

CONFLICT OF INTEREST CODE FOR CITY OF MONTCLAIR

The Political Reform Act, Government Code Sections 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 Section 18730, which contains the terms of a standard Conflict of Interest Code that can be incorporated by reference and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code of Regs Section 18730 and any amendments thereto duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendices in which officials and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the City of Montclair.

Pursuant to Section 4(A) of the standard Code, designated employees, listed on Exhibit A, shall file Statements of Economic Interests with the City Clerk. These Statements shall be retained by the City Clerk.

The City Clerk shall make and retain copies of the Statements of City Council Members, City Administrator, City Attorney, and Planning Commissioners and forward the original of these Statements to the filing officer of the Fair Political Practices Commission.

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

18730. Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation, along with the designation of employees and the formulation of disclosure categories in the Exhibits referred to below constitute the adoption and promulgation of a Conflict of Interest Code within the meaning of Government Code Section 87300 or the amendment of a Conflict of Interest Code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a Conflict of Interest Code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000, *et seq.* The requirements of a Conflict of Interest Code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100 and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a Conflict of Interest Code amended or adopted and promulgated pursuant to this regulation are as follows:

Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs Sections 18100, *et seq.*) and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 2. Designated Employees

The persons holding positions listed in Exhibit A are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Section 3. Disclosure Categories

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this Code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, *et seq.* Such persons are governed by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Exhibit B specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her Statement of Economic Interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests: Place of Filing

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body as provided by the code reviewing body in the agency's Conflict of Interest Code.

Section 5. Statements of Economic Interests: Time of Filing

(A) Initial Statements. All designated employees employed by the City of Montclair on the effective date of this Code, as originally adopted, promulgated, and approved by the code reviewing body, shall file Statements within 30 days after the effective date of this Code. Thereafter, each person already in a position when it is designated by an amendment to this Code shall file an initial Statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this Code shall file Statements within 30 days after assuming the designated positions.

(C) Annual Statements. All designated employees shall file Statements no later than April 1 of each year.

(D) Leaving Office Statements. All persons who leave designated positions shall file Statements within 30 days after leaving office.

Section 6. Contents of and Period Covered by Statements of Economic Interests

(A) Contents of Initial Statements. Initial Statements shall disclose any reportable investments, interests in real property, and business positions held on the effective date of the Code. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the Code.

(B) Contents of Assuming Office Statements. Assuming Office Statements shall disclose any reportable investments, interests in real property, and business positions held on the date you assumed the office. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position.

(C) Contents of Annual Statements. Annual Statements shall disclose any reportable investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the Statement.

(D) Contents of Leaving Office Statements. Leaving Office Statements shall disclose reportable investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the Statement.

Section 7. Manner of Reporting

Statements of Economic Interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the City Clerk and shall contain the following information:

(A) Investments and Real Property Disclosure. When an investment or an interest in real property is required to be reported, the Statement shall contain the following:

1. A statement of the nature of the investment or interest.
2. The name of the business entity in which each investment is held and a general description of the business activity in which the business entity is engaged.
3. The address or other precise location of real property.
4. A statement whether the fair market value of the property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported, the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value or fifty dollars (\$50) or more in value if the income was a gift and a general description of the business activity, if any, of each source.
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000).
3. A description of the consideration, if any, for which the income was received.
4. In the case of a gift, the name, address, and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received.
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity.

2. The name of every person from whom the business entity received payments if the filer's pro rata share of the gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management; a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

- (E) Acquisition or Disposal During Reporting Period.

In the case of an Annual or Leaving Office Statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the Statement, the Statement shall contain the date of acquisition or disposal.

Section 8. Disqualification

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediately family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by, or promised to the designated employee within twelve (12) months prior to the time the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating:

1. five hundred (\$500) or more in value during Calendar Year 2020; or
2. five hundred twenty dollars (\$520) or more in value during Calendar Years 2021 and 2022;

provided to, received by, or promised to the designated employee within twelve (12) months prior to the time the decision is made.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this Section.

Section 9. Manner of Disqualification

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest.

Section 10. Assistance of the Commission and Counsel

Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this Section requires the attorney for the agency to issue any formal or informal opinion.

Section 11. Violations

This Code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 – 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

Endnotes

1. Designated employees who are required to file Statements of Economic Interests under any other agency's Conflict of Interest Code, or under Article 2 for a different jurisdiction, may expand their Statement of Economic Interests to cover reportable interests in both jurisdictions and file copies of this expanded Statement with both entities in lieu of filing separate and distinct Statements, provided that each copy of such expanded Statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.
2. See Government Code Section 81010 and 2 Cal. Code of Regs Section 18115 for the duties of filing officers and persons in agencies who make and retain copies of Statements and forward the originals to the filing officer.
3. For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.
4. Investments and interests in real property which have a fair market value of less than two thousand dollars (\$2,000) are not investments and interests in real property within the meaning of the Political Reform Act; however, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse, and dependent children own, in the aggregate, a direct, indirect, or beneficial interest of 10 percent or greater.
5. A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local, or federal government agency.
6. Income of a business entity is reportable if the direct, indirect, or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.
7. The FPPC has developed a smartphone app to help filers keep track of the gifts received in a calendar year. Visit the FPPC website at <http://www.fppc.ca.gov/Form700/gift-tracking-app.html> for more information.

EXHIBIT A
CITY OF MONTCLAIR DESIGNATED EMPLOYEES

The persons in the following positions are deemed to be "Designated Employees" within the meaning of Government Code Section 72109 and Section 2 of this Conflict of Interest Code. These persons shall file appropriate disclosure statements pursuant to this Code:

<i>Position</i>	<i>Disclosure Categories</i>
Accounting Specialist (Business License)	1,2,3,4
Administrative Analyst	2,3,4
Assistant Public Works Superintendent	2,3,4
Associate Planner	1,2,3,4
Battalion Chief	1,2,3,4
Benefits Coordinator	2,3,4
Building Inspector	1,2,3,4
Building Maintenance Supervisor	2,3,4
Building Official/Code Enforcement Manager	1,2,3,4
City Clerk	2,3,4
Code Enforcement Officer	1,2,3,4
Code Enforcement Supervisor	1,2,3,4
Deputy City Attorney	1,2,3,4
Deputy City Manager	1,2,3,4
Deputy Director of Community and Economic Development	1,2,3,4
Deputy Fire Chief	1,2,3,4
Deputy Fire Marshal	1,2,3,4
Director of Administrative Services and Human Resources	2,3,4
Director of Community Development	1,2,3,4
Director of Finance	1,2,3,4
Director of Human Services	2,3,4
Director of Public Works/City Engineer	1,2,3,4
Economic Development Coordinator/Housing Associate	1,2,3,4
Engineering Division Manager	2,3,4
Environmental Compliance Coordinator	2,3,4
Executive Director, Office of Public Safety/Police Chief	1,2,3,4
Finance Manager	1,2,3,4
Fire Chief	1,2,3,4
Fire Marshal	1,2,3,4
Information Relations Officer	2,3,4
Information Technology Manager	2,3,4
Plans Examiner	1,2,3,4
NPDES Coordinator	1,2,3,4
NPDES Environmental Compliance Inspector	1,2,3,4
Police Captain	1,2,3,4
Police Chief	1,2,3,4
Police Lieutenant	1,2,3,4
Police Services Supervisor	2,3,4
Project Manager	2,3,4
Public Safety/Administrative Services Supervisor	2,3,4
Public Works Inspector	1,2,3,4
Public Works Superintendent	2,3,4
Senior Building Inspector	1,2,3,4
Senior Code Enforcement Officer	1,2,3,4
Senior Management Analyst	2,3,4

**EXHIBIT B
DISCLOSURE CATEGORIES**

- Category 1** Relates to a reportable interest in investments and real property as defined in Sections 7(A) and 7(E) of this Code.
- Category 2** Relates to a reportable interest in sources of income and gifts as defined in Section 7(B) of this Code.
- Category 3** Relates to a reportable interest in sources of income of a business entity as defined in Section 7(C) of this Code.
- Category 4** Relates to a reportable interest in sources of income of each business entity in which a position of management is held, as defined in Section 7(D) of this Code.