



## Staff Report

### January 12, 2021

**TO:** Honorable Mayor and Members of the Town Council  
**FROM:** Crickett Strock, Town Clerk  
**DATE:** December 15, 2020  
**RE:** Distribution, Use and Reporting of Tickets and Passes Policy

#### **Recommendation**

Staff recommends the Town Council approve the attached Resolution establishing a Distribution, Use and Reporting of Tickets and Passes Policy in compliance with Section 18944.1 of the Fair Political Practices Commission Regulation.

#### **Issue Statement and Discussion**

The Fair Political Practices Commission (FPPC) has adopted regulations set forth in Title 2 of the California Code of Regulation Section 18944.1 relating to the Town's distribution of tickets or passes to employees and elected officials ("public officials"). Any distribution of a ticket or pass under this regulation to an agency official must be made pursuant to a written agency ticket distribution policy, duly adopted by the legislative or governing body of the agency.

The FPPC regulates complimentary tickets, passes or admission to a facility, event, show or performance for an entertainment, amusement, recreation or similar purpose distributed to Town officials by their agency.

Typically, a Town official would have to treat free tickets received by the Town as income on their Form 700. However, under Section 18944.1, if the public official receives the tickets or passes under a public purpose exception, then he or she is not required to report the tickets as either a gift or income. Those exceptions are set forth in the policy (Attachment B).

#### **CEQA Requirements**

The proposed resolution is exempt from CEQA.

#### **Financial and/or Policy Implications**

There are no immediate financial impacts.

#### **Attachments**

- A. Resolution
- B. Distribution, Use and Reporting of Tickets and Passes Policy
- C. California Code of Regulations Section 18944.1

# **TOWN OF LOOMIS**

## **RESOLUTION 21 – \_\_**

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS ESTABLISHING A DISTRIBUTION, USE AND REPORTING OF TICKETS AND PASSES POLICY PURSUANT TO THE REQUIREMENTS OF THE FAIR POLITICAL PRACTICES COMMISSION REGULATIONS**

**WHEREAS**, the California Fair Political Practices Commission "FPPC" Section 18944.1 of the California Code of Regulations relating to tickets or passes to facilities or events for entertainment purposes distributed by the Town to public officials to restrict the use of event tickets and passes by Town officials and employees; and

**WHEREAS**, from time to time, the Town of Loomis may receive gifted tickets and passes from public and private entities and individuals, and

**WHEREAS**, in accordance with the FPPC Regulation Section 18944.1, the Town desires to use such tickets and passes to further public purposes such as for the promotion of the Town businesses, resources, programs and facilities, and the furtherance of said public purposes may require the distribution to "public officials" as defined in Government Code Section 82048 and FPPC Regulation 18701; and

**WHEREAS**, FPPC Regulation 18944.1 provides for the circumstances and procedures for which the receipt of tickets and passes, and the distribution of said tickets and passes may take place.

**NOW, THEREFORE**, the Town Council of the Town of Loomis hereby resolves to adopt the Town of Loomis Distribution, Use and Reporting of Tickets and Passes Policy included here as Exhibit "A" consistent with the requirements of the California Code of Regulations Section 18944.1.

**PASSED AND ADOPTED** by the Town Council of the Town of Loomis this 12<sup>th</sup> day of January, 2021 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk



# TOWN OF LOOMIS

## ADMINISTRATIVE POLICIES AND PROCEDURES

### DISTRIBUTION, USE AND REPORTING OF TICKETS AND PASSES POLICY

Effective Date:	Resolution	
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#### PURPOSE

This policy is to establish a town-wide procedure for the distribution, use and reporting of tickets or passes provided to the Town to a facility, event, show or performance for an entertainment, amusement, recreational or similar purposes in compliance with section 18944.1 of the Fair Political Practices Commission (FPPC) Regulation. FPPC Regulation 18944.1 sets out the circumstances under which a public agency's distribution of tickets or passes for which no consideration of equal or greater value is provided by the public official or employee does not result in a gift to the public official or employee. Tickets or passes to an event distributed and accounted for in compliance with this policy and FPPC Regulation 18944.1 will not be considered as gifts to the Town officials and employees who make use of such tickets and passes. This policy is subject to all applicable FPPC Regulations and the Political Reform Act.

The public and governmental purpose in distributing tickets and passes to events is to enable Town officials and employees to promote Town businesses, resources, programs and facilities, to monitor and evaluate Town venues and Town-sponsored events, to promote cultural, recreational and educational facilities, services and programs available to the public within the Town of Loomis, and to enhance employee morale.

#### POLICY

##### 1. Definitions.

- a. "Town Manager" means Town Manager or his/her designee.
- b. "Town official" means every member, officer, employee or consultant of the Town of Loomis. Such term shall include, without limitation, any Town board or commission member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).
- c. "Immediate Family" means spouse and dependent children.
- d. "Ticket" means "ticket or pass" as that term is defined in FPPC Regulation 18944.1, as amended from time to time, but which currently defines "ticket or pass" as admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

##### 2. Applicability.

This policy applies to tickets and passes that are: 1) gratuitously provided to the Town by an outside source; or 2) acquired by the Town by purchase; or 3) received by the Town as consideration pursuant to

the terms of a contract or because the Town owns or controls the facility or venue at which the Event occurs or sponsors the Event.

3. Public Purpose.

Any distribution of tickets or passes in accordance with this policy to a Town official, or to an individual or organization outside the Town at the request of a Town official, must be in furtherance of a governmental and/or public purpose and be reported as provided in this policy.

**EXEMPTIONS TO POLICY**

1. Ceremonial Role or Function.

Tickets or passes provided to a Town official to carry out his or her job duties or where the Town official will perform a ceremonial role or function on behalf of the Town at the Event are not considered gifts to the Town official and are exempt from the disclosure and reporting requirements of this policy.

2. Income.

The Town official treats the tickets or passes as income consistent with federal and state income tax laws and the Town reports distribution of the tickets or passes as income to the Town official on the FPPC Form 802.

3. Reimbursement.

The Town official purchases or reimburses the Town for the face value of the tickets or passes.

**PROCEDURE FOR DISTRIBUTION AND REPORTING**

1. Distribution. The Town has sole discretion to determine who shall receive the tickets or passes received or acquired by the Town.

a. Tickets or passes that are donated or provided by an outside source and are earmarked for use by a specific Town official are considered gifts to the Town official and are subject to the disclosure and reporting requirements applicable to gifts, unless one of the exemptions listed above apply.

b. Tickets or passes received by the Town from an outside source without designation as to the specific Town official who may use the tickets or passes shall be forwarded to the Town Manager. The Town Manager shall determine the face value of the tickets or passes, the Town official who may use them, and report their distribution as provided in "Reporting Requirement" below.

c. For tickets or passes received by the Town pursuant to the terms of a contract or because the Town owns or controls the facility or venue at which the Event occurs, or the Town sponsors the Event, a Town official may request use of these tickets or passes, or for distribution to an individual or organization outside the Town, by completing Parts 3 and 4 of FPPC Form 802 and submitting the request to the Town Manager.

d. Elected Town Officials. For tickets or passes purchased or acquired by the Town for use by an elected Town official, or for distribution to an individual or organization outside the Town at the

request of an elected Town official, the office of the elected Town official shall be responsible for reporting the distribution of the tickets or passes as provided in "Reporting Requirement," below.

e. If the tickets or passes do not have a face value stated or state something to the effect of "complimentary" or "promotional," the Town Manager will determine the value of the tickets or passes based on the reasonable cost for attendance at such an Event.

f. The Town Manager may establish an internal procedure for distribution of tickets or passes in accordance with this policy.

g. Any tickets or passes not distributed pursuant to this policy may be sold by the Town to the public.

## 2. Reporting Requirement.

Tickets or passes distributed by the Town to a Town official, or to an individual or organization outside the Town at the behest of a Town official, pursuant to this policy shall be documented in a completed FPPC form 802 or such other form(s) as the FPPC may designate. The completed Form 802 shall be filed with the Town Clerk and posted on the Town's website in a prominent fashion within 30 days after distribution of the tickets or passes.

## 3. Transfer Prohibition.

A Town official who receives tickets or passes distributed by the Town according to this policy is prohibited from transferring or giving the tickets or passes to any other person except to members of the official's immediate family for their personal use. No person receiving a ticket or pass pursuant to this policy shall sell or receive reimbursement for the value of the ticket or pass.

4. Policy Limited to Just Tickets or Passes. If other benefits, such as food, beverages or other items, are provided to the Town official at the Event and they are not included as part of the admission to the Event, those benefits will need to be accounted for as gifts to the Town official.

## EFFECTIVE DATE

This policy shall be effective upon Town Council approval and shall be posted on the Town website in a prominent fashion.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

**§ 18944.1. Gifts: Agency Provided Tickets or Passes.**

(a) Gift Exemption. A ticket or pass provided to an official by his or her agency and distributed and used in accordance with a policy adopted by the agency is not a gift under the Political Reform Act if all of the following criteria are met:

(1) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency that incorporates all of the provisions of subdivision (b) and is maintained as a public record as required in subdivision (c).

(2) The distribution of the ticket or pass is reported pursuant to subdivision (d).

(3) The ticket or pass is not earmarked by an outside source for use by a specific agency official.

(4) The agency determines, in its sole discretion, who uses the ticket or pass.

(b) Agency Ticket/Pass Distribution Policy. Any distribution of a ticket or pass under this regulation to, or at the behest of, an agency official must be made pursuant to a written agency ticket distribution policy, duly adopted by the legislative or governing body of the agency or, if none, the agency head that contains, at a minimum, all of the following:

(1) A provision setting forth the public purposes of the agency for which tickets or passes may be distributed.

(2) A provision requiring that the distribution of any ticket or pass to, or at the behest of, an agency official accomplishes a stated public purpose of the agency.

(3) A provision prohibiting the transfer of any ticket received by an agency official pursuant to the distribution policy except to members of the official's immediate family or no more than one guest solely for their attendance at the event.

(4) A provision prohibiting the disproportionate use of tickets or passes by a member of the governing body, chief administrative officer of the agency, political appointee, or department head.

(c) Public Record. The policy must be maintained as a public record and is subject to inspection and copying under Section 81008. The agency must post the policy on its website within 30 days of adoption or amendment and send to the Commission by e-mail the agency's website link that displays the policy so that the Commission may post the link.

(d) Reporting. Within 45 days of distribution of a ticket or pass, the distribution must be reported on a form provided by the Commission.

(1) Except as provided in subdivision (d)(2), the information must include the following:

(A) The name of the official receiving the ticket or pass;

(B) A description of the event;

(C) The date of the event;

(D) The fair value of the ticket or pass as that term is defined in Regulation 18946, subdivision (d)(1);

(E) The number of tickets or passes provided to each person;

(F) If the ticket or pass is behested, the name of the official who behested the ticket;

(G) If the ticket was transferred to a person meeting the requirements of paragraph (b)(3), the relationship of the transferee;

(H) A description of the public purpose under which the distribution was made; and

(I) A written inspection report of findings and recommendations by the official receiving the ticket or pass if received for the oversight or inspection of facilities.

(2) If the ticket or pass is distributed to a department or other unit of the agency, and not used by a member of the governing body, the chief administrative officer of the agency, political appointee, or department head, the agency may report the name of the department or other unit of the agency receiving the ticket or pass and the number of tickets or passes provided to the department or unit in lieu of reporting the name of the individual employee as otherwise required in subdivision (d)(1).

(3) The forms must be maintained as public records and are subject to inspection and copying under Section 81008(a). The agency must post the form, or a summary of the information on the form, on its website and send to the Commission by e-mail the agency's website link that displays the form so that the Commission may post the website link.

(e) Public Purpose. For purposes of subdivision (b)(2), the agency determines whether the distribution of tickets or passes serves a legitimate public purpose of the agency, consistent with state law. However, a ticket or pass distributed to an official for his or her personal use, other than a member of the governing body, the chief administrative officer of the agency, political appointee, or department head, to support general employee morale, retention, or to reward public service is deemed to serve a public purpose. For purposes of this paragraph, "personal use" is limited to the official and his or her family, or no more than one guest.

(f) Application. This regulation applies solely to a ticket or pass, as those terms are defined in Regulation 18946, to an event or function provided by an agency to an official of the agency, or at the behest of an official of that agency. The provisions of this regulation apply only



to the benefits the official receives from the ticket or pass that are provided to all members of the public with the same class of ticket or pass. This regulation does not apply to the following:

(1) An admission provided to a school, college, or university district official, coach, athletic director, or employee to attend an amateur event performed by students, which are neither gifts nor income.

(2) An admission identified in Regulation 18942(a)(13) relating to an official performing a ceremonial role.

(g) Ticket or Pass Received as Income. A ticket or pass is not subject to the provisions of this regulation, and not a gift for purposes of the Act, if it is taxable income to the official.

(h) Reimbursement. A ticket or pass is not subject to the provisions of this regulation, and not a gift for purposes of the Act, if the official reimburses the agency for the ticket within 30 days of receipt.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

## **HISTORY**

1. Renumbering of former section 18726.7 to section 18944.1 with amendment of section heading filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of first paragraph and subsections (a)-(b) and (d)-(e) filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer and new section filed 1-8-2009; operative 2-7-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil

C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2009, No. 2).

5. Repealer of subsection (a), subsection relettering and amendment of newly designated subsections (a)(1), (a)(2)(A)(iii)-(b), (c) and (e) filed 9-27-2010; operative 10-27-2010.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2010, No. 40).

6. Amendment of section heading and section filed 1-23-2012. Pursuant to California Code of Regulations, title 2, section 18313(e), FPPC has designated an effective date of 1-1-2012.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2012, No. 4).

7. Amendment filed 1-14-2016; operative 2-13-2016, pursuant to title 2, section 18312(e) of the California Code of Regulations. Submitted to OAL for filing and printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 3).

8. Amendment of section heading and repealer and new section filed 6-20-2019; operative 7-20-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2019, No. 25).