



TOWN OF FAIRFAX

STAFF REPORT

April 2, 2014

TO: Mayor and Town Council

FROM: Michele Gardner, Town Clerk 

SUBJECT: Biennial review of the Conflict of Interest Code and adoption of Resolution 14-__
Confirming Biennial Review with no Amendments to the Conflict of Interest Code
adopted pursuant to Resolution 12-19

RECOMMENDATION

Adopt the resolution

DISCUSSION

The Political Reform Act requires local government agencies to adopt and promulgate a conflict of interest code, and to conduct a review of the code every two years. The Town has conducted its biennial review of its Conflict of Interest Code and does not see the need for any amendments at this time.

As background, designations of positions and disclosure categories are made pursuant to 2 CCR 1870, which essentially states that a designated individual is one who could make a final governmental decision OR who makes substantive recommendations that are, and over an extended period of time have been, regularly approved without significant amendment by another public official.

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

(A) A committee, board or commission possesses decision-making 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 decision-making 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 decision-making authority.

ATTACHMENTS: proposed Resolution 14 - __ and Resolution 12-19

RESOLUTION 14-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
CONFIRMING BIENNIAL REVIEW WITH NO AMENDMENTS
OF THE CONFLICT OF INTEREST CODE
FOR THE TOWN OF FAIRFAX**

WHEREAS, the Political Reform Act (Government Code Section 81000 et seq.) requires local government agencies to adopt and promulgate conflict of interest codes, and to conduct a biennial review and revise them if necessary; and

WHEREAS, the Fair Political Practices Commission (FPPC) has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code which may be incorporated by reference in an agency's code, and which may be amended by the FPPC to conform to amendments in the Political Reform Act, following public notice and hearings; and

WHEREAS, the terms of 2 Cal. Code of Regs. 18730 and any amendment to it duly adopted by the FPPC have previously been incorporated by reference by Section 2.48.010 of the Town Code, which, together with the list of designated positions and disclosure categories adopted from time to time by the Town Council (the "Designated List") constitutes the Conflict of Interest Code for the Town of Fairfax; and

WHEREAS, the Town has conducted its biennial review of the current Conflict of Interest Code which the Town last updated in 2012 pursuant to Resolution 12-19; and

WHEREAS, the Town has determined that the Code in its current form is in accordance with the applicable laws, regulations, and guidelines;

NOW, THEREFORE, BE IT RESOLVED that, having undertaken its biennial review of the Town's Conflict of Interest Code, the Town Council hereby confirms that no amendments to said Code are required at this time.

The Foregoing Resolution was adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on April 2, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

DAVID WEINSOFF, MAYOR

Attest: _____
Michele Gardner, Town Clerk

RESOLUTION NO. 12-19

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADOPTING A REVISED EXHIBIT "A" TO THE CONFLICT OF INTEREST CODE
FOR THE TOWN OF FAIRFAX**

- WHEREAS, the Political Reform Act (Government Code Section 81000 et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes; and
- WHEREAS, the Fair Political Practices Commission (FPPC) has adopted a regulation (2Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code which may be incorporated by reference in an agency's code, and which may be amended by the FPPC to conform to amendments in the Political Reform Act, following public notice and hearings; and
- WHEREAS, the terms of 2 Cal. Code of Regs. 18730 and any amendment to it duly adopted by the FPPC have previously been incorporated by reference by Section 2.48.010 of the Town Code, which, together with the list of designated positions and disclosure categories adopted from time to time by the Town Council (the "Designated List") constitutes the Conflict of Interest Code for the Town of Fairfax; and
- WHEREAS, the Town has conducted its biennial review of its Conflict of Interest Code and wishes to adopt the revised Designated List attached hereto as Exhibit A to replace all prior designations of positions and disclosure categories; and
- WHEREAS, the designated employees, officials and consultants on the Designated List shall file statements of economic interests with the Town of Fairfax and the Town shall make all statements available for public inspection and reproduction, pursuant to Government Code Section 81008;

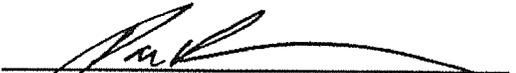
NOW, THEREFORE, BE IT RESOLVED, to establish the Designated List attached as Exhibit "A" of the Town of Fairfax Conflict of Interest Code pursuant to Section 2.48.010 of the Town Code.

The Foregoing Resolution was adopted at a regular meeting of the Fairfax Town Council held on April 4, 2012, by the following vote:

AYES: Bragman, Hartwell-Herrero, O'Neil, Reed, Weinsoff

NOES: None

ABSENT: None


PAM HARTWELL-HERRERO, MAYOR

Attest:


Town Clerk

Exhibit "A" of Chapter 2.48 of the Town of Fairfax
Conflict of Interest Code

DESIGNATED OFFICIALS

	Form	Disclosure Category
Parks and Recreation Commission	700	1,2,3
General Plan Implementation Committee	700	1,2,3
Planning and Building Services Director	700	1,2,3
Director of Public Works	700	1,2,3
Building Official	700	1,2,3
Finance Director	700	1,2,3
Police Chief	700	1,2,3
Town Clerk	700	1,2,3
Assistant to the Town Manager	700	1,2,3
Town Engineer	700	1,2,3
Senior Planner	700	1,2,3
Consultant**	700	1,2,3
(Subject to Town Manager Direction)		

(Any employee serving dual roles may file a combined statement by reporting the broadest range of disclosure.)

** A Consultant is defined as a person who provides under contract, information, advice, recommendation or counsel to any agency. Consultant shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category subject to the following limitations:

The Town 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 in this section. Such written determination shall include a description of the consultant's duties and, based upon the 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.

PUBLIC OFFICIALS WHO FILE A STATEMENT OF ECONOMIC INTERESTS PURSUANT TO GOVERNMENT CODE §87200:

	Form	Disclosure Category
Town Council	700	1,2,3
Planning Commission	700	1,2,3
Town Manager	700	1,2,3
Town Attorney	700	1,2,3
Town Treasurer	700	1,2,3

DISCLOSURE CATEGORY REQUIREMENTS

1. Investments and business positions in any business entities which, within the last two years, have contracted, or plans to do business in the jurisdiction, with the Town to provide services, supplies, materials, machinery or equipment.
2. Income from any other source which, within the last 12 months, has contracted, or plans to do business in the jurisdiction, with the Town to provide services, materials, machinery or equipment to the Town.
3. Interests in real property, located in whole or in part either within the boundaries of the Town, or within two miles of the boundaries of the Town, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property. This information need not be provided with respect to an interest in real property that is used as the principal residence of the designated member or employee

DISCLOSURE CATEGORY REQUIREMENTS

Broadest Disclosure per Applicable Requirement (Form 700) including:

- All sources of income.
- Interest in Real Property, and
- Investments and Business positions in business entities

DESIGNATED CONSULTANT POSITIONS

The Town Manager has determined that the following Consultant positions are "designated positions" required to file a statement of economic interests pursuant to Chapter 2.48 of the Town Code, as indicated:

Planning Consultants

Engineering Consultants