



Staff Report

Date: September 10, 2020
To: Mayor McMillan and Council Members
From: Joe Chinn, Town Manager
Subject: Update and Amendment to Conflict of Interest Code

Recommendation

Town Council adopt Resolution No. 2178 amending the Town of Ross conflict of interest code and rescinding Resolution No. 1964.

Background and discussion

The Town's conflict of interest code was last updated by the Town Attorney in September 2016 by Resolution No. 1964. At that time, the Council adopted the current version of the model Conflict of Interest Code prepared by the Fair Political Practices Commission (FPPC), and rescinded all previous resolutions pertaining to the Town's conflict of interest code.

Under the Political Reform Act, the Town Council, Town Manager, Town Treasurer and Town Attorney are required to file financial disclosure statements (Form 700) as required by the statute and the FPPC regulations. Local agencies are required to adopt a local conflict of interest code that applies to designated employees and consultants who make or participate in the making of decisions which may foreseeably have a material effect on financial interests. The local code also must address the type of financial disclosures that are required. The attached Resolution updates the designated positions in Appendix A that are subject to the model code. As part of the update, Planning and Building Director, Senior Building Inspector, and Senior Maintenance Worker positions have been added, and the Planning Manager and Public Works Superintendent positions have been removed.

Fiscal, resource and timeline impacts

N/A

Alternative actions

Council may choose to further amend the Town's conflict of interest code.

Environmental review (if applicable)

N/A

Attachments

- 2020 Local Agency Biennial Notice
- Resolution No. 2178 (includes Appendix A, Appendix B)

2020 Local Agency Biennial Notice

Name of Agency: _____

Mailing Address: _____

Contact Person: _____ Phone No. _____

Email: _____ Alternate Email: _____

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*) _____

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

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 1, 2020**, 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.

TOWN OF ROSS

RESOLUTION NO. 2178

A RESOLUTION OF THE TOWN OF ROSS UPDATING AND AMENDING ITS CONFLICT OF INTEREST CODE AND RESCINDING RESOLUTION NO. 1964

WHEREAS, the Political Reform Act (Government Code Sections 81000, et seq.), requires the Town to adopt a Conflict of Interest Code; and

WHEREAS, the Fair Political Practices Commission (the "Commission") has adopted a standard model Conflict of Interest Code. The standard model code is codified at 2 California Code of Regulations Section 18730 and can be incorporated by reference by the Town as the Town's Conflict of Interest Code; and

WHEREAS, the Town Council wishes to rescind Resolution No. 1964 in its entirety and adopt a new updated Conflict of Interest Code containing designated positions and disclosure categories for all applicable positions in the Town; and

WHEREAS, designated employees shall file statements of economic interests with the Town of Ross. The Town shall make all statements available for public inspection and copying; and

WHEREAS, in addition to updating its Conflict of Interest Code, the Town Council desires to ensure that any consultants performing the duties of any designated positions or regularly providing advice to the Town on Town matters not perform work for business owners or residents in the Town in order to ensure their undivided loyalty to the public interest;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF ROSS DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:

Section 1. Resolution No. 1964 is hereby rescinded in its entirety and replaced with this Resolution.

Section 2. The attached Appendix A and Appendix B contains a list that establishes the Designated Positions and Disclosure Categories for the Town of Ross and is incorporated herein by reference. The terms of 2 California Code of Regulations 18730 and any amendments to it duly adopted by the California Fair Political Practices Committee are hereby incorporated by reference. This regulation and the attached Appendix A designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code for the Town of Ross.

Section 3. Persons holding designated positions listed in Appendix A shall file statements of economic interest pursuant to Section 5 of the Conflict of Interest Code with the Town Clerk.

Section 4. Pursuant to the Political Reform Act (Government Code Sections 81000 through 91014), a person holding a designated position listed in this Conflict of Interest Code that violates any provisions of this Code is subject to administrative, criminal and civil sanctions provided in the Political Reform Act. In addition, if a person who holds a designated position makes, participates in making or otherwise attempts to use his or her official position to influence a decision of the Town in which he or she has a financial interest, he or she may also be subject to additional administrative, criminal and civil sanctions and the decision may be set aside and voided pursuant to Government Code Section 91003.

Section 5. The Town Council hereby directs the Town Clerk and Town Attorney to coordinate the preparation of a revised Conflict of Interest Code in succeeding even-numbered years in accordance with the requirements of Government Code Sections 87306 and 87306.5. The revised Code should reflect any changes in department or employee designations. If no revisions to the Code are required, the Town Clerk shall submit a report no later than October 1st of the same year, stating that amendments to the Code are not required.

Section 6. Any consultant performing the duties of a designated position set forth in Appendix A or providing advice to the Town Council or staff on building projects not constructed by the Town shall not provide services to any business, residence, school, nonprofit entity, or other private or public property owner located in the Town, not including the Town. The prohibition provided by this section shall not apply to any pending projects as of the date of this resolution that a consultant is working on for a business, residence, school, nonprofit entity, or other private or public property owner located in the Town.

Section 7. The Town Clerk shall certify to the passage and adoption of this resolution.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 10th day of September 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Julie McMillan, Mayor

ATTEST:

Linda Lopez, Town Clerk

APPENDIX A

DESIGNATED POSITIONS

DISCLOSURE CATEGORIES

Town Council Member	1
Town Manager	1
Town Attorney	1
Town Treasurer	1
Town Clerk	2, 3, 4, 5
Planning and Building Director	2, 3, 4, 5
Police Chief	2, 3, 4, 5
Public Works Director/Town Engineer	2, 3, 4, 5
Senior Building Inspector	2, 3, 4, 5
Senior Maintenance Worker	2, 3, 4, 5
Recreation Manager	2, 3, 4, 5
Consultant	6

APPENDIX B

DISCLOSURE CATEGORIES

1. Disclosure is already required by Government Code Section 87200. No additional disclosure is required by this Code.
2. Reportable interests in real property in the jurisdiction. (Form 700, Schedule B.)
3. Reportable income and business positions. (Form 700, Schedule C).
4. Reportable investments. (Form 700, Schedules A-1 and A-2).
5. Reportable gifts and travel gifts. (Form 700, Schedules D and E).
6. For consultants who serve in a staff capacity with the Town, the consultant shall disclose based on the disclosure categories assigned elsewhere in this code for that staff position. For consultants who do not serve in a staff capacity for the Town, the following disclosure categories shall be used:

Persons required to disclose in this category shall disclose pursuant to categories A, B, C and D below unless the Town Manager determines in writing that a particular consultant 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 in categories A, B, C and D. 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 Town 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.

- A. Reportable interests in real property in the jurisdiction. (FPPC Form 700, Schedule B.)
- B. Reportable income and business positions. (FPPC Form 700, Schedule C).
- C. Reportable investments. (FPPC Form 700, Schedules A-1 and A-2.)
- D. Reportable gifts and travel gifts. (FPPC Form 700, Schedules D and E)