



# AGENDA REPORT

## CITY OF SAN CLEMENTE

### CITY COUNCIL MEETING

910 Calle Negocio  
2nd Floor  
San Clemente, California  
www.san-clemente.org

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**Meeting Date:** September 17, 2024

Agenda Item: 10B

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**Submitted By:** City Clerk

**Prepared By:** Laura Campagnolo, City Clerk

**Subject:**

**CONFLICT OF INTEREST CODE UPDATE AND INTRODUCTION (FIRST READING) OF AN ORDINANCE RELATED TO FUTURE UPDATES**

**Fiscal Impact:**

None.

**Summary:**

The actions before the City Council are necessary to comply with requirements under the Political Reform Act of 1974, Government Code Sections 81000 et seq. (the "Act") to update the City's conflict of interest code biannually.

**Background:**

State law (Government Code Section 87200) requires that certain City officers (i.e., the City Council, Planning Commission, City Manager, City Attorney and City Treasurer) file statements of economic interests (Form 700) with the City Clerk at specified intervals. In addition, the Act mandates that local agencies adopt a conflict of interest code that designates Commission/Committee members and City employees who are also required to file Form 700s because they could foreseeably make or participate in making governmental decisions that could affect their private financial interests. The Act requires that conflict of interest codes establish disclosure categories for each designated position that tailors the disclosure requirements to the types of governmental decisions a person holding that position could potentially participate in making.

The Act further requires that agencies review and update their conflict of interest codes at least once during even-numbered years and whenever a change is necessitated by modified circumstances. (See Gov. Code Sections 87306 and 87307).

**Analysis:**

Since the last update to the City's Conflict of Interest Code, the City has added two new Committees – the Arts and Culture Committee and Coastal Advisory Committee - as well as added new positions in the City's FY 2024-25 City budget. Staff recommends that the City Council review the City's Conflict of Interest Code to determine if and what changes to the Code are necessary.

Staff has completed its analysis and is recommending that Council adopt a resolution to update the City's Conflict of Interest Code (Attachment 2). A legislative (redlined) version of the proposed amended Conflict of Interest Code is included in this report as Attachment 3. The proposed

revisions add new Commissions and Committees and new positions to the Code and reflect updated position titles.

Pursuant to state law requirements, employees affected by the proposed changes have been informed of the proposed changes and advised that City Council will consider adopting the amendments at this meeting.

Additionally, staff recommends adding Section 2.24.010 to the San Clemente Municipal Code to officially codify the City Council's ability to adopt, update amend and otherwise modify the Conflict of Interest Code by resolution.

***Council Options:***

- Introduce and conduct the first reading of Ordinance No. 1781 and adopt Resolution No. 24-143, adopting an updating Conflict of Interest Code.
- Modify, introduce and conduct the first reading of Ordinance No. – and/or modify and adopt Resolution No. 24-143.
- Direct staff to return with additional information.

***Environmental Review/Analysis:***

This is not a “project” under the California Environmental Quality Act.

***Recommended Actions:***

Staff Recommendation

1. Introduce Ordinance No. 1781 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 2.24 OF THE MUNICIPAL CODE OF THE CITY OF SAN CLEMENTE TO ADD SECTION 2.24.010, RELATING TO THE CONFLICT OF INTEREST CODE.
2. Adopt Resolution No. 24-143 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974 AND REPEALING RESOLUTION NO. 21-37.

***Attachments:***

1. Ordinance No. 1781
2. Proposed Resolution with Proposed Conflict of Interest Code attached as Exhibit A
3. Conflict of Interest Code (Legislative Version that shows proposed changes)

***Notification:***

1. A Notice of Intention to Amend the Conflict of Interest Code was posted on the City Hall Bulletin Board and online on September 9, 2024.
2. Employees whose positions would be affected by changes in the updated Conflict of Interest Code and Commissioners/Committee Members and consultant(s) who would be affected by

the changes were emailed copies of the “Notice of Intention to Amend the Conflict of Interest Code”, together with a red-lined version of the proposed Code, on September 9, 2024.

ORDINANCE NO. 1781

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 2.24 OF THE MUNICIPAL CODE OF THE CITY OF SAN CLEMENTE TO ADD SECTION 2.24.010, RELATING TO THE CONFLICT OF INTEREST CODE

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Sections 81000, *et seq.* (the "Act"), which contains provisions relating to conflicts of interest that potentially affect all officers, employees and consultants of the City of San Clemente (the "City"), and which requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the City Council adopted a Conflict of Interest Code (the "Code"), which was last amended on October 5, 2021, in compliance with the Act; and

WHEREAS, from time to time, the Conflict of Interest Code must be updated due to staffing changes or the addition or removal of City Commissions and Committees; and

WHEREAS, adopting such changes by resolution is in the best interests of the City and the public.

NOW, THEREFORE, the City Council of the City of San Clemente, California, hereby ordains as follows:

Section 1: Chapter 2.24 of the SCMC, relating to the Conflict of Interest Code, is hereby modified to add Section 2.24.010 to read as follows:

2.24.010 - Adoption

The City Council may from time to time adopt, promulgate, amend or otherwise modify its conflict of interest code as required by the Political Reform Act (Gov. Code §§ 81000, *et seq.*) via resolution.

Section 2: If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 4. This Ordinance shall become effective on October 31, 2024.

Section 5. Upon this Ordinance becoming effective, all previous Ordinances and Resolutions that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 6. The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary thereof, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code Section 36933.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of  
San Clemente, California

STATE OF CALIFORNIA            )  
 COUNTY OF ORANGE            ) ss.  
 CITY OF SAN CLEMENTE        )

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1781, having been regularly introduced at the meeting of \_\_\_\_\_, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 CITY CLERK of the City of  
 San Clemente, California

Approved as to Form:

\_\_\_\_\_  
 Elizabeth A. Mitchell, City Attorney

RESOLUTION NO. 24-143

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974 AND REPEALING RESOLUTION NO. 21-37

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Sections 81000, *et seq.* (the "Act"), which contains provisions relating to conflicts of interest that potentially affect all officers, employees and consultants of the City of San Clemente (the "City"), and which requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the City Council adopted a Conflict of Interest Code (the "Code"), which was last amended on October 5, 2021, in compliance with the Act; and

WHEREAS, the Political Reform Act requires every agency to review its conflict of interest code biennially and to notify the code reviewing body if their current code is accurate; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the City Council of, the proposed amended Code was provided to each affected designated employee and was publicly posted for review; and

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the City Council on September 17, 2024, at which all persons desiring to be heard were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Clemente that:

Section 1. The City Council does hereby approve and adopt the amended Conflict of Interest Code, a copy of which is attached hereto as Exhibit A and fully incorporated herein by this reference. A copy of said Code shall be kept on file with the City Clerk and available to the public for inspection and copying during regular business hours.

Section 2. Said amended Conflict of Interest Code shall become effective immediately upon its adoption and approval.

Section 3. All previous conflict of interest codes of the City of San Clemente shall be rescinded upon the effective date of said amended Code as approved by the City Council.

Section 4. City staff is authorized and directed to take such other and further actions as may be required by law or necessary and appropriate to accomplish the purposes of this resolution.

Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San  
Clemente, California



STATE OF CALIFORNIA     )  
 COUNTY OF ORANGE        ) §  
 CITY OF SAN CLEMENTE    )

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 24-143 was adopted at a regular meeting of the City Council of the City of San Clemente held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 CITY CLERK of the City of  
 San Clemente, California

Approved as to form:

\_\_\_\_\_  
 Elizabeth A. Mitchell, City Attorney

**CONFLICT OF INTEREST CODE**  
**OF THE**  
**CITY OF SAN CLEMENTE**

# CONFLICT OF INTEREST CODE OF THE CITY OF SAN CLEMENTE

(Amended September 17, 2024)

The Political Reform Act (Gov. Code § 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 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code that can be incorporated by reference in an agency's code. After public notice and a hearing, Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730 and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **City of San Clemente (the "City")**.

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney and the City Treasurer, may electronically file their annual statements of economic interests directly with the Fair Political Practices Commission. All other officials and designated positions required to submit a statement of economic interests shall file their statements with the **City Clerk** as the City's Filing Officer. The **City Clerk** shall retain the original statements filed by such officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

All officials and designated positions required to submit a statement of economic interests shall receive ethics training every two years as required pursuant to Government Code section 53235 (AB 1234). The City's Filing Officer shall annually provide all filers with information on training available to meet the requirements of Section 53235, and maintain required records indicating the dates that filers satisfied the training requirements and the entity that provided the training. These records shall be retained for five years after the date of training and are public records subject to disclosure under the California Public Records Act. (Gov. Code § 53235.2.)

# **APPENDIX**

## **CONFLICT OF INTEREST CODE**

### **OF THE**

## **CITY OF SAN CLEMENTE**

(Amended September 17, 2024)

### **PART “A”**

The Mayor, Members of the City Council and the Planning Commission, the City Manager, the City Attorney, the City Treasurer, and All Other City Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3, are NOT subject to the City’s Code but must file disclosure statements under Government Code Sections 87200 *et seq.* [Regs. § 18730(b)(3).]

### **OFFICIALS WHO MANAGE PUBLIC INVESTMENTS**

It has been determined that the positions listed below are Other City Officials who manage public investments<sup>1</sup>. These positions are listed here for informational purposes only.

Investment Advisory Committee

Investment Consultant

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<sup>1</sup> Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

**DESIGNATED EMPLOYEES'**  
**TITLE OR FUNCTION**

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

**DESIGNATED POSITIONS**

**GOVERNED BY THE CONFLICT OF INTEREST CODE**

**DESIGNATED EMPLOYEES'**  
**TITLE OR FUNCTION**

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

Assistant to the City Manager	1, 2
Administrative Services Director	1, 2
Assistant Utilities Manager	5
Assistant City Engineer	5
Associate Civil Engineer	2, 3, 5, 6
Beaches, Parks and Recreation Director	5
Building Inspector (ALL)	2, 3, 6
Building Official	2, 3, 5, 6
Chief Administrative Officer/ACM	1, 2
Chief of Police Services	5
City Clerk	5
City Fire Chief	5
City Planner	2, 3, 5, 6
Contract Coastal Administrator	5
Code Compliance Manager	2, 5, 6
Community Development Director	1, 2

<b><u>DESIGNATED EMPLOYEES'</u></b> <b><u>TITLE OR FUNCTION</u></b>	<b><u>DISCLOSURE CATEGORIES</u></b> <b><u>ASSIGNED</u></b>
Deputy Administrative Services Director	1, 2
Deputy Community Development Director	2, 3, 5, 6
Deputy Public Works Director	2, 3, 5, 6
Economic Development Officer	1, 2
Environmental Programs Supervisor	5
Financial Services Officer	4
Golf Course Manager	5
Human Resources Manager	4
Information Technology Manager	5
Legislative Administrator	5, 8
Maintenance Manager	5
Maintenance Operations Supervisor	5
Marine Safety Captain	5, 6
Principal Civil Engineer	1, 2
Principal Civil Engineer/Asset Manager	1, 2
Principal Planner	2, 3, 5, 6
Public Works Director/City Engineer	1, 2
Risk Management/Human Resources Officer	5, 8
Senior Civil Engineer	1, 2
Management Analyst, II	2, 3, 5
Senior Plan Check Engineer	2, 3, 6
Senior Planner	2, 3, 6

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Systems Applications Analyst	5
Transportation Engineering Manager	1, 2
Utilities Director	5
Utilities Maintenance Supervisor	5
Utilities Manager	5
Utilities Operations Supervisor (ALL)	5
Utilities Superintendent	5

**MEMBERS OF BOARDS,**  
**COMMITTEES & COMMISSIONS**

Arts & Culture Committee	2, 3, 5
Beaches, Parks and Recreation Commission	2, 3, 5
Coastal Advisory Committee	2, 3, 5
Golf Course Committee	5
Human Affairs Committee	5

Consultants and New Positions\*

\*Individuals serving as a consultant as defined in FPPC Reg. 18700.3 or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The City Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code § 82019; FPPC Regulations 18219 and 18734.). 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. (Gov. Code § 81008.)

# **PART "B"**

## **DISCLOSURE CATEGORIES**

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.<sup>2</sup> "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the District.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments.

Category 2: All interests in real property that is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the City, including any leasehold, beneficial or ownership interest or option to acquire property.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated employee's department, unit or division.

Category 7: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit organization, if the source is of the type to receive grants or other monies from or through the City or its subdivisions.

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<sup>2</sup> This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1.)



Category 8: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against the City in the past two years, or have a claim pending before the City.

Category 9: All interests in real property, and all investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the geographical area of, and within two miles of, the designated position's assigned advisory area.