

ATTACHMENT C

RESOLUTION NO. 2019-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING CITY COUNCIL POLICY F-27 "POLICY AND PROCEDURES FOR CITY DISTRIBUTION OF TICKETS OR PASSES" TO INCLUDE NEWLY ADOPTED FAIR POLITICAL PRACTICES COMMISSION RULES

WHEREAS, the City of Newport Beach ("City") is governed by the Charter of the City of Newport Beach, Newport Beach Municipal Code, and Council Policies;

WHEREAS, Council Policy F-27 outlines a fair and impartial procedure for the disposition of tickets or passes by the City in furtherance of a governmental purpose, and implements the directives of the Fair Political Practices Commission ("FPPC") regulations;

WHEREAS, on May 21, 2019, the FPPC adopted revisions to the California Code of Regulations related to the distribution of tickets and passes provided to the City; and

WHEREAS, the City Council desires to amend City Council Policy F-27 to be consistent with the newly amended regulations adopted by the FPPC.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council hereby amends City Council Policy F-27 as provided in Exhibit 1, attached hereto and incorporated by reference.

Section 2: All prior versions of the City Council Policy F-27 that are in conflict with the revisions adopted by this resolution are hereby repealed.

Section 3: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

Section 5: Except as expressly modified in this resolution, all other City Council Policies, sections, subsections, terms, clauses and phrases set forth in the Council Policy Manual shall remain unchanged and shall be in full force and effect.

Section 6: The City Council find the adoption of this resolution and the amendment of Council Policy F-27 is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 10th day of September 2019.

Diane B. Dixon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment: Exhibit 1 - Revised City Council Policy F-27

POLICY AND PROCEDURES FOR CITY DISTRIBUTION OF TICKETS OR PASSES

Background

The Newport Beach City Council, Boards, Commissions and officials are subject to certain laws and regulations pertaining to gifts. The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act contained in Government Code Section 81000 et seq., as well as the regulations contained in Title 2, California Code of Regulations, Sections 18110 et seq.

Purpose

The City strives to provide impartial and high quality services to its residents, businesses and visitors. The receipt by City officials of gifts or other items of value can be perceived as attempts to influence City operations and the City wishes to avoid any appearance of impropriety or favoritism. Additionally, however, City official attendance at public events is necessary to achieve the goals of governance, both to promote the policies of the City and to maintain close contact with the citizens and interest groups within the City. This Policy outlines a fair and impartial procedure for the disposition of tickets or passes by the City in furtherance of a governmental purpose. It implements the directives of FPPC regulations and establishes procedures as required by Title 2, Division 6, Chapter 9.5, Section 18944.1 of the California Code of Regulations, for the acceptance and distribution of tickets or passes by the City. This Policy also ensures that tickets or passes distributed by the City are disclosed upon the required FPPC forms.

I. DEFINITIONS

- A. Unless otherwise provided herein, words and terms used in this Policy shall have the same meaning as that contained in the Political Reform Act of 1974 and the FPPC Regulations, as the same may be from time-to-time amended.
- B. "Beneficial use for official City business" means a use that will further a legitimate City purpose and assist the City in carrying out its mission, programs or goals. Beneficial uses include those governmental purposes set forth in Section II, Policy Pertaining to Tickets and Passes, below. Where not specifically listed, beneficial uses are to be determined on a case-by-case basis.
- C. "City Manager" means the City Manager or his/her designee.

- D. "City Official" means any City elected official, appointed official, or person designated in the City's Conflict of Interest Code.
- E. "Gift" means anything of value, including meals, for which the recipient has not provided equal or greater value in return. A gift includes a rebate or discount in the price of anything unless the rebate or discount is made in the regular course of business to members of the public. A gift does not include de minimis gifts of food or incidental items, such as snacks, pens, etc., so long as the cumulative value of such gift does not exceed \$50 in a calendar year from any one source. A gift does not include a ticket or pass subject to Section II, Policy Pertaining to Tickets or Passes, as set forth below.
- F. "In the course of official City duties" means pursuant to a person's City job responsibilities, or because of a person's City position.
- G. "Pass" means a ticket that provides repeated access, entry or admission to a facility or series of events and for which similar passes are sold to the public.
- H. "Ticket" means anything that provides access, entry, or admission to a specific future event or function and for which similar tickets are sold to the public to view, listen to, or otherwise take advantage of the attraction or activity for which the ticket is sold and includes any benefits the ticket provides.

II. POLICY PERTAINING TO TICKETS OR PASSES

A. Public Purpose.

1. Attendance at functions within the City and functions otherwise relevant to the performance of City business that assist the City in carrying out its mission, programs or goals are reasonably necessary for accomplishing the legitimate purposes of City government. The City actively supports various philanthropic, cultural, civic, and business development organizations and programs within the City and throughout Orange County. City Official attendance at such functions support legitimate public purposes pursued by the City. Therefore, attendance at all such functions are considered to accomplish the public purposes of city governance consistent with state law and specifically Title 2, Division 6, Chapter 9.5, Section 18944.1 of the California Code of Regulations.

2. Examples of legitimate public purposes accomplished by the distribution of tickets or passes pursuant to this Policy include, but are not limited to, the following:

- Promotion of local and regional businesses and economic development within the City, including conventions, conferences and annual meetings;
- Promotion of City-controlled or sponsored events, activities or programs;
- Promotion of community programs and resources available to City residents, including nonprofit organizations and youth programs;
- Marketing promotions highlighting the achievements of local residents and businesses;
- Promotion of marketing of private facilities available for City resident use, including charitable and nonprofit facilities;
- Promotion of public facilities available for City resident use;
- Promotion of City growth and development, including economic development and job creation opportunities;
- Promotion of City landmarks and/or community events;
- Promotion of special events in accordance with any City contract;
- Exchange programs with foreign officials and dignitaries;
- Promotion of City recognition, visibility and/or profile on a local, state, national or worldwide scale;
- Promotion of open government by City official appearances, participation and/or availability at business or community events;
- Sponsorship agreements involving private events where the City specifically seeks to enhance the City's reputation both locally and regionally by serving as hosts providing the necessary opportunities to meet and greet visitors, dignitaries, and residents;
- All written contracts where the City, as a form of consideration, has required that a certain number of tickets or passes be made available for its use;
- Employment retention programs;
- Special outreach or support programs for active military, veterans, teachers, emergency services, medical personnel and other civil service occupations;
- Charitable 501(c)(3) fundraisers for the purpose of networking with other community and civic leaders or; and
- Any purpose similar to above included in any City contract.

3. If a particular event for which tickets or passes are distributed by the City does not fall under one of the above express categories, it shall be considered to fulfill the public purposes of this Policy if it achieves the general policy set out in Section 1 above as determined on a case-by-case basis.

B. Distribution of Tickets or Passes by the City.

1. Where a ticket or pass is received by the City from an outside source for distribution to City Officials, the distribution of the ticket or pass shall be made consistent with this Policy.
2. Tickets or passes shall be distributed under this Policy at the sole discretion of the City pursuant to this Policy. Tickets or passes distributed under this Policy shall not be earmarked for distribution to a City Official or person by any outside source.
3. A ticket or pass may only be distributed by the City under this Policy if it serves a public purpose as defined above. If the ticket or pass does not serve a public purpose it shall be returned to its source or shall be given to an active 501(c)(3) non-profit, charitable organization that does business within the City. The City Manager shall make the necessary determinations under this Policy.
4. Except as provided in Section II, D2, of this Policy, once received, tickets distributed pursuant to this policy shall be distributed by the City Manager on a first-come first-serve basis, in a manner that is consistent with this Policy and with the restrictions set forth herein.
5. Any tickets or passes that are not distributed pursuant to this Policy shall be returned to the source of the tickets or passes or distributed to a 501(c)(3) non-profit, charitable organization that does business within the City.

C. Responsibilities of City Manager and City Clerk.

1. The City Manager shall manage the receipt, distribution and accounting for all tickets or passes subject to this Policy.

2. Upon distribution of a ticket or pass pursuant to this Policy, the City Manager shall either complete FPPC Form 802, Tickets Provided by Agency Report, or provide sufficient information to the City Clerk so that the Clerk may complete the form.
3. No later than thirty (30) calendar days from the distribution of the ticket or pass or approval of this Policy, whichever date last occurs, the City Clerk, shall post the FPPC Form 802 on the City website.
4. The City Clerk shall maintain a completed Form 802 for not less than four (4) years, or other period as specified in any applicable FPPC Regulation.
5. The City Clerk shall cause this Policy to be posted on the City website as soon as reasonably possible after its adoption and shall see to it that the most current version of this Policy is in a prominent fashion on the City website as soon as reasonably possible.

D. Other Provisions.

1. A City Official may return any ticket or pass unused to the City Manager for redistribution pursuant to this Policy.
2. Only a City Council Member and the City Manager may request distribution of a ticket or pass to a particular person and such distribution must accomplish a public purpose set forth in Section II(A). All other recipients shall be determined by the City Manager pursuant to procedures established by this Policy.

E. Restrictions.

Tickets or passes distributed to a City Official pursuant to this Policy shall not be:

1. Transferred to any other person, except to members of the official's immediate family or no more than one guest solely for their attendance at the event;
2. Sold or exchanged for any consideration; or

3. Disproportionately used by a member of the City Council, political appointee, department head, or the City Manager.

F. Tickets or Passes Distributed Pursuant to this Policy Not Reportable on FPPC Form 700.

If a ticket or pass is distributed pursuant to this Policy, it shall not be considered a gift to the recipient and shall not be reportable as a gift on FPPC Form 700.

G. Tickets or Passes Not Distributed Pursuant to this Policy include, but are not limited to:

1. An admission identified in California Code of Regulations, Title 2, Division 6, Chapter 9.5, Section 18942(a)(13) relating to a City Official performing a ceremonial role;
2. A ticket or pass that qualifies as taxable income to the City Official; or
3. If the City Official reimburses the City for the ticket or pass within thirty (30) days of receipt of the ticket or pass.

History

Adopted A-8 – 03-09-1970 (Comp Balboa Bay Club Cards)

Reaffirmed A-8 – 02-14-1972

Amended A-8 – 12-10-1973

Amended A-8 – 11-11-1974

Amended A-8 – 02-23-1981

Adopted F-27 – 06-23-2009 (unknown when A-8 no longer in use)

Amended F-27 – 05-12-2015

Amended F-27 – 09-10-2019