

ORDINANCE NO. 9803 (NEW SERIES)

AN ORDINANCE ADDING ARTICLE XXVIII ENTITLED THE “COUNTY OF SAN DIEGO CONFLICT OF INTEREST CODE” TO THE COUNTY OF SAN DIEGO ADMINISTRATIVE CODE

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines as follows:

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, California Code of Regulations, Title 2, Division 6, Section 18730 (hereinafter “CCR 18730”), which contains the terms of a standard conflict of interest code; and

WHEREAS, a local government agency may incorporate by reference the FPPC standard conflict of interest code, which shall include future amendments to the standard conflict of interest code by the FPPC after public notice and hearings to conform to amendments in the Political Reform Act; and

WHEREAS, the FPPC standard conflict of interest code requires that each agency, by appendix to its conflict of interest code, designate: (a) the employment positions whose duties require the employees serving in such positions to disclose certain economic interests, and (b) the categories of economic interests that the employees must disclose; and

WHEREAS, each County department has promulgated its own conflict of interest code, together with its appendix designating employment positions and categories of economic interests; and

WHEREAS, the County intends to adopt one conflict of interest code applicable to all County departments, which shall supersede each department’s conflict of interest code; and

WHEREAS, in addition to the County’s incorporation by reference of the FPPC standard conflict of interest code, the County’s conflict of interest code also will include an additional provision governing the scope of the gift rules applicable to employees serving in designated positions listed on each department’s appendix; and

WHEREAS, each County department shall continue to perform its responsibility to promulgate its appendix to the County’s conflict of interest code by filing with the Clerk of the Board of Supervisors its amended appendix, when necessary, which sets forth the department’s designated employment positions and categories of economic interests.

NOW THEREFORE, the following sections of this ordinance shall constitute the adoption of the County of San Diego Conflict of Interest Code:

Section 2. The following new Article XXVIII is hereby added to the San Diego County Administrative Code, entitled the “County of San Diego Conflict of Interest Code”:

ARTICLE XXVIII
COUNTY OF SAN DIEGO CONFLICT OF INTEREST CODE
(Promulgated Pursuant to the California Political Reform Act)

Section 510. Title and Authority. This Article shall constitute the “County of San Diego Conflict of Interest Code” promulgated pursuant to the California Political Reform Act, and more specifically pursuant to Government Code sections 87300 – 87313, which require every public agency to adopt a conflict of interest code.

Section 511. Applicability. The County of San Diego Conflict of Interest Code shall be applicable to all departments and offices (hereafter referred to collectively as “departments”) of the County of San Diego local government, and shall supersede all departments’ conflict of interest codes.

Section 512. County of San Diego Conflict of Interest Code Provisions.

- (a) **Incorporation of FPPC Standard Conflict of Interest Code.** The terms of the standard conflict of interest code, and any amendments, duly adopted by the California Fair Political Practices Commission (“FPPC”) under California Code of Regulations, Title 2, Division 6, Section 18730 (hereafter “CCR Section 18730”), are hereby incorporated by reference.
- (b) **Department Conflict of Interest Code Appendix: Designated Positions & Disclosure Categories.** The County Conflict of Interest Code also shall include appendices filed by County departments with the Clerk of the Board that set forth the categories of economic interests to be disclosed by employees serving in designated positions for the respective departments. Each department’s appendix, entitled “Disclosure Categories for Designated Positions,” shall designate the positions of employees and officers (hereafter referred to collectively as “employees”), who are required to file the Statement of Economic Interests (hereafter “Form 700”), and shall designate the categories of economic interests that the designated employees must disclose on Form 700.
- (c) **Rule Governing Reportable Gifts.** This County Conflict of Interest Code also shall include the following provisions, which shall be in addition to the standard conflict of interest code. These provisions shall apply only to employees serving in designated positions (excluding Section 87200 filers), who are designated to disclose the receipt of gifts under the applicable Form 700 Schedule indicated in their department’s appendix of “Disclosure Categories for Designated Positions.”
 - (1) **General Rule: State Law Governing Gifts that Must be Reported.** Government Code section 87302 (a) requires that gifts received by employees serving in designated positions are made reportable on Form 700 if the gifts, or donors of the gifts, may foreseeably be affected materially by any decision made or participated in by such designated employees pursuant to the performance of their County duties.
 - (2) **County Conflict of Interest Code Deems Types of Gifts that Must be Reported.** This Conflict of Interest Code deems gifts, or donors of gifts, to be foreseeably affected by

decisions made or participated in, or to be made or participated in, by designated employees pursuant to the performance of their County duties, if the donors of the gifts are persons or entities (i) doing business with, (ii) seeking to do business with, or (iii) seeking discretionary approvals from, the County.

- (3) Gifts Deemed Reportable Must be Disclosed on Form 700 if Gift Value is \$50 or More. Designated employees who receive a gift or gifts, described in subparagraph (2) above, from a single source during a calendar year with a value of \$50 or more, shall be required to report their receipt of such gifts on Form 700, in the manner required by law.
- (4) Gifts Not Deemed Reportable May Not Need to be Disclosed on Form 700. Designated employees are not required to report their receipt of a gift on Form 700 if the gift is not within the meaning of the gifts described in subparagraph (2) above, unless the designated employees determine that the facts demonstrate that the gift, or the donors of the gift, may nevertheless foreseeably be affected by decisions made or participated in, or to be made or participated in, by the designated employees pursuant to the performance of their County duties.
- (5) Gifts Not Deemed Reportable Are Not Subject to State Law Annual Gift Maximum. Designated employees, who are not required to report their receipt of a gift pursuant to subparagraph (4) above, also are not subject to the State law prohibition of accepting gifts from a single source in any calendar year in excess of \$360, as adjusted in the Consumer Price Index pursuant to Government Code § 89503(f).

Section 3. Effective Date. This ordinance shall take effect thirty (30) days after its adoption. Within fifteen days after the date of adoption of this ordinance, a summary shall be published once with the name of those members voting for and against the same in the newspaper of general circulation published in the County of San Diego.

Section 4. Operative Date. This ordinance shall be operative on January 1, 2007.

PASSED, APPROVED AND ADOPTED this 31st day of October, 2006