



## MEMORANDUM

**TO:** CITY COUNCIL

**FROM:** KELLY WETMORE, DIRECTOR OF LEGISLATIVE AND INFORMATION SERVICES/CITY CLERK

**SUBJECT:** CONSIDERATION OF CONFLICT OF INTEREST CODE BIENNIAL REVIEW AND RESOLUTION AMENDING THE CITY OF ARROYO GRANDE CONFLICT OF INTEREST CODE

**DATE:** SEPTEMBER 22, 2020

**SUMMARY OF ACTION:**

Biennial review of the City's Conflict of Interest Code and amendment to the list of designated positions.

**IMPACT TO FINANCIAL AND PERSONNEL RESOURCES:**

There are no fiscal or personnel impacts as a result of the proposed action.

**RECOMMENDATION:**

It is recommended that the City Council adopt a Resolution approving an amended Conflict of Interest Code for designated positions.

**BACKGROUND:**

The California Political Reform Act requires every local government agency to adopt a Conflict of Interest Code ("COI Code"). The COI Code designates positions within the City required to file Statements of Economic Interests and assigns disclosure categories specifying the types of financial interests to be reported. Further, the Political Reform Act contains specific provisions setting forth any circumstances under which designated positions or categories of designated positions must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision.

Certain officials, including the Mayor, members of the City Council, candidates for City offices, members of the Planning Commission, City Manager, City Attorney, and City Treasurer are exempt from the City's Conflict of Interest Code as they are all otherwise statutorily required to file disclosure statements pursuant to Government Code Section 87200 (commonly known as "87200 filers"). The City's COI Code and list of designated positions supplements those statutory requirements by including employees, consultants, and members of City advisory bodies who are not 87200 filers. It is important to note that the list of designated positions includes members of the Successor Agency of the

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Dissolved Arroyo Grande Redevelopment Agency. Because the City Council also serves as board members of this authority, members of the Council are required to include this position on their Statements of Economic Interest Form 700 when filing their disclosure statements.

**ANALYSIS OF ISSUES:**

In 1987, the City adopted the State's standard Conflict of Interest Code by reference which, along with the Appendix of Designated Positions and the Appendix of Disclosure Categories, constitutes the City of Arroyo Grande COI Code.

Under the Political Reform Act, local agencies are required to review its COI Code biennially to determine whether the COI Code is accurate, or if revisions are needed due to organizational changes, including the creation of new positions, elimination of positions, position title changes, and/or relevant changes in the duties assigned to existing positions.

The City's COI Code was last updated in 2018. A review of the designated positions has been completed and it has been determined that a revision to the City's Conflict of Interest Appendix of Designated Positions is required at this time. In 2017, the position of Engineering Inspector was approved as a one-year contract position. In 2018, the position was funded in the budget as a permanent full-time position; however, the position was not added to the Conflict of Interest Code during the last update. It is recommended that this position be added to the list of designated positions. In addition, on September 8, 2020, the City Council approved a job description and salary classification for the position of Assistant City Manager/Public Works Director. This change needs to be reflected in the City's COI Code to ensure that it is current and accurate.

Staff has completed the biennial review of the current COI Code and has determined that no other amendments are necessary at this time. The City's COI Code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property and sources of income which may foreseeably be affected materially by the decisions made by those designated positions; and the COI Code includes all other provisions required by Government Code Section 87302.

**ALTERNATIVES:**

The following alternatives are provided for the City Council's consideration:

1. Adopt the Resolution approving an amended Code for designated positions
2. Modify and adopt the Resolution; or
3. Provide other direction to staff.

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**ADVANTAGES:**

Adoption of the proposed Resolution will meet the requirements of the Political Reform Act concerning biennial review of the City's COI Code.

**DISADVANTAGES:**

There are no identified disadvantages related to adoption of the proposed Resolution.

**ENVIRONMENTAL REVIEW:**

No environmental review is required for this item.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING AN AMENDED CONFLICT OF INTEREST CODE FOR DESIGNATED POSITIONS**

**WHEREAS**, the Political Reform Act of 1974 (California Government Code Sections 81000 et seq.,) requires that governmental entities in the State of California adopt and promulgate a Conflict of Interest Code; and

**WHEREAS**, in 1987 the City of Arroyo Grande adopted a standardized Conflict of Interest Code, incorporating by reference the terms of Title 2 of the California Code of Regulations, Sections 18730 et seq., which contain the terms of a Standard Conflict of Interest Code; an Appendix of Designated Positions listing employees, officials, and consultants who make or participate in the making of decisions that may foreseeably have a material effect on their economic interests, and an Appendix of Disclosure Categories assigned to the Designated Positions; and

**WHEREAS**, the Political Reform Act requires every local agency to review its Conflict of Interest Code biennially to determine if it is accurate and up-to-date or, to make amendments to the Code when necessitated by changed circumstances; and

**WHEREAS**, certain positions within the City of Arroyo Grande have been reclassified which requires the Conflict of Interest Code to be amended; and

**WHEREAS**, the City Council has determined that the attached Appendices, marked Exhibit "A" and Exhibit "B", respectively, both of which are incorporated herein by this reference, accurately set forth those positions which should be designated and categories of economic interests which should be disclosed.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Arroyo Grande does hereby approve the amendments to the City's Conflict of Interest Code as follows:

1. The City's "Appendix of Designated Positions" is hereby amended and replaced in its entirety with Exhibit "A", attached hereto and incorporated herein by this reference.
2. The City's "Appendix of Disclosure Categories", attached hereto as Exhibit "B" and incorporated herein by this reference, is approved.

**BE IT FURTHER RESOLVED** that the terms of 2 California Code of Regulations Sections 18730 et seq., duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and with the attached Exhibits "A" & "B" shall constitute the Conflict of Interest Code of the City of Arroyo Grande.

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**BE IT FURTHER RESOLVED** that this Resolution supersedes Resolution No. 4887 adopted October 23, 2018.

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

The foregoing Resolution was passed and adopted this 22<sup>nd</sup> day of September, 2020.

\_\_\_\_\_  
**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**KELLY WETMORE, CITY CLERK**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
**WHITNEY McDONALD, CITY MANAGER**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**TIMOTHY J. CARMEL, CITY ATTORNEY**

**CONFLICT OF INTEREST CODE  
FOR THE CITY OF ARROYO GRANDE**

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes.

The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations Section 18730, which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

Therefore, the terms of Title 2 of the California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference, and along with the attached appendices, Exhibit "A" and Exhibit "B", in which positions are designated and disclosure categories are set forth, constitute the conflict of interest code of the City of Arroyo Grande, which is considered the "agency" within the purview of this code.

Designated employees, committees, commissions, boards, and consultants shall file statements of economic interests with the City Clerk of the City of Arroyo Grande, who shall be and will perform the duties of filing officer for the City of Arroyo Grande and who will make the statements available for public inspection and reproduction (Gov. Code Section 81008). Upon receipt of the statements of those positions designated in Government Code Section 87200 (members of the City Council and Planning Commission, City Manager, City Attorney, and City Treasurer), the City Clerk shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements of all other designated positions will be retained by the City Clerk in accordance with State law.

**EXHIBIT "A"**  
**APPENDIX OF DESIGNATED POSITIONS**

The following positions entail the making or participation in the making of decisions which may foreseeably have a material effect on financial interests:

<u>Designated Position:</u> <sup>2</sup>	<u>Disclosure Category:</u>
<u>Assistant City Manager/Public Works Director</u>	<u>1, 2, 3</u>
Capital Improvement Project Manager	1, 2, 3
Utilities Manager	1, 3
Public Works Manager	1, 3
Public Works Supervisor	1, 3
Director of Community Development	1, 2, 3
Planning Manager	1, 2, 3
Associate Planner	1, 2, 3
Assistant Planner	1, 2, 3
City Engineer	1, 2, 3
Senior Engineer	1, 2, 3
Associate Engineer	1, 2, 3
Assistant Engineer	1, 2, 3
<u>Engineering Inspector</u>	<u>1, 2, 3</u>
Building Official	1, 2, 3
Building and Fire Safety Inspector	1, 2, 3
Director of Legislative and Information Services/City Clerk	1, 3
Information Technology Manager	1, 3
Executive Assistant/Deputy City Clerk	1, 3
<del>Director of Public Works</del>	<del>1, 2, 3</del>
Police Chief	1, 2, 3
Police Commander	1, 2, 3
Director of Administrative Services	1, 2, 3
Accounting Manager	1, 3
Human Resources Manager	1, 3
Director of Recreation Services	1, 2, 3
Assistant City Attorney	1, 2, 3
Deputy City Attorney	1, 2, 3
Architectural Review Committee Member	1, 2, 3
Downtown Parking Advisory Board Member	1, 2, 3
Tourism Business Improvement District Board Member	1, 2, 3
Successor Agency Board Member	1, 2, 3
Consultants <sup>3</sup>	Determined on case by case basis
Exempt Officials <sup>4</sup>	1, 2, 3

<sup>2</sup> In the event that State law or regulations regarding the filing of Conflict of Interest Statements should be amended, this Exhibit shall be changed to include the designated position and category of each official as required by said amendment.

<sup>3</sup> Consultants: An individual is a consultant if the person serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by a person holding a position specified or that should be specified in the City's Conflict of Interest Code. The City Manager and/or the City Attorney may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described herein. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's and/or the City Attorney's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

<sup>4</sup> Exempt Officials include the Mayor, Members of the City Council, candidates for City offices, Members of the Planning Commission, City Manager, City Attorney, and City Treasurer who are all otherwise required to file disclosure statements pursuant to State Law.



**EXHIBIT “B”**

**APPENDIX OF DISCLOSURE CATEGORIES**

**CATEGORIES OF DISCLOSURE FOR  
DESIGNATED POSITIONS**

The following shall be the categories of disclosure covered by this Policy:

1. Investments

California Fair Political Practices Committee (“FPPC”) Form 700,  
Schedules A-1 and A-2

2. Interests in Real Property

FPPC Form 700, Schedule B

3. Income & Business Positions

FPPC Form 700, Schedule C, D, and E

The officials and employees covered by this policy shall each disclose the categories 1, 2, and 3 as designated herein above set forth.

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