



OFFICE OF THE CITY CLERK

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: September 15, 2020

Subject

Resolution amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest (Form 700s); 2020 Local Agency Biennial Notice

Recommended Action

a.) Adopt Resolution No. 20-___ rescinding Resolution No. 18-092 and amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest; and b.) Authorize the City Manager to sign the required 2020 Local Agency Biennial Notice

Background

The Political Reform Act, Government Code Section 81000, et seq., requires every local government agency to adopt a conflict of interest code. The code establishes the categories of public officials and designated employees who must disclose certain personal assets and income which might materially affect their governmental decisions. The public officials and designated employees must file a Statement of Economic Interest (Form 700) to make disclosure of their financial interests. The amount of disclosure will depend upon their duties. Positions that involve voting on matters, negotiating contracts, or making recommendations on purchases without substantive review must be included in the code. Persons holding positions listed in Government Code section 87200 (87200 filers) include City Councilmembers, the City Attorney, the City Manager, Planning Commissioners, and persons who manage public investments. They are required by state law to file a full disclosure Form 700.

The information required to be in a code's main body is complex and may change over time. Agencies must review their codes biennially and amend when necessary. An amended code is necessary if the current code is more than five years old; or if there have been any substantial changes to the agencies organizational structure or in duties or responsibilities for any positions; or if positions have been added or deleted, or renamed;

or if there have been revisions to the disclosure categories. A biennial notice verifying review and any amendments must be filed with the code reviewing body no later than October 1, 2020 (Attachment D - 2020 Local Agency Biennial Notice). The City Council is the code reviewing body for city agencies. The City Council last reviewed and updated the City's Conflict of Interest Code on September 18, 2018 by adoption of Resolution No. 18-092 (Attachment C – Adopted Resolution No. 18-092).

Discussion

An amendment to the City of Cupertino Conflict of Interest Code is necessary this year to make the following changes (Attachment A - Draft Resolution and Conflict of Interest Code redline):

a.) Update the disclosure categories. The main proposed change is to make disclosure categories track the types of economic interest to be reported. People covered by the code (e.g., City staff & commission members) are then assigned to those disclosure categories based on their specific duties and responsibilities. This change is being proposed for consistency with state law and the approach taken by other cities. The City of Palo Alto's conflict code model served as the basis for this template. The current code is organized by 4 disclosure categories (See Comparison Chart). For clarity, the draft code has been updated to include 6 revised disclosure categories. The proposed disclosure requirements for commissions are closely based on their respective roles of making recommendations and/or influencing governmental decisions; and

Comparison Chart.

Current Disclosure Categories	Proposed Disclosure Categories
1. 87200 FILERS Report all investments, positions in business entities, sources of income (including gifts, loans, and travel payments), and interests in real property. (All Form 700 Schedules (A through E))	1. FULL DISCLOSURE Report all investments, positions in business entities, sources of income (including gifts, loans, and travel payments), and interests in real property. (All Form 700 Schedules (A through E))
2. COMMISSIONS Report investments, income and positions in business entities (ownership is 10% or greater); and income, loans and business positions (income other than gifts and travel payments) (Form 700 Schedules A-2, C)	2. ALL INCOME Report all investments, positions in business entities, and sources of income (including gifts, loans, and travel payments). (Form 700 Schedules A, C, D, E)
3. DESIGNATED EMPLOYEES A Report all investments, positions in business entities, sources of income (including gifts, loans, and travel payments), and interests in real property. (All Form 700 Schedules (A through E))	3. CITY-RELATED INCOME Report all investments, positions in business entities, and sources of income (including gifts, loans, and travel payments) if the source provides goods or services of the type utilized by or subject to the review or approval of the City. (Form 700 Schedules A, C, D, E)

<p>4. DESIGNATED EMPLOYEES B</p> <p>Report investments, income and positions in business entities (ownership is 10% or greater); and income, loans and business positions (income other than gifts and travel payments); and income – gifts (travel payments, advances, and reimbursements)</p> <p>(Form 700 Schedules A-2, C, E)</p>	<p>4. CITY-RELATED INCOME, REAL PROPERTY</p> <p>Report all investments, positions in business entities, and sources of income (including gifts, loans, and travel payments) if the source provides goods or services, of the type utilized by or subject to the review or approval of the City and all interests in real property.</p> <p>(All Form 700 Schedules (A through E))</p>
	<p>5. DEPARTMENT-RELATED INCOME</p> <p>Report all investments, positions, in business entities, and sources of income (including gifts, loans, and travel payments) if the source provides goods or services of the type utilized by or subject to the review or approval of the department in which that person is employed.</p> <p>(Form 700 Schedules A, C, D, E)</p>
	<p>6. DEPARTMENT-RELATED INCOME & REAL PROPERTY</p> <p>Report all investments, positions in business entities, and sources of income (including gifts, loans, and travel payments) if the source provides goods or services of the type utilized by or subject to the review or approval of the department in which that person is employed, and all interests in real property.</p> <p>(All Form 700 Schedules (A through E))</p>

b) Update the list of designated positions. The current code is organized according by position. The proposed code is organized by heading for each department (e.g., Community Development Department) and subheadings for each division (e.g., planning, building, housing, and code enforcement) with staff for each division listed under those subheadings. Positions in disclosure categories 5 & 6 must disclose interests related to the entire department (not just the division of the department). If the City Council wanted to add additional disclosure categories, it could direct staff to return with a revised resolution that would allow certain people covered by the code to limit their disclosure to interests based on their specific division rather than an entire department. Staff's assessment was that the proposed approach was best because Cupertino is a relatively small city with small departments, so further differentiation of staff by division seemed unnecessary for purposes of the conflict of interest code; and

c.) Add the positions of Planning Manager, Human Resources Analyst I/II, Legal Services Manager, Environmental Compliance Technician, Executive Assistant to the City Manager, Business Systems Analyst, Accountant I/II, Senior Accountant, Account Clerk I/II, Accounting Technician; and

c.) Delete the positions of Principal Planner or City Planner; and

d.) Amend the titles of Assistant Director of Recreation and Community Services to Assistant Director of Parks and Recreation, Assistant City Manager Community Development and Strategic Planning to Assistant City Manager, Director of Recreation and Community Services to Director of Parks and Recreation; and

e.) Require electronic filing of all Statement of Economic Interest forms (Form 700s). The City Clerk's office currently accepts both paper and electronic filings of Form 700s. The automated solution has reduced the staff time to manage filings. In 2019, 99% of filers used the e-file option and 100% compliance would further aid in transparency for the public and provide a more accessible and consistent format. The Fair Political Practices Commission (FPPC) fully supports electronic filing for Statements of Economic Interest.

Sustainability Impact

Requiring electronic filing of all Form 700s will reduce paper consumption.

Fiscal Impact

There is no fiscal impact.

Prepared by: Kirsten Squarcia, City Clerk

Reviewed by: Heather Minner, City Attorney

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A - Draft Resolution and Conflict of Interest Code (redline)

B – Draft Resolution and Conflict of Interest Code (clean)

C – Adopted Resolution No. 18-092

D - 2020 Local Agency Biennial Notice