

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
SUBJECT: AMENDMENT TO APPENDIX A TO THE CITY'S CONFLICT
OF INTEREST CODE
STAFF PRESENTER: TERRI A. GRIFFIN, CITY CLERK
AGENDA ACTION: RESOLUTION

ISSUE

Should the City Council adopt an amended Appendix A to the Conflict of Interest Code (Code) of the City of Santa Rosa?

BACKGROUND

1. The Political Reform Act of 1974 (PRA) requires public officials to periodically disclose any economic interests that could be materially affected by their official actions. The PRA further requires all public agencies to adopt a conflict-of-interest code, which designates positions required to file Statements of Economic Interests (Form 700), and assigns disclosure categories specifying the types of interests to be reported.
2. The City's Code of Interest Code (Code) requires disclosure of financial interests of designated employees, consultants and members of boards and commissions if these individuals are likely to be involved in decision-making that could affect their own financial interests.
3. Government Code section 87306.5 requires the City to review and, as needed, amend its Code biennially in even-numbered years. In that positions may have been created and deleted since the Code was last amended, the list of designated positions is reviewed to determine whether there is a need to modify which employees and officials should be required to file a Form 700. In addition, each department reviews the functions and duties performed by certain positions to determine whether those positions should be included in the Code.
4. Pursuant to Government Code section 87306.5, the City Council adopted an amended Code on December 4, 2012.

ANALYSIS

1. The City is required to review and, if necessary, amend its Code on a biennial basis. The next biennial review will occur in December 2014. The City is permitted to amend its Code at any time if further Code amendments are needed prior to the next biennial review.
2. Subsequent to the 2012 biennial review, it was determined that the Code's definition of "consultant" does not mirror the definition established in the Fair Political Practices Commission (FPPC) regulations. To align the Code's definition with FPPC regulations and assist staff in determining whether a particular consultant is a designated filer under the Code, the City Clerk recommends the Code definition of "consultant" be amended to incorporate by reference the FPPC definition of "consultant" under FPPC Regulation 18701. Incorporation of the FPPC regulation defining "consultant" will also eliminate the need to further amend the Code should the FPPC amend its definition.
3. The City Clerk has further reviewed the list of designated positions and officials (Appendix A) and recommends the following minor technical corrections:
 - a. Update the following positions to reflect current titles:
 - Program Manager – Mayor's Gang Prevention Task Force
 - Senior Code Enforcement Officer
 - Technical Services Division Manager
 - Utilities Mechanical Superintendent
 - b. Move Development Review Coordinator to Community Development
 - c. Include Utility System Superintendent
 - d. Correct disclosure category for Supervising Engineer in Community Development
 - e. Correct disclosure category for Cultural Heritage Board members

RECOMMENDATION

It is recommended by the City Clerk that the Council, by resolution, adopt an amended Appendix A to the Conflict of Interest Code of the City of Santa Rosa.

Author: Terri A. Griffin, City Clerk

Attachments:

1. Appendix A
2. FPPC Regulation 18701 (Cal. Code Regs., tit. 2, § 18701)

**CITY OF SANTA ROSA CONFLICT OF INTEREST CODE
APPENDIX A**

DESIGNATED POSITIONS

City Departments

Disclosure Category

City Attorney's Office

| | |
|--|---|
| Assistant City Attorney | A |
| Deputy City Attorney | A |
| Administrator – City Attorney's Office | B |

City Manager's Office

| | |
|------------------------|---|
| Assistant City Manager | A |
| City Clerk | B |

| | |
|---|---|
| Gang Prevention/Intervention Services Manager Program Manager – Mayor's Gang Prevention Task Force | B |
|---|---|

Community Development Department

| | |
|--|---------------|
| Director | A |
| Assistant Director - Chief Building Official | A |
| Permit Intake Manager | B |
| Plan Check Engineer | C |
| City Planner | C |
| Senior Planner | C |
| Supervising Planner | C |
| Senior Building Inspector | C |
| Supervising Engineer | CB |
| Senior Code Enforcement Officer | C |
| Development Review Coordinator | C |

Economic Development and Housing Department

| | |
|--|---|
| Director | A |
| Economic Development and Housing Manager | A |
| Administrative Services Officer | A |
| Parking Program Coordinator | B |

Finance Department

| | |
|---------------------------------------|---|
| Budget and Financial Analysis Manager | A |
| Financial Reporting Manager | A |
| Supervising Accountant | A |
| Administrative Services Officer | A |
| Purchasing Agent | A |

| | |
|-------------------------------|---|
| Financial Analyst | A |
| Revenue Operations Supervisor | A |
| Revenue Manager | A |
| Senior Buyer | B |
| Buyer | B |

Fire Department

| | |
|--------------------------------|---|
| Fire Chief | A |
| Deputy Fire Chief | A |
| Deputy Chief Fire Marshal | A |
| Fire Protection Engineer | B |
| Battalion Chief | B |
| Division Chief | B |
| Senior Fire Inspector | B |
| Administrative Service Officer | A |

Human Resources Department

| | |
|----------------------------|---|
| Director | A |
| Risk Manager | A |
| Employee Relations Manager | B |
| Risk Management Analyst | B |
| Liability Claims Analyst | B |

Information Technology

| | |
|--------------------------|---|
| Chief Technology Officer | A |
| IT Section Manager | B |

Police Department

| | |
|--|---|
| Police Chief | A |
| Police Captain | A |
| Administrative Services Officer | A |
| Technical Services <u>Division</u> Manager | A |
| Police Lieutenant | B |

Transportation & Public Works Department

| | |
|--|---|
| Director/City Engineer | A |
| Deputy Director - Engineering | A |
| Deputy Director - Field Services | A |
| Deputy Director – Development Services | A |
| Deputy Director – Transit | A |
| Administrative Services Officer | A |
| Equipment Maintenance Superintendent | A |
| Street Maintenance Superintendent | A |
| Right-of-Way Agent | B |
| Supervising Engineer | B |
| Associate Civil Engineer | B |

| | |
|-----------------|---|
| Transit Planner | B |
|-----------------|---|

Recreation, Parks & Community Services Department

| | |
|-------------------------------------|---|
| Director | A |
| Deputy Director - Parks | A |
| Deputy Director – Recreation | A |
| Park Planning & Development Manager | A |
| Recreation Superintendent | B |
| Park Superintendent | B |
| Administrative Services Officer | B |
| General Services Administrator | B |
| Facilities Maintenance Coordinator | B |

Utilities

| | |
|--|--------------|
| Director/City Engineer | A |
| Deputy Director - Engineering Services | A |
| Deputy Director – Local Operations | A |
| Deputy Director – Water/Wastewater Policy | A |
| Deputy Director – Environmental Services | A |
| Deputy Director – Utility Operations | A |
| Utilities Project Development Manager | A |
| Supervising Civil Engineer | A |
| Utility Utilities Mechanical Superintendent | A |
| Reclamation Superintendent | A |
| Wastewater Treatment Superintendent | A |
| Utility System Superintendent | A |
| Biosolids Coordinator | A |
| Environmental Compliance Supervisor | A |
| Administrative Services Officer | A |
| Associate Civil Engineer | B |
| Stores Specialist | B |
| Utility System Supervisor | B |
| Senior Water Resources Planner | B |
| Geysers Operations and Maintenance Coordinator | B |
| Water Quality Supervisor | B |
| Laboratory Supervisor | B |
| Environmental Compliance Inspector II | B |
| Environmental Compliance Inspector III | B |
| Quality Assurance Coordinator | B |
| Materials Engineer | B |
| Development Review Coordinator | C |

Boards/Agencies/Commissions/Consultants**Disclosure Category**

| | |
|---|-----------|
| Board of Building Regulation Appeals (Members) | C |
| Board of Public Utilities (Members) | A |
| Cultural Heritage Board (Members) | <u>AC</u> |
| Design Review Board (Members) | A |
| Housing Authority (Members & Attorneys) | A |
| Community Advisory Board (Members) | A |
| Successor Agency to the Redevelopment Agency of the City of Santa Rosa (Members and Attorneys) | A |
| Oversight Board to the City of Santa Rosa as Successor Agency (Members and Attorneys) | A |

Consultants***TBD**

* Consultants, as defined in California Code of Regulations, title 2, section 18701, shall disclose pursuant to the broadest disclosure category in the Conflict of Interest Code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is 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 determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

~~The awarding authority of a particular consultant contract shall require a particular consultant to file a Statement of Economic Interests if the awarding authority finds that a consultant will:~~

~~(A) Make, or participate in making, a government decision to:~~

~~(1) approve a rate, rule or regulation;~~

~~(2) adopt or enforce a law;~~

~~(3) issue, deny, suspend or revoke any permit, license, application, certificate, approval, order or similar authorization or entitlement;~~

~~(4) authorize the City to enter into, modify or renew a contract provided it is the type of~~

~~contract which requires City approval;~~

~~(5) grant City approval to a contract which requires City approval and which the City is the party or to the specifications for such contract;~~

~~(6) grant City approval to a plan, design, report, study or similar term; or~~

~~(7) adopt or grant approval of policies, standards or guidelines for the City or for any subdivision thereof; or~~

~~(B) Serve in a staff capacity with the City and in that capacity performs the same or substantially all of the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.~~

Public Officials Who Manage Public Investments (Specified in Government Code
Section 87200):

The positions listed below manage public investments and shall file a statement of economic interests pursuant to Government Code Section 87200. These positions are listed for informational purposes only.

1. Members of the Santa Rosa City Council
2. City Manager
3. City Attorney
4. Finance Director
5. Members of the Santa Rosa Planning Commission

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

§ 18701. Public Official, Definitions.

(a) For purposes of Government Code section 82048, which defines "public official," and Government Code section 82019, which defines "designated employee," the following definitions apply:

(1) "Member" shall include, but not be limited to, salaried or unsalaried members of committees, boards or commissions with decisionmaking authority.

(A) A committee, board or commission possesses decisionmaking authority whenever:

(i) It may make a final governmental decision;

(ii) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto that may not be overridden; or

(iii) It makes substantive recommendations that are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

(B) A committee, board, or commission does not possess decisionmaking authority under subsection (a)(1)(A)(i) of this regulation if it is formed for the sole purpose of researching a topic and preparing a report or recommendation for submission to another governmental body that has final decisionmaking authority.

(2) "Consultant" means an individual who, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:

- (i) Approve a rate, rule, or regulation;
- (ii) Adopt or enforce a law;
- (iii) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- (iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;
- (v) Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;
- (vi) Grant agency approval to a plan, design, report, study, or similar item;
- (vii) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in regulation 18702.2 or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code under Government Code section 87302.

(b) For purposes of Government Code section 87200, the following definitions apply:

(1) "Other public officials who manage public investments" means:

(A) Members of boards and commissions, including pension and retirement boards or commissions, or of committees thereof, who exercise responsibility for the management of public investments;

(B) High-level officers and employees of public agencies who exercise primary responsibility for the management of public investments, such as chief or principal investment

officers or chief financial managers. This category shall not include officers and employees who work under the supervision of the chief or principal investment officers or the chief financial managers; and

(C) Individuals who, pursuant to a contract with a state or local government agency, perform the same or substantially all the same functions that would otherwise be performed by the public officials described in subdivision (b)(1)(B) above.

(2) "Public investments" means the investment of public moneys in real estate, securities, or other economic interests for the production of revenue or other financial return.

(3) "Public moneys" means all moneys belonging to, received by, or held by, the state, or any city, county, town, district, or public agency therein, or by an officer thereof acting in his or her official capacity, and includes the proceeds of all bonds and other evidences of indebtedness, trust funds held by public pension and retirement systems, deferred compensation funds held for investment by public agencies, and public moneys held by a financial institution under a trust indenture to which a public agency is a party.

(4) "Management of public investments" means the following nonministerial functions: directing the investment of public moneys; formulating or approving investment policies; approving or establishing guidelines for asset allocations; or approving investment transactions.

Comment: In limited circumstances, the members of a nonprofit organization may be "public officials." (*In re Siegel* (1977) 3 FPPC Ops. 62.)

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82019, 82048, 87100, 87200 and 87302, Government Code.

HISTORY

1. New section filed 1-22-76; effective thirtieth day thereafter (Register 76, No. 4).
2. Amendment of subsection (c) filed 4-28-82; effective thirtieth day thereafter (Register 82, No. 18).
3. Amendment of subsection (b) filed 10-19-89; operative 11-18-89 (Register 89, No. 42).
4. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
5. Editorial correction of 4 (Register 2000, No. 25).
6. Amendment of section heading, section and Note filed 1-11-2001; operative 2-1-2001.
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 2001, No. 2).
7. Amendment filed 12-29-2005; operative 1-28-2006. 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 2005, No. 52).