

Equal Use of Public Spaces for Religious Purposes

1. The issue had its genesis in a citizen's complaint that a religious event was not permitted in a public area. Since the property in question is planned for other, secular uses, it seemed clear that the City has a *de facto* policy of forbidding the use of public areas for all religious uses. The policy is unwritten and its provenance is unclear.
2. The First Amendment forbids governments from constraining speech, including religious speech.
 1. Relevant text: **Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a [redress](#) of grievances.
 2. The free speech clause requires that religious **events** (event: *(n) a social occasion or activity*) be considered equally with secular ones when conducted in public areas. In other words, if secular events are allowed, religious ones must be as well. (*Lamb's Chapel v. Center Moriches School District*). For example, advocates for Islam were permitted to use public facilities in Chelsea last year for the promotion of their religion. (Note: the legality of this event may be questioned on other grounds, mainly that standing rules were modified to permit the event to occur, a possible violation of the Establishment Clause.)
 3. Religious **displays** (display: *(n) a setting or presentation of something in open view*) are problematic in that, depending the circumstance, they may imply government endorsement of religion, prohibited by the Establishment Clause. Consequently, religious displays may be regulated by the city, in addition to requirements for secular organizations.
3. The proposed sample regulations do not address the central issue of non-discrimination against religious events on public property and are therefore irrelevant to the original concern. Additionally:
 1. The City has not established that the current method of allocating public areas for private activities is inadequate.
 2. The additional administrative burden associated with the sample regulations would not therefore seem required.
 3. Assignment to the Planning Commission for additional development does not seem appropriate since the underlying policy decision is unrelated to planning.
4. This issue could easily be resolved by regulation (motion, resolution, or ordinance) along the lines of the two attached drafts:
 1. Religious or Seasonal Events
 2. Religious or Seasonal Displays
5. Recommendation: replace suggested motion with this alternative motion: that the draft language be submitted for legal review, revision if necessary, and submission to the City Council for approval in its appropriate form. Approval of other City entities shall be requested as necessary prior to submission to the Council.