

ORDINANCE NO. 176477

An ordinance amending the Los Angeles Administrative Code to add a section exempting neighborhood councils from Government Code Section 87300 which requires adoption and promulgation of a conflict of interest code, and to add a section establishing the procedures and standards for determining the applicability of an exemption to other entities.

WHEREAS, the Charter of the City of Los Angeles (City) created and provided funding for the development of a system of neighborhood councils to promote more citizen participation in government and to make government more responsive to local needs; and

WHEREAS, the City's stakeholders responded by forming numerous neighborhood councils citywide; and

WHEREAS, the Fair Political Practices Act requires the adoption and promulgation of a conflict of interest code by any entity that is characterized by one or more of the following factors: (1) creation by government action, (2) receipt of substantial funding from government, (3) performance of services traditionally performed by a governmental entity; and (4) treatment as a public entity by other statutory provisions; and

WHEREAS, the Fair Political Practices Commission ("FPPC") has established criteria to exempt entities for which it is the code reviewing body from the requirement of adopting and promulgating the conflict of interest code required by Government Code Section 87300 and has encouraged local code reviewing bodies to enact similar exemption criteria; and

WHEREAS, the criteria established by the FPPC allows an exemption for entities that: (1) have no regulatory, quasi-regulatory, permit, licensing or planning authority or functions; (2) will not acquire real property in the foreseeable future; and (3) have an annual operating budget exclusive of salaries that is less than \$70,000; and

WHEREAS, the FPPC may also grant an exemption, on a case-by-case basis where good cause exists, to entities that do not meet the delineated criteria; and

WHEREAS, the FPPC issued an informal assistance letter advising that the City Council may enact and determine the applicability of similar exemption criteria for any entity for which the City Council is the code reviewing body; and

WHEREAS, the City Council is the code reviewing body for all City entities that are required to adopt and promulgate a conflict of interest code; and

WHEREAS, requiring neighborhood councils to adopt and promulgate a conflict of interest code and comply with mandated filings would have a chilling effect on some stakeholder participation and would, because of the sheer number of active participants in neighborhood councils, strain City resources; and

WHEREAS, neighborhood councils: (1) have no regulatory, quasi-regulatory, permit, licensing or planning authority or functions; (2) will not acquire real property in the foreseeable future; (3) have an annual operating budget exclusive of salaries that is less than \$70,000; and good cause exists to grant an exemption for neighborhood councils from the requirement of adopting and promulgating a Conflict of Interest Code.

WHEREAS, if neighborhood councils are exempted from adopting and promulgating a conflict of interest code, they nevertheless will be bound by the substantive provisions of the Political Reform Act requiring disclosure and recusal in specified situations involving conflict of interests; and

WHEREAS, if neighborhood councils are exempted from adopting and promulgating a conflict of interest code, the board of each neighborhood council by amending the neighborhood council's by-laws can require board members to provide any level of disclosure the board deems appropriate.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Section 2.20.1 is added to Division 2, Chapter 1, Article 3 of the Los Angeles Administrative Code to read:

Section 2.20.1 Exemption for Neighborhood Councils from Government Code Section 87300, Requiring the Adoption and Promulgation of a Conflict of Interest Code. Neighborhood Councils hereby are exempted pursuant to Los Angeles Administrative Code section 2.20.2, subsections (d) and (e) from the application of Government Code Section 87300, requiring the adoption and promulgation of the conflict of interest code.

Sec. 2. A new Section 2.20.2 is added to Division 2, Chapter 1, Article 3 of the Los Angeles Administrative Code to read:

Sec. 2.20.2. Procedures and Standards for Requesting Exemption from Government Code Section 87300, Requiring the Adoption and Promulgation of a Conflict of Interest Code.

(a) This Section sets forth the procedures and standards by which the City will review a request for an exemption to Government Code Section 87300

from an entity for which the City Council is the code reviewing body. Nothing in this section shall be construed to mean that an entity is not required to adopt a conflict of interest code if it has not requested and been granted an exemption.

(b) An entity may submit a request to the City Ethics Commission for exemption from the provisions of Government Code Section 87300 requiring adoption and promulgation of a Conflict of Interest Code.

(c) A request for exemption shall be approved by the City Ethics Commission if it finds:

(i) That if the entity requesting the exemption were to adopt a Conflict of Interest Code, there would be no "designated employees," within the meaning of Government Code Section 82019 and 87302(a), subject to its provisions; or

(ii) That the entity is, or soon will be, inoperative and non-functioning.

(d) A request for exemption to Government Code Section 87300 may be approved b/y the City Ethics Commission when the entity requesting the exemption would have no "designated employees" within the meaning of Government Code Sections 82019 and 87302(a) because all of the following apply:

(i) The entity does not have regulatory, quasi-regulatory, permit, licensing or planning authority or functions;

(ii) The entity will not acquire real property in the foreseeable future; and

(iii) The annual operating budget exclusive of salaries for the agency is less than \$70,000.

(e) In all other circumstances, the City Ethics Commission will consider the requests for exemptions on a case-by-case basis.

(f) A request for exemption under subsection (c)(1) shall be signed by the chief executive officer, president or a designated representative of the entity and shall be accompanied by:

(i) A list of every position in the entity, including each officer, employee, member and consultant with the entity;

(ii) A copy of the job description for each position listed in subsection (1) above;

(iii) A copy of the statutory authority under which the entity was created with specific citations to the provisions setting forth the duties and responsibilities of the entity;

(iv) Identification of the person or body to whom the entity reports;

(v) A copy of the annual or regular report submitted by the entity to the person or body to whom the entity reports;

(vi) A detailed justification of the request for exemption including an explanation of why none of the positions listed in subsection (1) above is a designated employee. In preparing this justification, particular note should be taken of Government Code Section 82019.

(g) A request for exemption under subsection (c)(2) shall be signed by the chief executive officer, president or a designated representative of the entity and shall be accompanied by:

(i) A copy of the statutory or legal authority under which the entity ceased, or soon will cease to operate or function;

(ii) The date, time and place of the last meeting of the entity;

(iii) Identification of the positions and names of any staff who continue to work for or represent the entity, whether salaried or unsalaried; and

(iv) A detailed explanation of the reasons the entity is, or soon will be, inoperative and nonfunctioning.

(h) Within 90 days after receiving the request for exemption, the Ethics Commission shall:

(i) Approve the request;

(ii) Deny the request;

(iii) Return the request for additional information and resubmission within 60 days. Upon resubmission, the Ethics Commission shall, within 60 days, either approve the request for exemption or deny the request.

(i) When a request for exemption is approved, the Ethics Commission shall issue an exemption letter and transmit it to the requesting entity. Within 60 days, any interested party may submit a request to the City Council that the approval be reconsidered by the City Council. The City Council shall consider the request for reconsideration and if good cause exists for reconsideration, the

City Council shall schedule the matter for a hearing before the City Council. The City Council's determination to approve or disapprove a request for exemption after a hearing on the issue shall be final. If the City Council disapproves the exemption request, the City Council shall set a deadline within a 6 month period by which the entity requesting the extension shall adopt and promulgate a Conflict of Interest Code pursuant to Section 87300 of the Government Code.

(j) When a request for exemption is denied, the Ethics Commission shall issue a letter denying the request for an exemption and transmit it to the requesting entity. Within 60 days, the requesting entity or any interested party may submit a request to the City Council that the denial be reconsidered by the City Council. The City Council shall consider the request for reconsideration and if good cause exists for reconsideration, the City Council shall schedule the matter for a hearing before the City Council. The City Council's determination to approve or disapprove a request for exemption after a hearing on the issue shall be final. If the City Council disapproves the exemption request, the City Council shall set a deadline within a 6 month period by which the entity requesting the extension shall adopt and promulgate a Conflict of Interest Code pursuant to Section 87300 of the Government Code.

(k) Any entity granted an exemption pursuant to subsection (d) or (e) shall notify the Ethics Commission within 30 days if one or more of the following occurs:

(I) The entity obtains authority to engage in regulatory, quasi-regulatory, permit, licensing or planning authority or functions;

(II) The entity acquires real property; and

(III) The annual operating budget exclusive of salaries for the agency exceeds \$70,000.

(l) If the Ethics Commission receives notice from an entity under subsection (k) or otherwise learns of facts or circumstances that indicate that an entity may no longer be eligible for an exemption from the provisions of Government Code Section 87300 requiring adoption and promulgation of a Conflict of Interest Code, the Ethics Commission may reconsider the exemption and may issue a letter notifying the entity that it is no longer eligible for an exemption from the provisions of Government Code Section 87300 requiring adoption and promulgation of a Conflict of Interest Code.

(m) Within 60 days of receiving a letter under subsection (l) from the Ethics Commission stating that an entity is no longer eligible for an exemption, the entity or any interested party may submit a request to the City Council that the exemption revocation be reconsidered by the City Council. The City Council shall consider the request for reconsideration and if good cause exists for

reconsideration, the City Council shall schedule the matter for a hearing before the City Council. The City Council's determination to approve or disapprove an exemption revocation after a hearing on the issue shall be final. If the City Council approves the exemption revocation, the City Council shall set a deadline within a 6 month period by which the entity requesting the extension shall adopt and promulgate a Conflict of Interest Code pursuant to Section 87300 of the Government Code.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles FEB 01 2005 and was passed at its meeting of FEB 08 2005.

FRANK T. MARTINEZ, City Clerk

By *Maria B. Hernandez*
Deputy

Approved FEB 15 2005

Antonio Villaraigosa
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By *Valerie Flores*
VALERIE FLORES
Deputy City Attorney

Date: *January 5, 2005*

File No. 02-2794-S1

DECLARATION OF POSTING ORDINANCE

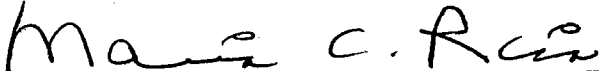
I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 176477 - Amending the L.A.A.C. to add a section exempting neighborhood councils from Government Code Section 87300 which requires adoption and promulgation of a conflict of interest code - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on February 8, 2005, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on February 16, 2005, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on February 16, 2005 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 16th day of February 2005 at Los Angeles, California.



Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: Mar. 28, 2005

Council File No. 02-2794-S1