



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Sandra Kandell, City Clerk
MEETING DATE: September 7, 2016
SUBJECT: An ordinance to amend the City of Pacific Grove's Conflict of Interest Code
CEQA: This action does not constitute a "Project" as defined by California Environmental Quality Act (CEQA)

RECOMMENDATION

Introduce and hold first reading of an ordinance to amend Pacific Grove Municipal Code Chapter 2.40, Conflict of Interest, to account for the addition, deletion, and modification of positions listed as "designated employees; determine that, for the purposes of the City's Conflict Code, the City is the "agency;" approve the updated Conflict Code; and direct that a summary of a proposed ordinance be published as approved by the City Attorney.

DISCUSSION

The Political Reform Act of 1974 (Act) requires, among other things, that local governments adopt and maintain a Conflict of Interest code (Conflict Code). Gov. Code § 87300. Agencies must designate all positions that make or participate in the making of governmental decisions, and assign specific disclosure categories to each position. The Fair Political Practices Commission (FPPC or Commission), created under the Act, assists state and local agencies in developing and enforcing conflict-of-interest codes. On December 20, 2006, by Resolution No. 06-032, the City Council adopted a Conflicts Code.

The Act requires every agency that has adopted a Conflict Code to review its Code on at least a biennial basis (to be conducted each even numbered year) to ensure the Code reflects the organization's current staffing, and submit an amended Code, if necessary. *Id.*, § 87306.5. The Conflict Code was last amended in 2013. A review of the City's Conflicts Code revealed revisions are required due to the addition of positions not previously listed, and the deletion of positions that have been eliminated. The exhibits attached to the proposed Ordinance included with this report reflect these changes.

In addition to changes to the list of designated employees, the disclosure categories are being revised to more narrowly define the scope of disclosure. The FPPC advises that local conflict of interest codes must be limited in scope to avoid the requirement that designated employees disclose economic interests that will not be affected by the

performance of their duties. Accordingly, the scope of disclosure has been revised to require disclosure of only those interests either located in, or doing business in, or planning to do business with the City.

FISCAL IMPACT

None.

ATTACHMENT

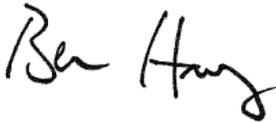
1. Proposed Ordinance Amending the City's Conflict-of-Interest Code
2. City of Pacific Grove FPPC Notice of Biennial Review

RESPECTFULLY SUBMITTED:



Sandra Kandell
City Clerk

REVIEWED BY:



Ben Harvey
City Manager

ORDINANCE NO. 16-_____

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
TO AMEND AND CODIFY THE CITY'S CONFLICT-OF-INTEREST CODE**

WHEREAS, the City Council of the City of Pacific Grove desires that elected and appointed officials be prohibited from making, participating in the making, or attempting to use their official positions to influence a governmental decision in which they know or have reason to know they have a financial interest; and

WHEREAS, the Political Reform Act (Act), set forth at Government Code section 81000 et seq, requires state and local government agencies to adopt and promulgate a Conflict of Interest Code (Conflict Code); and

WHEREAS, on December 20, 2006, the City Council adopted a Conflict Code; and

WHEREAS, the Act directs every local agency that has adopted a Conflicts Code to review its Code on at least a biennial basis (to be conducted each even numbered year) to ensure the Code reflects the organization's current staffing, and submit an amended Code, if necessary; and

WHEREAS, the Council last amended the Conflict Code on June 19, 2013, by Ordinance No. 13-010; and

WHEREAS, upon biennial review by the City Attorney's office, it was determined that an amendment to the Conflict Code was required to reflect personnel changes that resulted in the creation and/or elimination of positions, and the inclusion of boards and commissions making substantive recommendations to Council, and to limit the scope of disclosure to only those interests either located in, or doing business in, or planning to do business within the City; and

WHEREAS, this Ordinance will supersede Ordinance No. 13-010, and will codify the current conflict-of-interest requirements, providing means to further promote disclosure of conflicts and set forth disqualification procedures.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The text set forth in existing Section 2.40.010 of the Pacific Grove Municipal Code, entitled "Purpose," shall be changed by the deletion of all text shown in ~~strikeout text~~ and the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

2.40.010 Purpose

The Political Reform Act (“Act”), set forth at Government Code Section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. Pursuant to the provisions of Government Code Section 87300, et seq., the city of Pacific Grove hereby adopts the following conflict of interest code. Nothing contained herein is intended to modify or abridge the provisions of the Act, or other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions and provisions of said Act, and 2 California Code of Regulations Section 18730, adopted pursuant thereto, **and as may be amended**, shall be incorporated herein and this code shall be interpreted in a manner consistent therewith.

SECTION ~~23~~. The text set forth in existing Section 2.40.030 of the Pacific Grove Municipal Code, entitled “Disclosure Categories,” shall be changed by the deletion of all text shown in ~~strikeout text~~ and the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

2.40.030 — **Disclosure Categories**

~~SECTION 3.~~ Designated officials are assigned to specific categories of financial disclosure.

- (a) Designated Positions and Disclosure Categories
 - (1) Category 1
 - (A) Mayor;
 - (B) Councilmembers;
 - (C) City manager;
 - (D) City attorney;
 - (E) City clerk;
 - (F) Assistant city attorney;
 - (G) ~~Administrative services manager~~ ***Finance director***;
 - (H) ~~Public works and community development director~~;
 - (I) ~~Police chief~~;
 - (J) ~~Planning Manager~~ ***Community and economic development director***;
 - (K) ~~Chief Planner~~
 - (K) ***Library and information services director***;
 - (L) Members of the planning commission;
 - (M) Members of the architectural review board;
 - (N) Members of the historic resources commission;
 - (O) Members of the economic development commission;
 - (P) ***Consultant/new position***.
 - (2) Category 2
 - (A) ~~Assistant administrative services manager~~ ***Assistant finance manager***
 - (B) ~~Parks and recreation manager~~ ***Senior recreation coordinator***;
 - (C) Police commander;
 - (D) Environmental programs manager;
 - (E) Public works superintendent;

- (F) Senior planner;
- (G) Police administrative services manager;**
- (H) Police records supervisor;**
- (I) Human resources manager;**
- (J) Management analyst;**
- (K) Code compliance officer;**
- (HL) Members of the recreation board.

(b) Disclosure Categories

(1) Category 1 must report all interests in real property ~~located within the City, as well as~~ investments, business positions, ~~and~~ sources of income, including gifts, loans, and travel payments from any source located in, doing business in, or planning to do business within the jurisdiction of the City; and

(2) Category 2 must report all investments, business positions, ~~and~~ sources of income, including gifts, loans, and travel payments from any source located in, doing business in, or planning to do business within the jurisdiction of the City.

SECTION 43. Resolutions Nos. 08-028, 13-010, and all other actions in conflict with this Ordinance are hereby rescinded.

SECTION 54. If any provision, section, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 65. This Ordinance shall become effective on the thirtieth day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS ____ day of September, 2016, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

2016 Local Agency Biennial Notice

Name of Agency: City of Pacific Grove

Mailing Address: 300 Forest Avenue

Contact Person: Sandra Kandell, City Clerk Phone No. 831-648-3181

Email: cityclerk@cityofpacificgrove.org Alternate Email: skandell@cityofpacificgrove.org

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (*check one BOX*):

An amendment is required. The following amendments are necessary:

(*Check all that apply.*)

- Include new positions
- Revise disclosure categories
- Revise the titles of existing positions
- Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- Other (*describe*) Scope of disclosure has been revised to require disclosure of only those interests either located in, or doing business in, or planning to do business with the City.

The code is currently under review by the code reviewing body.

No amendment is required. (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer

9/7/16

Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 3, 2016**, or by the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.