

RESOLUTION NUMBER: 5893

A RESOLUTION OF THE CITY OF SEBASTOPOL ADOPTING A COMPLIMENTARY
TICKET DISTRIBUTION POLICY PURSUANT TO FAIR POLITICAL PRACTICES
COMMISSION REGULATION 18944.1

WHEREAS, on November 8, 2011, FPPC Regulation 18944.1 was amended by the FPPC, and these amendments were effective as of January 1, 2012; and

WHEREAS, Regulation 18944.1 describes the circumstances in which the distribution of tickets or passes to a City Official does not result in a gift to the City Official who accepts such ticket or pass; and

WHEREAS, if a local agency wishes to take advantage of the exception to the gift rules identified under FPPC Regulation 18944.1, the FPPC requires the legislative body of the local agency to adopt a written policy governing the distribution of "complimentary tickets or passes"; and

WHEREAS, the City Council would like to adopt such a policy and take advantage of the exemptions provided by FPPC Regulation 18944.1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sebastopol finds that:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated by reference.

SECTION 2. The City Council hereby adopts the policy regarding the distribution of complimentary tickets pursuant to the Fair Political Practices Commission Regulation 18944.1, attached hereto and incorporated herein as Exhibit A, and authorizes the City Clerk and City Manager to implement said policy throughout the City and to update this policy as the FPPC regulations are amended.

IN COUNCIL DULY PASSED AND ADOPTED this 2nd day of October, 2012.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council by the following vote:

City of Sebastopol Council:

Ayes: Councilmembers Gurney, Shaffer, Slater, Vice Mayor Kyes and Mayor Wilson

Noes: None

Absent: None

Abstain: None

Approved: Guy Wilson
Mayor Guy Wilson

Attest: Mary C. Gourley
Mary Gourley, City Clerk

APPROVED AS TO FORM:

Larry McLaughlin
Larry McLaughlin, City Attorney

City Council Policy #87

Adopted: October 2, 2012

Complimentary Passes and Ticket Distribution Policy Pursuant to Fair Political Practices Commission Regulation 18944.1 (FPPC Form 802)
(Ceremonial Role Events and Ticket/Pass Distribution)

PURPOSE:

The purpose of this policy is to specify the general conditions and procedures for distribution of passes and tickets to entertainment venues received by the City of Sebastopol. Such events include, but are not limited to, tickets from Sonoma County Fair, Festivals held at Ives Park such as Voice of Roma, Apple Blossom Festival, Cajun Festival, Much Ado About Sebastopol, etc. This Policy is to establish a fair and equitable process for the distribution of complimentary tickets or passes provided to the City in compliance with the requirements of Section 18944.1 of the Fair Political Practices Commission (FPPC) Regulations. This policy is to ensure that all tickets and passes provided to the City and all agencies within the City for which the members of the City Council are the legislative body shall be distributed in furtherance of governmental and/or public purposes as required under Section 18944.1. 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.

POLICY:

This policy implements the directives of FPPC regulations and establishes procedures as required by Section 18944.1, for the acceptance and/or distribution of tickets or passes by the City which are adopted as referenced herein. This policy also ensures that tickets or passes distributed by the City are disclosed upon the required FPPC forms (Form 802).

RESPONSIBILITY FOR ENFORCEMENT

1. The Ticket Administrator 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 Clerk shall either complete FPPC Form 802, Tickets Provided by Agency Report.
3. No later than thirty (30) calendar days from the distribution of the ticket or pass or approval of this policy, which ever date last occurs, the City Clerk, shall cause the FPPC Form 802 (Exhibit A) to be posted 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.

DEFINITIONS:

1. "City" means the City of Sebastopol and any other affiliated agency created or activated by the City Council, and any departments, boards and commissions thereof such as but not limited to Planning Commission, Design Review Board, Business Outreach Committee, etc.
2. "City Manager" means City Manager or his/her designee.
3. "City Official" means every officer, agent and employee of the City who is obligated to file an Annual Statement of Economic Interests ("FPPC Form 700") under state law or the City's current conflict of interest code.
4. "City Venue" means any facility owned, controlled or operated by the City, or any City department, commission or board.
5. "FPPC" means the California Fair Political Practices Commission.
6. "Family" means spouse, registered domestic partner, children and dependent children as defined in FPPC Regulation 18943.
7. "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.
8. "In the course of official City duties" means pursuant to a person's City job responsibilities, or because of a person's City position.
9. "Policy" means this Policy Regarding the Distribution of Complimentary Tickets Pursuant to FPPC Regulation 18944.1.
10. "Ticket" means a "ticket or pass" as that term is defined in FPPC Regulation 18944,1, as amended from time to time, but which currently defines a "ticket or pass" as admission privileges to a facility, event, show or performance for an entertainment, amusement, recreational, or similar purpose. If other benefits, such as food, beverages or other items, are provided to the City Official at the

event and such benefits are not included as part of the admission to the event, those benefits are not covered by this Policy.

APPLICABILITY:

This Policy shall be applicable to every officer, agent and employee of the City who is obligated to file a FPPC Form 700 under state law or the City's Conflict of Interest Code and shall only apply to the City's distribution of tickets and/or passes to a public official or at the request of a public official, for which no consideration of equal or greater value is provided by the public official. Consideration of equal or greater value shall be presumed if the tickets and/or passes are distributed pursuant to this policy. This policy applies to tickets that have been:

- 1) Gratuitously provided to the City by an outside source;
- 2) Acquired by the City by purchase;
- 3) Acquired by the City as consideration pursuant to the terms of a contract; or
- 4) Acquired by the City in any other manner; AND
- 5) For which no consideration of equal or greater value is being provided by the City official. Consideration of equal or greater value is deemed to be the face value of the ticket or pass. If the ticket or pass does not have a face value stated or states something to the effect of "complimentary" or "promotional," then the City Manager or his/her designee shall set the value based on the reasonable cost for attendance at such an event for which the ticket or pass is being provided.

Tickets or Passes Distributed Pursuant to this Policy are 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.

This Policy does not apply to:

1. Any other item of value provided to the City or any City Official, regardless of whether received gratuitously or for which consideration is provided;
2. Tickets provided by sources other than the City;
3. Tickets received by a City Official from the City where both the City Official and the City treat and report the value of the Ticket as income consistent with applicable state and federal income tax laws and the Ticket is reported as income pursuant to the provisions of this Policy; or
4. Tickets provided to public officials directly by third parties (these tickets must be disclosed on the FPPC Form 700).

Exception to Policy

Official Duties; Ceremonial Roles. Tickets provided to public officials as part of their official duties, or tickets provided so that the public official may perform a ceremonial role or function on behalf of the City shall not be subject to this Tickets

and/or Passes Distribution Policy. These tickets are exempt from any disclosure or reporting requirements.

Employees may also reimburse the City for the face value of the ticket. The City will still be subject to the reporting requirements noted below.

CITY MANAGER AUTHORITY:

The City Council has delegated authority to the City Manager or his/her designee to be the Ticket Administrator for purposes of implementing the provisions of this Policy.

The Ticket Administrator shall have the authority, in his or her sole discretion, to establish procedures for the distribution of Tickets in accordance with this Policy. Such authority includes the power to distribute a Ticket provided that doing so is otherwise consistent with this Policy.

The Ticket Administrator shall determine the face value of Tickets distributed by the City.

The Ticket Administrator, in his or her sole discretion, may revoke or suspend the Ticket privileges of any person who violates any provision of this Policy or the procedures established by the Ticket Administrator for the distribution of Tickets.

PUBLIC OR GOVERNMENTAL PURPOSE:

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 supports various cultural, civic, and business development organizations and programs within the City and throughout Madera County. City Official attendance at such functions support legitimate public purposes pursued by the City. Therefore, attendance at all such functions are considered necessary to accomplish the public purposes of City governance consistent with state law and specifically with section 18944.1 of Title 2 of the California Code of Regulations.

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:

1. Facilitating the performance of a ceremonial role or function by a City Official on behalf of the City at an event, for which the City Official may receive enough Tickets for each member of the City Official's Family.
2. Facilitating the attendance of a City Official at an event where the job duties of the City Official require his or her attendance at the event, for which the City Official may receive enough Tickets for each member of the City Official's family.

3. Promotion of inter-governmental 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.
4. Economic or business development purposes on behalf of the City.
5. Promotion of City resources and/or facilities available to City residents.
6. Promotion of City-run, sponsored or supported community events, activities or programs.
7. To monitor and evaluate the value of City-run, sponsored or supported community events, activities or programs to the City, including but not limited to evaluation of the venue, quality of performances and compliance with City policies, agreements and other requirements.
8. Promotion and evaluation of events, activities or programs at City venues, including but not limited to evaluation of the venue, quality of performances and compliance with City policies, agreements and other requirements.
9. Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting City residents.
10. Promotion of City tourism on a local, state, national or worldwide scale.
11. Business retention or attraction on a local, state, national or worldwide scale.
12. Promotion of City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
13. Encouraging City resident and business support for and attendance at local events.
14. Encouraging participants in City sponsored programs to attend local events.
15. Attracting or rewarding volunteer public service.
16. Encouraging or rewarding significant academic, athletic, or public service achievements by City students, residents or businesses.
17. Attracting and retaining highly qualified City employees.
18. Recognizing or rewarding meritorious service by a City employee.
19. Promoting enhanced City employee performance or morale.

20. As an incident to the above public purposes, allowing for the Family of the City Official to accompany the City Official to events to accomplish any of the purposes listed in this Policy.

DISTRIBUTION:

The City shall use the following procedure for distributing tickets or passes consistent with this policy:

1. Once received, the tickets or passes shall be offered to the Mayor and Members of the City Council for a brief window of opportunity as determined in relation to the timing of the event.
2. After that brief window of opportunity has lapsed, any remaining tickets or passes shall be offered to the relevant board or commission membership that are involved in the program or event being promoted during a second brief window of opportunity.
3. Once that second brief window of opportunity has lapsed, any remaining tickets or passes shall be offered to department Heads during a third brief window of opportunity.
4. Once that third brief window of opportunity has lapsed, any remaining tickets or passes shall be offered to all city employees on a first-come first-serve basis.
5. Any tickets or passes that remain shall be returned to the source of the tickets or passes or distributed to a 501(c)(3) nonprofit, charitable organization that does business within the City.

RETURN OF TICKETS/PASSES:

Any public official or any member of the public official's immediate family may return any ticket and/or pass unused to the City for redistribution pursuant to this policy. Government Code section 82029 has defined immediate family to mean spouse and dependent children. Under no circumstances may either the public official or a member of his or her immediate family sell or further transfer any ticket and/or pass provided under this policy.

PROHIBITION:

1. The transfer by any public official of any tickets and/or passes distributed pursuant to this policy to any other person, except to members of the public official's immediate family for their personal use, is prohibited. If a City Official transfers a Ticket he or she has received from the City to another person, as opposed to returning the Ticket to the City for redistribution, then the value of the Ticket or Tickets he or she transfers shall constitute a gift to him or her and shall be reportable as provided by the FPPC Regulations.

2. No person who receives a Ticket pursuant to this Policy shall sell or receive reimbursement for the value of such Ticket.
3. The use of complimentary Tickets 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.
4. Tickets or passes may not under any circumstances be earmarked for distribution by any outside source.
5. If the ticket or pass does not serve a public purpose it shall be returned to its source or shall be given to a non-profit organization that is active within the City. The Ticket Administrator shall make the necessary determinations under this policy.

OTHER BENEFITS:

The distribution of Tickets pursuant to this Policy shall not constitute a "gift" to the City Official receiving the Ticket, however, other benefits, such as food or beverage or other gifts provided to the City Official that are not part of the admission provided by the complimentary Ticket, will need to be accounted for as gifts.

If the City receives complimentary Tickets that are earmarked for particular City Officials, then the Tickets are considered gifts to that particular City Official. If these Tickets are not returned unused to the provider within thirty (30) days of receipt, then the City Official must comply with the applicable FPPC gift limit regulations and reporting regulations.

TICKETS DISTRIBUTED AT THE BEHEST OF A CITY OFFICIAL:

Only the following City Officials shall have authority to behest Tickets: Mayor, City Council Members or the City Manager.

Tickets shall be distributed at the behest of a City Official only for one or more public purposes set forth in Section 6.A. above.

If Tickets are distributed at the behest of a City Official, such City Official shall not use one of the Tickets so distributed to attend the event.

WEBSITE POSTING:

This policy shall be posted on the City's website in a prominent fashion.

WEBSITE DISCLOSURE:

The distribution of Tickets pursuant to this Policy shall be documented in a completed FPPC Form 802. Within thirty (30) calendar days of the distribution of a Ticket, the Ticket Administrator shall prepare and certify a FPPC Form 802. The

completed FPPC Form 802 must be maintained as a public record, and be forwarded to the FPPC for posting on its website.

Any such posting shall use FPPC Form 802 or such alternative form as may be approved or amended from time to time. These forms shall be posted on the City's website for 12 months and may be removed at the City's discretion anytime thereafter.

Such postings shall include the following information (in addition to any other information required by the FPPC):

1. The name of the person receiving the Ticket, except that if the recipient is an organization, the City may post the name, address, description of the organization and number of Tickets provided to the organization in lieu of posting the names of each recipient;
2. A description of the event;
3. The date of the event;
4. The face value of the Ticket;
5. The number of Tickets provided to each person;
6. If the Ticket is distributed at the behest of a City Official, the name of the City Official who made such behest; and
7. A description of the public purpose(s) under which the distribution was made, or alternatively, the City Official is treating the Ticket as income.

The City may post the name of the department or other unit of the City and the number of Tickets or passes provided to the department or other unit in lieu of posting the name of the individual employee.

ALTERNATIVE TO ABOVE POLICY:

As an alternative to complying with this Policy, a City Official may:

1. Ask that the City report the distribution of the Ticket as income and treat the Ticket(s) as income consistent with applicable federal and state income tax laws;
2. Reimburse the City for the face value of the Ticket; or
3. Report the receipt of the Ticket or pass on the City Official's FPPC Form 700, if the value of the Ticket is over \$50 and the aggregate value of the Ticket from

a single source in a calendar year is less than \$420, or the maximum limit provided by FPPC Regulations.