



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2018 OCT 25 PM 4: 34 AGENDA REPORT

TO: President Larry Reid
and Member of the City Council

FROM: LaTonda Simmons
City Clerk and
Clerk of the Council

SUBJECT: Receive an Informational Report
on the Draft Ordinance to
Update the Conflict of Interest
Code (ordinance)

DATE: October 30, 2018

RECOMMENDATION

Receive this Informational Report on the draft ordinance to update the Conflict of Interest Code and schedule the ordinance in final form for first reading on December 11, 2018.

EXECUTIVE SUMMARY

The Political Reform Act (Government Code 81000, *et seq.*) establishes that every agency shall adopt and promulgate a Conflict of Interest Code. It requires all public officials and employees who make or participate in the government decision-making process to disclose any economic interests that could be affected by those decisions. The city is required to review and update the Conflict of Interest Code bi-annually. The City Council serves as the code reviewing body for the City of Oakland Conflict of Interest Code and must review and adopt an updated Conflict of Interest Code by the end of the year.

The Office of the City Clerk sent out an Inter-Office Memo on June 11, 2018, to department heads, their support staff and staff that support designated boards and commissions outlining the need and process to be used by departments and boards and commissions staff to review and updates the conflict of interest code. Those responses have been incorporated in the attached draft Conflict of Interest Code.

By submitting the Conflict of Interest Code in draft form the City of Oakland complies with FPPC requirements to place the matter before the City Council. Additionally, this time will allow departments to review the code again for any

Item: _____
Special City Council
October 30, 2018

updates that are required since the updates submitted in June 2018. The updated Conflict of Interest Code that will be submitted in December will incorporate changes received in June and other changes requested by departments and those required by measures that pass at the November General Municipal Election.

Background and Policy Alternatives

The Conflict of Interest Code has not been reviewed or updated since the adoption of Ordinance No. 13142 C.M.S., passed January 22, 2013.

Analysis and Policy Alternatives

The analysis was completed as a part of the updating process. There are not policy alternatives. The code is mandated in the Political Reform Act at Government Code Section Code at Section Government Code 81000, *et seq.* The City Council is the only body designated to review and adopt and updated Conflict of Interest Code.

Fiscal Impact.

None

Public Outreach/Interest

The Conflict of Interest Code is an internal city document that gives direction to staff. The code may be of interest to the public, but no outreach is required.

Coordination

The Office of the City Clerk and the Office of the City Attorney work together to assist staff and departments in order to determine what additions and deletions are required to update the Code.

Sustainable Opportunities

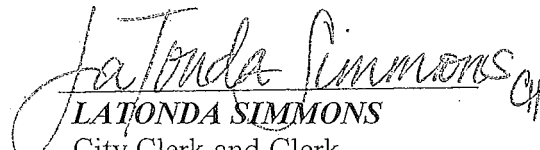
None

Action Request of the City Clerk

The Office of the City Clerk requests the City Council to receive the Informational Report. Also, to schedule additional discussion and the first reading of the ordinance to the December 11, 2018 City Council meeting. This deferral will allow staff to further review the code for additions and deletions and to incorporate any necessary changes related to the passage of several measures at the November 6, 2018 General Municipal Election.

For questions regarding this report, please contact Michelle Abney, at Extension No. 4992 or (mabney@oaklandca.com).

Respectfully submitted,


LATONDA SIMMONS
City Clerk and Clerk
of the Council

Attachment(s)

DRAFT

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OAKLAND

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Approved as to Form and Legality

City Attorney
Approved as to Form and Legality

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

AN ORDINANCE AMENDING THE CITY OF OAKLAND'S CONFLICT OF INTEREST CODE (ORDINANCE NUMBER 13142 C.M.S., ADOPTED JANUARY 22, 2013, CODIFIED AS OAKLAND MUNICIPAL CODE CHAPTER 3.16) TO UPDATE THE DESIGNATION OF POSITIONS COVERED BY THE CODE

WHEREAS, pursuant to the State of California Political Reform Act, the City of Oakland enacted Ordinance Number 11562 C.M.S. on March 23, 1993, enacting a conflict of interest code for City of Oakland employees, members of boards and commissions, and consultant positions; and

WHEREAS, the Political Reform Act requires that every two (2) years in even numbered years, the code reviewing body review its conflict of interest code to determine whether it contains properly designated positions including employee positions, members of boards and commissions, and consultant positions; and

WHEREAS, Government Code 18730, Provisions of Conflict-of-Interest Codes states that 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 Section 87100, and to other state or local laws pertaining to conflicts of interest; and

WHEREAS, the Political Reform Act (Gov. Code Sections 81000-91014) requires many state and local government officials and employees to publicly disclose their personal assets and income. The filing officer, Office of the City Clerk, retains originally-signed statements of economic interests may impose on an individual a fine for any statement that is filed late. The fine is \$10 per day up to a maximum of \$100. Late filing penalties may be reduced or waived under certain circumstances; and

WHEREAS, the Fair Political Practices Commission through its disclosure requirements in Regulation 18734 has mandated use of two (2) forms, (Form 805) to document individuals serving as consultants and (Form 804) to document newly established classifications not identified in a code of designated filers, the City will immediately implement use of the forms and establish a repository for these filings in accordance with FPPC rules; and

WHEREAS, the City last updated its conflict of interest code through the enactment of Ordinance No. 13142 C.M.S. passed January 22, 2013, which is codified as Oakland Municipal Code Chapter 3.16; and

WHEREAS, the City's organization has changed; and

WHEREAS, the City Attorney recommends that City of Oakland Conflict of Interest Code, Oakland Municipal Code Chapter 3.16, be amended to include new positions which must be designated, make changes to the positions designated, revise titles of existing positions, departments, boards and commissions and delete titles of positions that have been abolished; and

WHEREAS, City of Oakland departments, boards, commissions and consultants have been notified that the Code has been reviewed;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance

SECTION 2. Oakland Municipal Code (O.M.C.) Chapter 3.16.030 Appendix A is hereby repealed in its entirety and replaced with a new Appendix A (List of Designated Positions) as attached. Appendix B (Master List of Disclosure Categories) is hereby amended (additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~). Also included is Appendix C (Deferred Compensation Plan Committee) which is unchanged. Ordinance No. 13142 C.M.S. is hereby amended and superseded by this Ordinance.

SECTION 3. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law

SECTION 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 5. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, PASSED BY THE FOLLOWING VOTE:

AYES: BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN AND
PRESIDENT REID

NOES:

ABSENT:

ABSTENTION:

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of The Council
of the City of Oakland, California

Date of Attestation: _____