

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**RESOLUTION APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974**

**Summary Statement:**

It was requested that the Town Attorney review and draft an Ethics Code for the Town. During the review process, it was found that an amendment to the Town's Conflict of Interest Code is necessary.

The Political Reform Act of 1974 (the "Act") requires the Town to adopt and maintain a Conflict of Interest Code requiring its designated employees to file statements of economic interests disclosing any investments, business positions, interests in real property, or sources of income that may be materially affected by a decision made, or participated in, by the designated employee by virtue of his or her position.

The Act further requires the Town to amend the Code when change is necessitated by changed circumstances which include the need to designate positions, delineate the assignment of disclosure requirements, or revise disclosure categories. (Sections 87306, 87306.5 and 87307.)

The Act additionally provides that no code or amendment to a code shall be effective unless approved by the agency's code-reviewing body and that no code or amendment shall be approved or up-held by a court if it fails to meet any one of certain conditions.

The Town Council is the Town's code-reviewing body. (Sections 87303, 87309, and 82011(c).)

Attachment:

Proposed Amended Conflict of Interest Code.

**Recommendation Action:**

That the Town Council adopt Resolution No. 2009-50, approving and adopting the amended Conflict of Interest Code pursuant to the Political Reform Act of 1974 to include new positions that must be designated, declare positions listed in Government Code section 87200 including those who manage public investments, revise titles of existing positions, revise disclosure categories and assign disclosure categories to each position based on the powers and duties of that position, adopt the Fair Political Practices Commission Standard Provisions by incorporating FPPC Regulation 18730 as the provisions of the Code .

**Proposed by:** La Vonda M-Pearson, Town Clerk

**Item Number** \_\_\_\_\_

**T.M. Approval:** \_\_\_\_\_

**Budgeted Item**  Yes  No  N/A

## RESOLUTION No. 2009-50

### RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

WHEREAS, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000, et seq. (the "Act"), which contains provisions relating to conflicts of interest governing officers, employees, and consultants of the Town of Apple Valley (the "Town"), and which requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, changed circumstances within the Town have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the Town's Conflict of Interest Code (the "Code"); and

WHEREAS, the potential penalties for violation of the provisions of the Act are significant and may include criminal and civil liability, as well as equitable relief which could result in the Town being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

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

WHEREAS, a public meeting was held regarding the proposed amended Code at a regular meeting of the Town Council on November 10, 2009, at which all persons present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Resolution Nos. 98-61 and 2008-62 and all previous amendments to the Town's Conflict of Interest Code are hereby rescinded.
2. The Town Council does hereby approve and adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and which shall remain on file with the Town Clerk and which shall remain available to the public for inspection and copying during regular business hours.
3. The said amended Conflict of Interest Code shall become effective thirty (30) days after the date of its adoption and approval on December 10, 2009.

PASSED, APPROVED AND ADOPTED THIS 10<sup>TH</sup> DAY OF NOVEMBER 2009.

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MAYOR

ATTEST:

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TOWN CLERK

**CONFLICT OF INTEREST CODE**  
**OF THE**  
**TOWN OF APPLE VALLEY**

**(Amended November 10, 2009)**

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

All Officials and Designated Employees required to submit a statement of economic interests shall file their Statement of Economic Interest with the Town Clerk as the Town's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by the Mayor, members of the Town Council, the Town Manager, the Town Attorney, the Town Treasurer/Assistant Town Manager, and members of the Planning Commission and forward the originals of such statements to the Fair Political Practices Commission. The Filing Officer shall retain the originals of the statements for all other Officials and Designated Employees. The Filing Officer shall make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code section 81008).

# **APPENDIX**

## **CONFLICT OF INTEREST CODE OF THE TOWN OF APPLE VALLEY**

(Amended November 10, 2009)

### **EXHIBIT “A”**

The Mayor, Members of the Town Council and Planning Commission, the Town Manager, the Town Attorney, the Town Treasurer, and all Other Town Officials who manage public investments as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the Town’s Conflict of Interest Code but are subject to the disclosure requirements of the Political Reform Act. (Government Code Section 87200 et seq.). [Regs. § 18730(b)(3)]

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

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

Assistant Town Manager, Finance & Administration

Financial Consultant

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

# DESIGNATED POSITIONS

## GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Assistant Director, Community Development	1, 2
Assistant Director, Economic Development & Housing	1, 2
Assistant Planner	1, 2
Assistant Town Manager, Economic & Community Development	1, 2
Assistant Town Manager, Municipal Operations & Contract Svcs	2, 3, 6
Associate Planner	1, 2
Building Official	2, 3, 6, 7
Code Enforcement Manager	6
Deputy Town Engineer	2, 3, 6, 7
Director of Human Resources	4, 6
Environmental & Regulatory Compliance Manager	6
Event Coordinator	1
Finance Manager	5
Human Resources Manager	6
Information Systems Supervisor	6
Information Systems Technician	6
Legislative Affairs & Grants Manager	1
Marketing & Public Affairs Officer	1
Parks & Recreation Manager	2, 6
Principal Planner	1, 2
Public Information Officer	1
Public Works Manager	2, 3, 6
Public Works Supervisor, Street Maintenance	2, 3, 6
Public Works Supervisor, Wastewater	2, 3, 6
Recreation Supervisor	6
Senior Planner	1, 2

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

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

Town Attorney (not filing under Gov Code § 87200)	1, 2
Town Clerk	6
Town Engineer	2, 3, 6, 7

**MEMBERS OF BOARDS,**  
**COMMITTEES AND COMMISSIONS**

Parks & Recreation Commission	1, 2
Traffic Committee	1, 2
Consultant <sup>2</sup>	

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<sup>2</sup> Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Town Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are 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 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.

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

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

**APPENDIX B**

**DISCLOSURE CATEGORIES**

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: 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 jurisdiction of the Town.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Town.

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 Town.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in banking, savings and loan, or other financial institutions or insurance companies.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type utilized by the Town.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by 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, that are subject to the regulatory, permit, or licensing authority of the Designated Employee's department, unit, or division.



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

**DISCLOSURE CATEGORIES**  
**ASSIGNED**