

HUMBOLDT BAY HARBOR, RECREATION,
AND CONSERVATION DISTRICT

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AMENDMENT NO. 2 TO ORDINANCE NO. 8

AMENDMENT TO ORDINANCE ESTABLISHING A CONFLICT
OF INTEREST CODE FOR THE HUMBOLDT BAY HARBOR,
RECREATION AND CONSERVATION DISTRICT, A PUBLIC ENTITY.

THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION,
AND CONSERVATION DISTRICT DOES HEREBY AMEND ORDINANCE NO. 8 TO READ
AS FOLLOWS:

Section 1. Introduction.

In compliance with the Political Reform Act of 1974, California Government Code Section 81000, et seq., and specifically with Section 87300 et seq., the Humboldt Bay Harbor, Recreation, and Conservation District hereby amends this Conflict of Interest Code which shall be applicable to all designated employees of the agency. The requirements of this Code are in addition to other requirements of the Act such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to any other state or local laws pertaining to conflicts of interest.

Section 2. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 3. Designated Employees.

The persons holding positions listed in Appendix A are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Section 4. Disclosure Categories.

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are

designated in this Code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

B) The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200; and

C) The filing officer is the same for both agencies.

Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Appendix B specify which kinds of financial interest are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in Appendix A. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 5. Statements of Economic Interests: Place of Filing.

All designated employees required to submit a statement of economic interests shall file the original with the President, Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District, who shall be the filing officer for all designated employees other than the members of the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District.

Upon receipt of the statement of economic interests of the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District, the agency shall make and retain a copy and forward the originals of these statements to the Humboldt County, California, Board of Supervisors, who shall be the filing officer, within five days of the filing deadline or five days of receipt in the case of statements filed late.

Section 6. Statements of Economic Interests: Time of Filing.

(A) Initial Statements.

All designated employees employed by the agency on the effective date of this Code, as originally adopted, promulgated and approved by the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District, shall file statements within 30 days after the effective date of this Code. Thereafter, each person already in a position when it is designated by an amendment to this Code shall file an initial statement within 30 days after the effective date of the amendment:

(B) Assuming Office Statements.

All persons assuming designated positions after the effective date of this Code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements.

All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements.

All persons who leave designated positions shall file statements within 30 days after leaving office.

Section 6.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Section 7. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the Code and income received during the 12 months prior to the effective date of the Code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements.

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the Code or the date of assuming office whichever is later.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

Section 8. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the Humboldt Bay Harbor, Recreation, and Conservation District, and shall contain the following information:

(A) Investments and Real Property Disclosure.

When an investment or an interest in real property is required to be reported, the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).

(B) Personal Income Disclosure.

When personal income is required to be reported, the statement shall contain:

1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or greater than ten thousand dollars (\$10,000);

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure.

When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure.

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period.

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 9. Prohibition on Receipt of Honoraria.

(A) No member of the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District, or designated employee shall accept any honorarium.

Subdivisions (b), (c), and (e) of Government Code Section 89502 shall apply to the prohibitions in this section. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.

Section 9.1. Prohibition on Receipt of Gifts of \$280 or More.

(A) No member of the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District, or designated employee shall accept any gifts with a total value of more than two hundred eighty dollars (\$280) in a calendar year from any single source.

Subdivision (d) of Government Code Section 89504 shall apply to this section.

Section 10. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;

(B) Any real property in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred and eighty dollars (\$280) or more in value provided to; received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

Section 10.3 Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

Section 11. Manner of Disqualification.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the President of the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

Section 12. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for the Humboldt Bay Harbor, Recreation, and Conservation District, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

Section 13. Violations.

This Code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

Passed and adopted this 26th day of October, 1995, by the Board of Commissioners, Humboldt Bay Harbor, Recreation, and Conservation District by the following poll votes:

AYES: COMMISSIONER DAVENPORT, COMMISSIONER CURLESS, COMMISSIONER FREDERICK, COMMISSIONER HUNTER, COMMISSIONER OLLIVIER

NAYES:

ABSENT:



ROY CURLESS, President
BOARD OF COMMISSIONERS,
HUMBOLDT BAY HARBOR, RECREATION,
AND CONSERVATION DISTRICT

ATTEST:



John Frederick, Secretary
Board of Commissioners

APPENDIX A

<u>Designated Positions</u>	<u>Disclosure Category</u>
Members of the Board of Commissioners, Humboldt Bay Harbor Recreation, and Conservation District	1, 2, 3, 4, 5, 6
Chief Executive Officer	1, 2, 3, 4, 5, 6
Attorney	1, 2, 3, 4, 5, 6
Treasurer	1, 2, 3, 4, 5, 6
Chief Engineer	1, 2, 3, 4, 5, 6
Planner	1, 2, 3, 4, 5, 6
Consultants*	

* Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest category in the code subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant, 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 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 Chief Executive Officer'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.

APPENDIX B

General Provisions

When a designated employee is required to disclose investments and sources of income, he need only disclose investments in business entities and sources of income which do business in the jurisdiction, plan to do business in the jurisdiction or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is doing business within the jurisdiction if it owns real property within the jurisdiction. When a designated employee is required to disclose interests in real property, he need only disclose real property which is located in whole or in part within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

Designated employees shall disclose their financial interests pursuant to the appropriate disclosure category as indicated in Appendix A.

Disclosure Categories

- Category 1: All investments and sources of income as required in Section 8(a), 8(b), and 8(c) above.
- Category 2: All interests in real property as required in Section 8(a) above.
- Category 3: All investments, interests in real property and sources of income subject to the regulatory, permit or licensing authority of the department.
- Category 4: Investments in business entities and sources of income which engage in land development, construction or the acquisition or sale of real property.
- Category 5: Interests in real property located within two miles of any land owned or used by the Humboldt Bay Harbor, Recreation, and Conservation District.
- Category 6: Investments in business entities and sources of income of the type which, within the past two years, have contracted with the Humboldt Bay Harbor, Recreation, and Conservation District to provide services, supplies, materials, machinery or equipment.
- Category 7: Consultant*

* Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest category in the code subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant, 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 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 Chief Executive Officer'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.