form 700).

4.3 “FPPC” means the California Fair Political Practices Commission.

4.4 “Immediate Family” means a City Official’s spouse and dependent children.

4.5 “Policy” means City Policy and Procedure No. 1201-10, adopted pursuant to Regulation 18944.1, which governs the distribution, use and reporting of certain Tickets and passes received by the City.

4.6 “Ticket” shall mean and refer to a “Ticket or pass” as those terms are defined in Regulation 18946 and referenced in Regulation 18944.1, both Regulations as amended from time to time, but which currently define “Ticket or “pass” as anything that provides admission or access to a facility, event, show or performance for an entertainment, amusement, recreational or similar purpose.

5.0 GENERAL PROVISIONS:

5.1 No Right to Tickets. The use of complimentary Tickets pursuant to this Policy is a privilege extended by the City and not the right of any person to which the privilege may from time to time be extended.

5.2 Limitation on Transfer of Tickets: Tickets distributed to a City Official pursuant to this Policy shall not be transferred to any other person, except to members of the City Official’s immediate family solely for their personal use or to no more than one guest solely for their attendance at the event.

- 5.3 Prohibition Against Sale of or Receiving Reimbursement for Tickets: No person who receives a Ticket pursuant to this Policy shall re-sell or receive compensation for the value of such Ticket.
- 5.4 Implementation of Policy: The City Manager shall have the authority, in his or her sole discretion, to establish procedures for the distribution of Tickets in accordance with this Policy. All requests for Tickets which fall within the scope of this Policy shall be made in accordance with the procedures established by the City Manager.
- 5.5 Designation of Agency Head: The City Manager or his or her designee shall be the "Agency Head" for purposes of implementing the provisions of this Policy and completing and posting Form 802. In such case, where the City Manager desires to obtain a Ticket, the Council members authorize the City Manager to exercise the City's sole discretion in determining whether the City Manager's use or behest of Tickets is in accordance with the terms of this Policy.
- 5.6 No Earmarking of Tickets: No Ticket gratuitously provided to the City by an outside source and distributed to, or at the behest of, a City Official pursuant to this Policy shall be earmarked by the original source for provision to a particular City Official.
- 5.7 Ceremonial Role: A ticket provided to a Public Official and one guest of the Official at which the Official performs a ceremonial role, as defined in Regulation 18942.3, on behalf of the City must be disclosed on Form 802 as set forth below. Any additional effort by the City to either limit or expand permissible ceremonial roles will require that the revised policy be forwarded to the FPPC.
- 5.8 Disproportionate Use of Tickets: A disproportionate use of Tickets by members of the City Council, political appointee, department heads, or City Manager is prohibited.
- 5.9 Valuation of Tickets: The value of any Ticket shall be the fair value of the Ticket. The "fair value" is the face value of the Ticket, or the price at which the Ticket would otherwise be offered for sale to the general public by the operator or host. Where the Ticket does not reflect the actual cost for a Ticket in a luxury box or suite, the face value is determined by dividing the total cost of the box or suite by the number of Tickets available for that box or suite.

6.0 PUBLIC PURPOSES FOR DISTRIBUTION OF TICKETS:

Subject to the provisions of this Policy, the City shall only provide a Ticket and/or pass to a City Official, or at the behest of a City Official, under one of the following public and governmental purposes:

- 6.1 If distribution is to a City Official and the Official reimburses the City for the fair value of the Ticket(s).
- 6.2 If the distribution is to a City Official, the City Official treats the Ticket(s) as income consistent with applicable federal and state income tax laws.
- 6.3 If distribution is to a City Official or is at the behest of a City Official, such distribution must accomplish a governmental and/or public purpose. The following is a list of governmental and/or public purposes the City may accomplish through the distribution of Tickets. The list is illustrative rather than exhaustive:
 - a. Facilitating the performance of a ceremonial role or function by a City Official on behalf of the City at an event.
 - b. Facilitating the attendance of a City Official at an event where the job duties of the Official require his or her attendance.
 - c. Promotion of intergovernmental relations and/or cooperation and coordination of resources with other governmental agencies, including but not limited to, attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members and their guests.
 - d. Promotion of community programs and resources available to City residents, including nonprofit organizations and youth programs.
 - e. Marketing promotions highlighting the achievements of local residents and businesses.
 - f. Promotion and marketing of private facilities available for City resident use, including charitable and nonprofit facilities.
 - g. Promotion of City-run, sponsored or supported events, activities or programs.
 - h. Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefitting City residents.
 - i. Promotion of local or regional business activity, economic development, and tourism activities within the City that serve or may potentially serve City residents, including conventions and conferences.

- j. Promotion of public facilities available for City resident use.
- k. Promotion of City growth and development, including outreach efforts, economic development and job creation opportunities.
- l. Promotion of specific City community events provided by or sponsored by the City.
- m. Promotion of any City owned sites or facilities.
- n. Exchange programs with foreign officials and dignitaries.
- o. Promotion of City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
- p. Promotion of City services on a local, state, national or worldwide scale.
- q. Promotion of open government and/or community relations by City Official appearances, participation and/or availability at business or community events.
- r. Sponsorship agreements involving private events where the City specifically seeks to enhance the City's reputation both locally and regionally by serving as hosts or sponsors providing the necessary opportunities to meet and greet visitors, dignitaries, and residents.
- s. All written contracts where the City, as a form of consideration, has required that a certain number of Tickets be made available for City use.
- t. Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the City.
- u. Attracting and/or rewarding volunteer public service.
- v. Encouraging or rewarding significant academic, athletic, or public service achievements by residents or businesses of the City service area.
- w. Charitable 501(c)(3) fundraisers for the purpose of networking with other community and civic leaders.
- x. Employment retention programs.
- y. Attracting and retaining highly qualified employees in the City's service.
- z. Special outreach programs for veterans, teachers, emergency services, medical personnel and other civil service occupations.

- aa. Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting City residents.
 - bb. Recognizing or rewarding meritorious service by City employees.
 - cc. Promoting enhanced City employee performance or morale.
 - dd. Recognizing contributions made to the City by former Council members or City employees.
 - ee. Spouses of Public Officials in order to accompany him or her to any of the events listed above.
 - ff. Any purpose similar to above included in any City contract.
- 6.4 When a public purpose involves the oversight or inspection of facilities by a City Official, the City Official is required to provide a written inspection report and/or recommendation.
- 6.5 If the distribution is to an organization outside of the City, such distribution is done pursuant to a public purpose in accordance with Section 6.3, above.
- 6.6 Subject to the provisions of this Policy, Tickets obtained by the City pursuant to terms of a contract for use of public property because the City controls the event, or, by purchase at fair market value, may be distributed to City Officials. Any distribution must accomplish a governmental and/or public purpose in accordance with Section 6.3, above.
- 6.7 Any Ticket obtained pursuant to Section 6.6 which is distributed to a City Official, other than an elected official or member of the governing body of the City, for the Official's personal use, to support general employee morale, retention, or to reward public service is also deemed to serve a public purpose. Such Ticket distribution shall be disclosed pursuant to Section 7.0, below. For purposes of this subsection, "personal use" is defined as use by the City Official, his or her family, or no more than one guest.
- 6.8 Any City Official, any member of the City Official's immediate family, or guest of the City Official may return any unused Ticket to the City for redistribution pursuant to this Policy.
- 6.9 The provisions of this Policy apply only to benefits the City Official receives that are provided to all members of the public with the same class of Ticket.

7.0 DISCLOSURE REQUIREMENTS:

- 7.1 This Policy shall be posted on the City's website in a prominent manner. The City shall, within 30 days of adoption or amendment, send to the FPPC by email a website link that displays the Policy.
- 7.2 Tickets distributed by the City to any City Official which the Official treats as income pursuant to Section 6.2, above, or, which are distributed for one or more public purposes described in Section 6.3 above, must be recorded on Form 802 or on such alternative form(s) as may from time to time be designated by the FPPC. This form must be maintained as a public record and be subject to inspection and copying as required under Government Code section 81008(a). Within 45 days the City must post these forms on its website and email a website link to the FPPC that displays the form.
- 7.3 Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section 6.1 above, shall not be subject to the disclosure provisions of Section 7.2.
- 7.4 For Tickets distributed to a department or other unit of the City, and not used by a member of the City Council, political appointee, a department head or the City Manager, the City may report the name of the department or other unit of the City and the number of Tickets provided to the department or other unit in lieu of posting the name of the individual employee(s) as otherwise required.
- 7.5 Tickets distributed to an organization outside of the City pursuant to Section 6.5 above, shall be disclosed in accordance with Section 7.2 above, but may be done by reporting the name, address, description of the organization, and the number of Tickets or passes provided to the organization in lieu of posting the names of each individual from the organization as otherwise required.