



POLICY AND PROCEDURE

Subject: SPECIAL EVENTS	Index: Public Relations/Information Number: 103-1-1
Effective Date: 11-16-94	Prepared By: Beaches, Parks and Recreation
Supersedes: Initial Policy	Approved By: <i>[Signature]</i>

1.0 **PURPOSE:**

To establish standardized administrative policy for regulating special events, in conjunction with the City's Special Event Ordinance and Special Event Permit Application form.

2.0 **ORGANIZATIONS AFFECTED:**

All Departments/Divisions.

3.0 **REFERENCES:**

San Clemente Municipal Code Chapter 29B

4.0 **POLICY:**

To provide a uniform procedure for evaluating and permitting Special Events which are held wholly or partially within the City of San Clemente.

5.0 **DEFINITIONS:**

5.1 Special Events Defined

A special event is generally any organized activity within the City that lasts for either 45 consecutive days or less, or 14 non-consecutive days or less in a year. Special events include, but are not limited to, amusement attractions, athletic events, concerts, exhibitions, fairs, fund raising events, parades, surfing contests and carnivals. It does not include construction projects, funerals or other activities which do not partially occur or impact upon the public right-of-way, nor attract more than 20 people during any given 24-hour period.

Additionally, the Council may approve special events that extend more than 45 consecutive days, or 14 non-consecutive days in a year.

As defined by City Ordinance No. 1106, special events fall within two categories: "Commercial Special Event" and "Non-Commercial Special Event". Although the ordinance utilizes these terms for technical legal reasons, they are likely to be misinterpreted by most people. In order to avoid this potential problem, staff shall use the name "Regular Special Event" to identify a "Commercial Special Event" and "Protected Free Speech Special Event" to identify a "Non-Commercial Event", as defined below.

5.2 Protected Free Speech Events (Non-Commercial Special Event)

A Protected Free Speech Special Event is an event whose principal or primary purpose is the dissemination of political, philosophical, or social views. This includes fund raising activities for non-profit organizations which enable such organizations to disseminate their views. The United States Supreme Court has said that "because charitable solicitation is characteristically intertwined with informative and perhaps persuasive speech seeking support for particular causes or for particular views on economic, political or social issues, . . . it must be treated as fully protected activity under the First Amendment." Examples of Protected Free Speech Special Events include demonstrations and similar types of parades or marches; the sale of products by a group or organization when such products contain a political, philosophical, social, or religious message; and prayer groups.

5.3 Regular Special Events (Commercial Special Event)

Regular Special Events involve the vast majority of the special events, including most of those listed above under 5.1 involving profit and non-profit organizations.

6.0 **PROCEDURE:**

6.1 Application; Filing Deadlines

Special Events applications shall be available at the office of the Department of Beaches, Parks and Recreation. Special Event applications shall be due no later than sixty (60) days prior to the commencement of the event. Protected Free Speech Special Event applications shall be accepted after the deadline if there is sufficient time to process the application.

6.1.2 Responsibilities of the Director of Beaches, Parks and Recreation

The Director of Beaches, Parks and Recreation shall review all submitted applications, make a determination as to what category of Special Event the application falls under and either 1.) assign a member of his/her staff with the responsibility of processing and administering the event application, or 2.) make a recommendation to the City Manager on the most appropriate department to serve as the "Lead Department" on the event. The Director of Beaches, Parks and Recreation shall contact the City Attorney's office if clarification is needed to determine whether an application is for a Regular or Protected Free Speech Special Event. The City Manager shall be responsible to assign the most appropriate department to take the lead role in processing and administering the event application.

6.1.3 Responsibilities of Lead Department

The Lead Department shall be responsible for making sure that the application is complete. Once the Lead Department determines the application is complete, it shall forward the application with any necessary supporting documentation to the City Manager and all potentially involved or interested departments for their review and comments.

The Lead Department shall approve, conditionally approve or deny the event application within 10 days of receipt of the other departments' comments and forward a determination to the applicant with a copy sent to the Director of Beaches, Parks and Recreation. If the event is a Protected Free Speech Special Event, it may only be denied upon the finding contained in Section 29B-9 of the City Code. The Lead Department shall advise the City Manager prior to notifying an applicant that its application has been denied.

6.1.4 Responsibilities of All Departments

Each department shall be responsible for forwarding their comments, including "no comment," on the proposed event within 20 days of receipt of the application. Departments that will likely incur costs from the event, including such costs as employee salaries and benefits, facilities, materials or equipment shall include a summary of same and their costs with their comments.

All staff members reviewing and commenting on special event applications shall be thoroughly familiar with the Special Events Ordinance, Chapter 29B of the San Clemente Municipal Code. Such knowledge shall include understanding the difference between commercial and non-commercial special events as generally defined under 5.0 DEFINITIONS and the protection afforded a "non-commercial" applicants.

6.1.5 Responsibilities of Risk Manager

As described in the special events application form, applicants are required to send their insurance certificate and endorsement directly to the City's Risk Manager, along with the name and phone number of a contact person the Risk Manager can call, if the Risk Manager has any questions. The Risk Manager will be responsible for approving the insurance coverage, advising the applicant and/or their insurance agent of deficiencies in their insurance coverage or waiving the coverage. Once the Risk Manager makes a determination on the insurance, he or she shall advise the Lead Department's representative of same. The Risk Manager shall forward the evidence of insurance coverage to the City Clerk's office for filing and send a copy to the Lead Department's representative with the Risk Manager's written approval to be attached to the applicant's permit.

6.2 Waiver of Fees

If a fee waiver is requested, the above time limits shall not apply. Fee waiver requests shall be forwarded by the Lead Department to:

- 1) the City Council for determination on a waiver of fees established by Ordinance or Resolution such as facility costs, and/or
- 2) the City Manager for determination of budgeted personnel, material and equipment cost.

The Lead Department shall include with the waiver request, a complete description of the waiver request, the cost(s) of the waiver, the impact the request may have on other City services, and their recommendation. Determination of waivers shall be based upon the following factors:

- a. Whether the Special Event is sponsored by a non-profit organization is exempt under Section 501(c)(3) of the Internal Revenue Code;

- b. Whether the revenue generated by the Special Event largely or entirely offsets the City's cost of processing and administering the Special Event, and/or benefits the City of San Clemente, San Clemente residents, or San Clemente businesses to such an extent that the waiver of fees or costs is justifiable;
- c. Whether the payment of the fees or costs create a financial hardship on the organization and/or person sponsoring the Special Event; and
- d. Whether the event is held solely within the City of San Clemente.

The City Manager shall grant a fee waiver to applicants of a Protected Free Speech Special Event upon showing that the fee requirements create a material financial hardship.

6.3 Conflict Between Special Events

In the event of a conflict between two or more existing or proposed Regular Special Events, the Lead Department shall notify the City Manager of the conflict and recommend which event should have precedence. The City Manager shall determine which event should have precedence based on the following:

- a. Greatest potential attendance;
- b. Economic benefit to city business;
- c. Ability of event to promote a positive image for the city through regional and/or national media services;
- d. Expertise, qualification, past performance record and public acceptance for holding the event;
- e. Date of submittal of application;
- f. Interference with normal pedestrian and traffic flows;
- g. Impact upon city finances and services;
- h. Ability of each applicant to reschedule or relocate the event; and

- i. other pertinent factors.

6.4 Lead Department and Other Departments' Responsibilities In Following Up Special Events

Regular Special Events may be approved unless one of the findings contained in Section 29B-7 of the City Code has been made. In such an event, the Special Event may still be approved with the imposition of conditions which mitigate the finding for denial. Conditions may only be imposed on Protected Free Speech and Regular Special Events as contained in Section 29B-10 and 29B-11, respectively.

Each department shall provide written notice within 20 days of the event to the Lead Department when their costs differ from the actual costs collected from the event applicant. The Lead Department will be responsible for forwarding a refund or invoice for additional payment, as the case may be, to the applicant within 30 days of the event. Also, each department shall expeditiously notify the Lead Department of any deficiencies or violations of the event permit and/or recommendations for similar future events.

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