



CITY COUNCIL OF THE CITY OF ATWATER

RESOLUTION NO. 3329-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATWATER ADOPTING THE CITY OF ATWATER CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act, Government Code Section 87300 et seq. (the "Act"), requires state and local government agencies to adopt a Conflict of Interest Code; and

WHEREAS, the Act requires each local agency to conduct a review of its Conflict of Interest Code each even-numbered year; and

WHEREAS, the Fair Political Practices Commission has promulgated a standard Conflict of Interest Code adopted in California Code of Regulations Title 2, Section 18730 ("Section 18730"), the terms of which are incorporated herein by reference, and which may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments to the Political Reform Act; and

WHEREAS, the City of Atwater, hereinafter the "City," amends its Conflict of Interest Code to conform to the requirements set forth in Section 18730, and in addition, adds definitions in **Appendix "A"**, attached hereto, and amends the list of designated City employees in **Appendix "B"**, attached hereto, that shall be required to disclose financial interests pursuant to the disclosure category specified in **Appendix "C"**, attached hereto; and

WHEREAS, all of the City's previous Conflict of Interest Code shall be repealed and superseded upon the adoption of this resolution and amended Conflict of Interest Code attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Atwater does hereby approve and authorize as follows:

Section 1: The City's previous Conflict of Interest Code is hereby repealed and superseded by this Resolution No. 3329-22.

Section 2: The provisions of Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission are incorporated herein by reference and, along with the attached **Appendices "A"**, **"B"**, and **"C"**, in which City employees are designated and the disclosure category is set forth, collectively constitute the Conflict of Interest Code of the City of Atwater.

Section 3: Pursuant to Section 18730(b)(4), designated employees of the City shall file statements of economic interests with the City Clerk. Any designated employee already required to submit a disclosure statement (Form 700) pursuant to Government Code sections 87200 and 87203 may submit a copy of that statement in lieu of any filing required by this Code, provided that no additional disclosure would be required by this Code.

Section 4: Individuals holding the designated positions outlined in **Appendix "B"** shall file their statements with the City Clerk, who shall be and shall perform the duties of the filing officer for the City of Atwater. Statements will be available for inspection and reproduction pursuant to Government Code Section 81008.

Section 5: Any change provided for in this Conflict of Interest Code shall not affect or excuse any offense or act committed or done, or omission, or any penalty or forfeiture incurred or accruing under any other Conflict of Interest Code; nor shall it affect any prosecution, suit, or proceeding pending or any judgement rendered in connection with any other Conflict of Interest Code.

The foregoing resolution is hereby adopted this 11th day of July 2022.

AYES: Ambriz, Button, Raymond, Cale
NOES: None
ABSENT: Creighton

APPROVED:


JOHN CALE, MAYOR PRO TEM

ATTEST:


LUCY ARMSTRONG, CITY CLERK

**CITY OF ATWATER
CONFLICT OF INTEREST CODE
APPENDIX "A"**

DEFINITIONS:

1. **"Public Official"** means a member, officer, employee, or consultant of a state or local government agency. The term "public official" also includes individuals who perform the same or substantially the same duties as an individual holding an office or a position listed in Government Code Section 87200, including "other public officials who manage public investments" as that term is defined in 2 California Code of Regulations Section 18720.
2. **"Member"** shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decision-making authority. A board or commission possess decision-making authority whenever:
 - a. It may make a final governmental decision;
 - b. 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 which may not be overridden; or,
 - c. It makes substantive recommendations, which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.
3. **"Designated Employee"** is an officer, employee, member, or consultant of an agency whose position is designated in the code because the position entails the making or participation in the making of governmental decisions which may foreseeably have a material effect on any financial interest. (Government Code Section 82019)
 - a. Making a governmental decision means the person:
 - i. Votes on a matter;
 - ii. Appoints a person;
 - iii. Obligates or commits his or her agency to any course of action; or
 - iv. Enters into any contractual agreement on behalf of his or her agency.
 - b. Participating in the making of a decision, means the person:
 - i. Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or,

- ii. Advises or makes recommendations to the decision-maker by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgement on the part of the employee and the employee is attempting to influence the decision.
- c. The term “designated employee” does not include:
 - i. Public officials specified in Government Code Section 87200:
 1. Planning Commissioners
 2. City Council Members
 3. Mayors
 4. City Managers
 5. City Attorneys
 6. City Treasurers
 7. Other city, county, and local agency public officials who manage public investments
 - ii. Solely clerical, ministerial or manual positions
 - iii. Unsalaries members of boards or commissions, which are solely advisory

4. “Consultant” means an individual whom, pursuant to a contract with the City of Atwater:

- a. Makes a governmental decision whether to:
 - i. Approve a rate, rule, or regulation;
 - ii. Adopt or enforce a law;
 - iii. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order or similar authorization or entitlement;
 - iv. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract, which requires agency approval;
 - v. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
 - vi. Grant agency approval to a plan, design, report, study, or similar item;
 - vii. Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any subdivision thereof; or,

- b. Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

c. **Consultants/New Positions**

- i. *Consultants/New Positions for the purpose of this Conflict of Interest Code are defined as individuals that provide, under contract, information or advice to the City that may entails participation in the making of decisions, recommendations, or counsel to the City, and which may have a foreseeable material effect on any financial interest of the consultant.
- ii. Consultants, as defined above, and New Positions are included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:
 - 1. The City manager may determine in writing that a particular consultant or new position, 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 code. Such written determination shall include a description of the consultant's duties and based upon that determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of the disclosure requirements. The City 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. (Gov. Code Section 81008.)

**CITY OF ATWATER
CONFLICT OF INTEREST CODE
APPENDIX "B"**

The following is a listing of those designated individuals who are required to submit Statements of Economic Interests *pursuant to the Political Reform Act of 1974, as amended*:

Public Officials

Disclosure Category

City Council Boards

City Council (Mayor and Council Members)

Government Code § 87203

- Successor Agency to the Redevelopment Agency
- Public Financing Authority
- Public Improvement Corporation
- Housing Authority
- Fire Protection District

City Manager

Government Code § 87203

City Attorney

Government Code § 87203

City Treasurer

Government Code § 87203

Planning Commissioners

Government Code § 87203

Citizen Commissions, Committees, and Boards:

Government Code § 87203

Audit & Finance Committee

Government Code § 87203

General Plan Technical Advisory Committee

Government Code § 87203

Planning Commission

Government Code § 87203

The following is a list of those designated employees who are required to disclose their economic interest(s) pursuant to the corresponding category as indicated in the Disclosure Category Column:

Department	Position	Disclosure Category
City Administration/City Clerk	Executive to the City Manager	1
	Information Technology Manager	6
	Information Technology Coordinator	6
	Project Manager	6
	Deputy City Clerk	1
Finance	Finance Director	1
	Finance Operations Manager	6
Human Resources	Deputy City Manager	1
	Human Resources Director	1
	Human Resources Analyst	2
Police	Police Chief	1
	Police Lieutenant	3
	Police Sergeant	3
	Public Safety Dispatcher Supervisor	3
	Code Enforcement Manager	3
	Police Administrative Supervisor	3

Department	Position	Disclosure Category
Fire	CAL FIRE Chief	1
	CAL FIRE Battalion Chief	1
Community Development	Public Works/Community Development Director	1
	Deputy Director of Public Works/Community Development	1
	Community Development Director	1
	Chief Building Official/ Fire Code Official	5
	Engineering Division Manager	5
	Project Engineer	5
	Senior Planner	5
Water System	Public Works Director	1
	Water Division Supervisor	7
	Public Works Regulatory Compliance Supervisor	1
Sewer System	Public Works Superintendent	7
	Sewer Division Supervisor	7

Department	Position	Disclosure Category
Recreation/Community Events	Community Services Director	1
	Recreation Supervisor	7
Streets and Parks Maintenance	Streets and Parks Division Supervisor	7
Consultants	Consultants	9
Positions	Administrative Analyst	1
	Grants Manager	1
	Operations Analyst	1

**CITY OF ATWATER
CONFLICT OF INTEREST CODE
APPENDIX “C”**

Disclosure Category

Individuals holding designated positions must report their interest according to the following disclosure category.

Category 1 – Full Disclosure:

Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans, or gifts from individuals or businesses from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be “within the jurisdiction” if the property or any part of it is located within or not more than two miles outside the boundaries of the City or within two miles of any land owned or used by the City.)

Category 2 – Human Resources:

Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources which are involved in healthcare or vocational rehabilitation of the type used by the designated employees department or division.

Category 3 – Police:

Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources which sell, manufacture, or distribute equipment and supplies for office, personnel or vehicles of the type used by the designated employees department or division.

Category 4 – Fire:

Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources which manufacture or sell fire-related equipment or parts of the type used by the designated employees department or division.

Category 5 – Community & Economic Development:

Designated employees in this group shall report interest in real property, investments and business positions in business entities and income, including loans, gifts, and travel payments, from sources which engage in land development, construction, appraisal, or the acquisition or sale of real property. (Real property shall be deemed to be “within the jurisdiction” if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Category 6 – Information Technology & Finance:

Designated employees in this group shall report investments and business positions in business entities and income, including loans, gifts, and travel payments, from sources which manufacture, sell or design data processing equipment or related services of the type used by the designated employees department or division.

Category 7 – Parks Operations & Recreation:

Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources within the jurisdiction which manufacture, sell or supply equipment, including but not limited to horticulture, construction, craft, office and safety supplies and/or equipment of the type used by the designated employees department or division.

Category 8 – Regulatory:

Designated employees in this group shall report investments, and business positions in business entities, and income, including loans, gifts, and travel payments, from sources which are subject to the City's regulatory, permit, or licensing authority.

Category 9 – Consultants:

The City Clerk, or his/her designee, after consultation with the City Attorney, shall designate the disclosure category for each consultant subject to this Code, if applicable.