



## MEMORANDUM

**TO:** CITY COUNCIL

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

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

**DATE:** APRIL 24, 2018

**SUMMARY OF ACTION:**

Biennial review and approval of an amended Conflict of Interest Code for 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 cities and other local government agencies to adopt a Conflict of Interest Code. 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 Conflict of Interest Code. The Conflict of Interest Code requires disclosure of financial interests by designated employees, consultants and members of boards and commissions if these persons are likely to be involved in decision-making that could affect their own financial interests.

Each person who holds a position designated in the City's Conflict of Interest Code must disclose specified types of financial interests by filing a Statement of Economic Interest – Form 700 annually with the City Clerk. The City's local Conflict of Interest Code does not include the City Council, Planning Commission, City Manager, City Attorney or Treasurer, as these positions are required under Government Code §87200 to file Statements of Economic Interests with the Fair Political Practices Commission (FPPC).

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**ANALYSIS OF ISSUES:**

The City Council last amended the Code on September 13, 2016. State law requires every local governmental agency to review its conflict of interest code biennially in even-numbered years and determine whether it is up-to-date or in need of revision.

In order to ensure the City's Conflict of Interest Code is current, the following changes have been identified:

1. Add the position of **Public Works Manager**
2. Add the position of **Tourism Business Improvement District Board Member**

In December 2017, the Council approved a new job classification for the position of Public Works Manager. In 2013, the Council formed the Arroyo Grande Tourism Business Improvement District (AGTBID) Advisory Board. Members of the AGTBID Board make recommendations to the City Council on the expenditure of revenues derived from the levy of assessments and on the method and basis of levying the assessments related to the AGTBID. From its inception, the Board consisted of three (3) members from the lodging industry. On February 13, 2018, the Council approved an amendment to the AGTBID Bylaws amending the AGTBID membership to a minimum of three (3) but not more than nine (9) members, 2/3rds of which shall be owners of lodging businesses and/or appointed representatives of the owners of lodging businesses from within the AGTBID or others with knowledge of tourism and/or the lodging industry. The three current members and six additional members of the Arroyo Grande-Grover Beach Chamber of Commerce's Tourism Marketing Committee were appointed to constitute the new Board. As the AGTBID Board participates in decisions and provides advice to the City Council on matters that may foreseeably have a material effect on their economic interests, it is recommended that the position of AGTBID Board Member be added to the City's Conflict of Interest Code.

**ALTERNATIVES:**

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

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

**ADVANTAGES:**

Adoption of the proposed Resolution will meet the provisions required by the Political Reform Act concerning biennial review of the City's Conflict of Interest Code.

**DISADVANTAGES:**

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

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**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 or added 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. 4757 adopted September 13, 2016.

On motion by 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 24<sup>th</sup> day of April, 2018.

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**JIM HILL, MAYOR**

**ATTEST:**

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**KELLY WETMORE, CITY CLERK**

**APPROVED AS TO CONTENT:**

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**JAMES A. BERGMAN, CITY MANAGER**

**APPROVED AS TO FORM:**

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**HEATHER WHITHAM, 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>
City Engineer	1, 2, 3
Capital Improvement Project Manager	1, 2, 3
Associate Engineer	1, 2, 3
Assistant Engineer	1, 2, 3
Senior Engineer	1, 2, 3
Building Official	1, 2, 3
Building and Fire Safety Inspector	1, 2, 3
Police Chief	1, 2, 3
Police Commander	1, 2, 3
Director of Public Works	1, 2, 3
Utilities Manager	1, 3
<u>Public Works Manager</u>	<u>1,3</u>
Public Works Supervisor	1, 3
Director of Administrative Services	1, 2, 3
Director of Recreation Services	1, 2, 3
Accounting Manager	1, 3
Director of Legislative and Information Services/City Clerk	1, 3
Information Technology Manager	1, 3
Human Resources Manager	1, 3
Director of Community Development	1, 2, 3
Planning Manager	1, 2, 3
Associate Planner	1, 2, 3
Assistant Planner	1, 2, 3
Executive Assistant/Deputy City Clerk	1, 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
Historical Resources Committee Member	1, 2, 3
Parks and Recreation Commission Member	1, 2, 3
Traffic Commission Member	1, 2, 3
<u>Tourism Business Improvement District Board Member</u>	<u>1, 2, 3</u>
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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