

SUBCHAPTER 3.02: EMPLOYMENT

Division 1: General

3.02.010 Equal Employment Opportunity Policy

(a) The Town of Colma is an equal employment opportunity employer. The Town will not unlawfully discriminate against qualified applicants and employees with respect to any terms or conditions of employment based on any Protected Characteristic.

(b) The goals and objectives of the Equal Employment Opportunity Policy are to:

- (1) Establish fair treatment and non-discrimination in the terms and conditions of employment of all persons;
- (2) Provide compliance with state and federal laws; and
- (3) Encourage those who do business with the Town to practice equal employment opportunity.

3.02.020 ADA Compliance/Disability Accommodation

The Town will provide reasonable accommodation in compliance with the Americans with Disabilities Act (ADA). The Town will make reasonable accommodations for qualified individuals with disabilities that are necessary to comply with all applicable disability discrimination laws for the known physical or mental disability of an applicant or employee, unless doing so would result in an undue hardship. If an employee is unable to perform the essential functions of his/her job because of a disability and needs some type of accommodation, the employee should notify the Human Resources Manager. The employee requesting accommodation may be required to provide medical certification regarding the disability and need for accommodation. All medical information is kept in a confidential medical information file and shared only on a need-to-know basis.

While the Town welcomes all suggestions for accommodations to enable an employee to perform the essential functions of his or her assigned job, the Town will make the final decision regarding whether it can provide a reasonable accommodation and, if so, which accommodation to provide in accordance with its legal obligation.

3.02.030 Equal Employment Opportunity Officer

The City Manager shall serve as the Equal Employment Opportunity Officer to carry out the Equal Employment Opportunity Policy and Program for all departments. The City Manager (with the assistance of the Human Resources Manager) shall advise and assist staff and management personnel in all matters regarding implementation of and compliance with the Equal Employment Opportunity Policy, and be responsible for the successful execution of the program, utilizing the assistance of appropriate state and community agencies. The Equal Employment Opportunity Officer will have the responsibility to examine existing internal policies or procedures that may serve as barriers to implementing the Equal Employment Opportunity Program.

3.02.040 Equal Employment Opportunity Practices

(a) The City Manager, with the assistance of the Human Resources Manager, shall undertake the following actions to assure equal employment opportunities in the Town:

- (1) Periodically review all position qualifications and job descriptions to establish requirements that are relevant to the tasks to be performed and to delete requirements not reasonably related to the tasks to be performed;
- (2) Periodically review Town practices for compliance with the Equal Employment Opportunity Policy;
- (3) Inform and provide guidance to staff and management personnel who make employment decisions to ensure such decisions are considered without unlawful discrimination and that all applicants be given equal opportunity;
- (4) Hire only qualified candidates who were selected through the Hiring Process (set forth in Division 3) in order to encourage diversity and establish equal employment opportunity in hiring; and
- (5) Provide orientation for all new employees specifically emphasizing how the Town assures equal opportunity.

(b) Applications for employment will include an equal opportunity clause.

3.02.050 Nepotism

Any person who is a Close Relative of an employee or elected official of the Town may not be employed in a position where it is reasonably foreseeable that such person may be directly or indirectly supervised by his or her Close Relative, or be the supervisor of his or her Close Relative. For purposes of this section only, the term "Close Relative" means, whether related by blood, marriage or registered domestic partner, a spouse, registered domestic partner, child, parent, grandparent, grandchild, brother, sister, nephew, niece, aunt, uncle, first cousin, or the spouse of any such persons and any person who resides in the subject person's home.

3.02.060 Employment Eligibility

An applicant may be disqualified from employment for any of the following reasons:

- (1) Failure to possess the qualifications for the job;
- (2) Inability to perform the essential functions of the job with or without accommodations;
- (3) Making a false statement of any material fact or practicing deception in his or her application or part of the hiring process;
- (4) Not being within the legal age limits prescribed by law;
- (5) Failing to pass a required pre-employment physical examination; or

- (6) Failure to pass a required background investigation.

Division 2: Qualifications

3.02.061 Criminal History

In performing the function of hiring persons to be employed by the Town of Colma, the City Manager (with the assistance of the Human Resources Manager) shall determine whether the candidate is fit for the position for which he or she is being considered. If an applicant has a criminal record, the Town will consider the relevant factors and abide by the applicable procedure to determine a particular individual's eligibility for employment. A person may be disqualified from consideration because of a criminal record that indicates that he or she may be unfit for the position.

[*History:* Res 2014-32, 6/11/14]

3.02.062 Consideration of Relevant Factors

In addition to considering any information the applicant chooses to provide, the Town will consider the following factors when evaluating criminal history.

- (a) *Time elapsed since conviction:* Where, in the judgment of the City Manager, the conviction occurred so long ago and was an isolated incident in the remote past, the City Manager may, in his/her discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.
- (b) *Age at time of conviction:* Where, in the judgment of the City Manager the conviction came when the applicant was young and appears to be caused by a lapse or absence of mature judgment, the City Manager may, in his/her discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.
- (c) *Rehabilitation:* If, in the judgment of the City Manager, there is affirmative evidence that the applicant has been rehabilitated and is no longer likely to exercise similar criminal behavior, the City Manager may, in his/her discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.
- (d) *Nexus:* If, in the judgment of the City Manager, the conviction is not related to and would not impact the scope of duties, the City Manager may, in his/her discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.

[*History:* Res 2014-32, 6/11/14]

3.02.063 Peace Officers

The Town shall never hire a person to be a peace officer if the applicant has been:

- (a) Convicted of a felony.
- (b) Convicted of an offense in any other jurisdiction that would have been a felony if committed in the State of California.

- (c) Convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony.
- (d) Charged with a felony and adjudged by a superior court to be mentally incompetent.
- (e) Found not guilty of a felony crime by reason of insanity.
- (f) Determined to be a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.
- (g) Adjudged addicted, or in danger of becoming addicted, to narcotics, and convicted and committed to a state institution.

[History: Res 2014-32, 6/11/14]

3.02.064 Recreational Department Employees and Volunteers

The Town shall never hire a person, or select a volunteer, to perform services at a park, playground or recreational center where the position has supervisory or disciplinary authority over a minor if the person or volunteer has been convicted of any of the following:

- (1) A violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or a sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.
- (2) A felony or misdemeanor conviction specified in subparagraph (3) below within 10 years of the date of the Town's request for criminal history information.
- (3) A felony conviction that is over 10 years old, if the person or volunteer was incarcerated within 10 years of the Town's request for criminal history information, for a violation or attempted violation of:
 - an offense specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense,
 - Section 217.1 of the Penal Code;
 - Section 236 of the Penal Code,
 - an offense specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or
 - an offense specified in subdivision (c) of Section 667.5 of the Penal Code.

[History: Res 2014-32, 6/11/14]

Division 3: Hiring

3.02.070 Hiring Process – General

- (a) The City Manager may not hire any employee, except a temporary employee, without going through the Hiring Process.
- (b) The City Manager (with the assistance of the Human Resources Manager) will administer and coordinate the Hiring Process for all position vacancies. The City Manager is responsible for compliance with contractual, legal and equal employment opportunity requirements.
- (c) Special preference may be extended to veterans in the Hiring Process, e.g., veteran status may be a factor in selecting which applicants may be identified to participate in the Hiring Process.

[History: Adopted by Res 2008-03, 2/13/08; Amended by Res 2014-04, 2/13/14]

3.02.080 Hiring Process – Notice

- (a) Job announcements for regular and casual employment positions shall be publicly posted at City Hall for a minimum of ten work days whether recruitment is internal or external.
- (b) If there are one or more qualified, in-house, regular or casual employees who were hired through the Hiring Process consistent with the provisions of this section, the City Manager may determine, in his or her discretion, to hire or promote an in-house employee to a job vacancy without external recruitment. If there are no qualified in-house, regular or casual employees who were recruited through an open hiring process, an announcement of the position must be circulated, posted or published in accordance with the provisions of the next paragraph.
- (c) In cases of external recruitment, job announcements must be circulated, posted or published in media reaching out to a substantial audience in San Mateo and San Francisco Counties such as local newspapers, local college placement services, community-based organizations, local governments, Town newsletter and other recruitment services. The Town may use for job referral purposes only those recruitment services that do not discriminate on the basis of any Protected Characteristic.
- (d) Applications for a position may be accepted after the published application deadline if the City Manager determines that there were an insufficient number of applications received as of the application deadline.

3.02.090 Hiring Process – Applicant Expenses

The Town shall not reimburse any applicant for travel or re-location costs in conjunction with the Hiring Process without express, written authorization from the City Manager.

3.02.100 Hiring Process – Testing

- (a) Examinations may be developed for certain positions based on the position's responsibilities, the qualifications required and resources available.

(b) The examination may consist of an oral interview, an application review, a structured questionnaire, practical tests, written tests, in-basket exercise or assessment center, etc. In all cases, the testing will be job related and designed to determine the candidate's knowledge, skills and abilities for the position.

(c) The City Manager shall develop the examination. Examination contents are confidential, and an unauthorized disclosure to any candidate is grounds for discipline.

(d) The Town shall provide reasonable accommodations for testing of persons with disabilities. Testing announcements shall advise applicants of how to request reasonable accommodations.

3.02.110 Hiring Process – Interviews

(a) The primary function of the interview is to obtain data or certain knowledge, skills, and abilities of an applicant not available through review of resumes or other testing mechanisms.

(b) The City Manager shall select panel members who will be objective in evaluating candidates. An applicant's Immediate Relatives will, and close personal friends may, be excluded from serving on the panel. Generally, a panel member should have technical expertise, knowledge or experience in the position being filled, experience in personnel administration, or experience in evaluating applicants.

(c) The City Manager or the City Manager's designee shall supervise the interview process. The questions must be job related and all applicants must be asked substantially the same questions. Questions will be designed to measure job knowledge, experience, and education or to solicit responses that reflect those personal traits that are job related. Questions that pertain to Protected Characteristics or other inquiries that tend to directly or indirectly disclose such information are prohibited. Inquiries as to an applicant's ability to read, write or speak foreign languages are permitted when such inquiries are based on job requirements.

3.02.120 Hiring Process – Reference Checks

(a) Before making any offer of employment to a new employee or promoting or transferring an existing employee, the City Manager or the City Manager's designee shall conduct a reference check on the prospective or subject employee.

(b) A basic reference check includes verification of employment duties, date of employment, work record, attendance record, strengths, weaknesses, safety record and other pertinent information.

(c) Applicants shall be required to undergo a thorough background check by the Police Department.

- (1) Positions in the Police Department;
- (2) Positions with supervisory or disciplinary authority over minors; and
- (3) Positions with access to substantial amounts of Town funds.

(d) No reference check or background investigation will be conducted without first notifying the applicant or employee of the investigation and obtaining a signed release from the subject authorizing the reference check. Inquiry into criminal history for non-peace officer positions will be done after a conditional job offer is made. The Town will provide the applicant or employee a copy of any public records received within seven days of receipt of the information. Further, the Town will notify the subject of the report as to who issued the report and how the subject can contact that person if he or she has questions.

(e) In the event that the Town contracts with a third party to conduct any reference check or background investigation, the Town will comply with applicable provisions of the Fair Credit Reporting Act (15 U.S.C. §§ 1681 *et seq.*) and the Investigative Consumer Reporting Agencies Act (CIVIL CODE §§ 1786 *et seq.*).

[Reference: CIVIL CODE §§ 1786 *et seq.*; GOV'T CODE § 1031; PUBLIC RESOURCES CODE § 5164]

[*History*: Res 2014-32, 6/11/14]

3.02.130 Hiring Process – List of Qualified Persons

The City Manager may hire from a list of qualified persons for one year from the date of conclusion of the testing process. That time period may be extended in the City Manager's discretion.

3.02.140 Orientation

New employees will be oriented on Town policies and operations.

3.02.150 Probation Period

(a) *Appointment.*

- (1) An employee hired for appointment to a regular position must serve a period of probation of at least one year. During this period, the Town may terminate a probationary employee without cause and without advance notice, except that the Town may not terminate a probationary employee for any reason prohibited by law. Upon successful completion of the probation, a probationary employee will be considered a regular employee.
- (2) Informal performance evaluations will be conducted during the course of the probation period to assess performance and to advise an employee of expectations regarding performance. Significant job deficiencies shall be documented in the employee's personnel file. After six months and at the end of the probation period, the employee will be formally evaluated and provided written documentation of progress.
- (3) If an employee is granted a leave of absence during his or her probationary period, such time off will not be considered as time worked towards completion of the probation period.

(b) *Promotion.*

- (1) A regular employee promoted to a higher position must serve a period of probation of six months from the date of promotion. During the probationary period, a promoted employee shall receive all benefits included with the new position.
- (2) Informal performance evaluations will be conducted during the course of the probation period to assess performance and to advise an employee of expectations regarding performance. Significant job deficiencies shall be documented in the employee's personnel file. After six months, the employee will be formally evaluated and provided written documentation of progress.
- (3) At any time during the probationary period, the Town may rescind the promotion without cause and without advance notice. An employee whose promotion has been rescinded has the right to be reinstated to his or her former position, only if the position has not been filled. If the promoted employee's former position has been filled, the promoted employee may be placed in a vacant position for which he or she qualifies with substantially the same pay and benefits that the employee possessed in his or her former position. If there is no available position with substantially the same pay and benefits that the employee possessed in his or her former position, the employee may be terminated. An employee shall have no right to appeal or otherwise challenge the rescinding of his or her promotion, except where the rescission of the promotion results in a termination of employment, in which case the employee is entitled to a hearing in accordance with Subchapter 3.04 of this Chapter.
- (4) If an employee is granted a leave of absence during his or her probationary period, such time off will not be considered as time worked towards completion of the probation period.
- (5) Notwithstanding the foregoing, the Town shall, upon request of an employee, conduct a "liberty interest" hearing when the Town intends to rescind a promotion based on charges of misconduct or mismanagement which stigmatizes his or her reputation, seriously impairs his or her opportunity to earn a living, or seriously damages his or her standing in the community. Charges concerning competency or inability to get along with others do not warrant a liberty interest hearing. The sole purpose of the liberty interest hearing is to afford the employee an opportunity to clear his or her name and refute the charges, not to have his or her job or promotion reinstated or termination rescinded.

3.02.160 Special Employment Programs

The Hiring Process shall not apply to people hired under any Special Employment Program funded or managed by a third-party organization, such as youth training programs, AARP Senior Placement Program, university internships, work training programs, etc.

3.02.170 Volunteers

- (a) The Hiring Process shall not apply to volunteers.
- (b) Volunteers shall receive no pay or benefits, except that the Town shall maintain workers' compensation insurance on volunteers.
- (c) Volunteers may not fill a vacant position on the City Council approved classification plan and salary schedule.

3.02.180 Outside Employment or Undertaking

- (a) An employee may not carry on, concurrently with their public employment, any other employment, business or activity, which conflicts or interferes with his or her Town employment.
- (b) An employee may not perform any function related to outside employment or activities during Town working hours.
- (c) Prior to commencing or changing outside employment or business, a regular, probationary, casual or temporary employee must report to the City Manager the name of firm, nature of employment, business or undertaking, hours of work, and address where the work will be performed. The City Manager will exercise discretion to determine if a conflict (or prospective conflict) exists. This advance notification is required in the following instances:
 - (1) If a full-time employee will be working in a paid position for another employer for eight (8) or more hours each week;
 - (2) If a full-time employee will be volunteering for another public agency or devoting sixteen (16) or more hours each week to another business enterprise; or
 - (3) If any employee will be performing any paid work for any of the City's vendors or contractors.

[Reference: GOV'T CODE § 1126]

[History: Adopted by Res 2008-03, 2/13/08; Amended by Res 2014-04, 2/13/14]

Division 4: Promotions and Demotions

3.02.190 Employee Development

The City Manager shall:

- (1) Actively encourage all employees to increase their skills and job potential through training and educational opportunities; and
- (2) Offer guidance and counseling in developing programs tailored to individual aptitudes and desires.

3.02.200 Promotions

(a) The City Manager may promote a regular employee to a higher classification without following the Hiring Process described in this Subchapter, except that the noticing provisions of section 3.02.080 shall be followed. In all other cases, the City Manager shall follow the Hiring Process before promoting an employee.

(b) Unless otherwise authorized by the City Manager, whenever an employee is promoted to a new position, that employee will enter the salary range for the new position at the step that increases salary at least five percent. If the top step of the new position is not at least five percent greater, the employee will be placed at the top step.

(c) Promotions do not change the person's date of hire. However, the Review Date for future pay increases will be revised to coincide with obtaining regular status in the new position.

(d) A promoted employee shall serve a period of probation, as specified in section 3.02.150.

3.02.205 Transfers

(a) The City Manager may transfer a regular employee to a different classification without following the Hiring Process described in this Subchapter, except that the noticing provisions of section 3.02.080 shall be followed.

(b) Unless otherwise authorized by the City Manager, whenever an employee is transferred to a new position, that employee will enter the salary range for the new position at the step that is closest to his or her then current salary without decreasing salary.

(c) A transfer does not change the employee's date of hire or Review Date.

3.02.210 Temporary Assignments

Consistent with CalPERS limitations, the City Manager may temporarily assign an employee to work out of classification for a specified time in a vacant position. If, in the City Manager's discretion, the assigned employee will assume all duties of the higher classification, the assigned employee's salary shall be adjusted in accordance with section 3.02.320, entitled "Pay for Working in a Higher Classification." In other instances, an employee may be provided with a special temporary assignment which, in the discretion of the City Manager, may be compensated with 5% special assignment pay. Upon completion of the temporary assignment, the employee shall return to his or her previous classification and pay.

Temporary assignments under this provision are intended to be used when a position is temporarily vacant due to an extended leave of absence or pending recruitment. Temporary light duty assignments provided as an accommodation to an employee as a result of an industrial or non-industrial medical condition, illness, or injury do not qualify as "special temporary assignments."

3.02.220 Demotions

(a) An employee may be reassigned to a position in a lower classification for disciplinary reasons, in lieu of layoff, as an accommodation, or as a result of a re-classification study. The

employee shall receive pay commensurate with the nature of the demotion as determined by the Department Director in consultation with the City Manager. This may result in a reduction of pay.

(b) Demotions do not change the person's date of hire. However, the Review Date shall change for future salary increases.

(c) An employee may not be demoted to a position for which he or she does not possess the minimum qualifications.

(d) The City Manager may reconsider the demotion when the employee's previous position is reopened.

(e) Any demotion for disciplinary reasons shall be conducted in conformance with Subchapter 3.04. An employee reassigned to a position in a lower classification in lieu of layoff, as an accommodation, or as a result of a re-classification study is not entitled to an evidentiary hearing.

Division 5: Compensation and Hours

3.02.230 Compensation Plan

(a) The City Council shall from time to time adopt a compensation plan applicable to all employees except employees covered by a labor agreement whose compensation shall be provided in the agreement.

(b) The City Manager shall be responsible for the continuous maintenance and administration of the Town's compensation plan, which shall include an analysis of prevailing rates of pay for similar positions in comparable labor markets, cost-of-living factors, budgetary considerations, information exchanged with representatives of Recognized Employee Organizations and other related factors. On the basis of this information, the City Manager shall recommend to the City Council changes to keep the plan current, uniform and equitable.

(c) The compensation plan for members of Recognized Employee Organizations shall be reviewed when the labor agreements are up for renewal and re-negotiation.

(d) The compensation plan for unrepresented employees may be reviewed annually.

3.02.235 Starting Step and Step Increases

(a) A probationary or casual employee, other than a Police Recruit, shall be hired at Step One upon appointment.

(b) A person hired as a Police Recruit shall receive 95% of Police Officer's Step One salary during academy training. After a Police Recruit is sworn as a public safety officer, his or her salary shall increase to Step One.

(c) After each Review Date, a regular or casual employee shall advance to the next higher step until the employee has reached the top step, provided that the employee has received a

satisfactory performance evaluation. An employee shall be deemed to have received a satisfactory performance evaluation if:

- (1) the employee's supervisor rates the employee's overall performance as satisfactory or "exceeds standards," and the employee's performance evaluation is approved on review by the next higher level of management; or
- (d) If an employee is denied a step or salary increase because of a performance evaluation that is less than satisfactory, the City Manager shall establish a schedule for the supervisor to conduct periodic performance evaluations of the employee and shall determine whether or not the missed step increase shall become effective when the employee receives an interim satisfactory performance evaluation.
- (e) Any change in salary will take effect the first day of the pay period following the date of the qualifying event.
- (f) Notwithstanding the foregoing:
 - (1) the City Manager may, at the recommendation of the Department Director and because of relevant experience or qualifications of the employee, hire a person at Step Two or higher; and
 - (2) the City Manager may, at the recommendation of the Chief of Police, grant a newly-hired sworn peace officer a step increase after completing six continuous months of satisfactory service in the step at which the employee was hired.

3.02.240 Classification

- (a) The City Manager shall create a list of every category of all regular and casual employee job positions in the Town together with a job description for each class, which shall be consistent with the staffing level authorized by the City Council.
- (b) All job descriptions shall consist of the position title, department, essential functions, basic tasks performed, description of typical duties and responsibilities and minimum qualifications, including physical qualifications, if any.
- (c) The position description does not constitute an employment agreement between the Town and the employee and is subject to change as the needs of the Town and the requirements of the job change.

3.02.250 Reclassification Procedure

The City Manager shall periodically examine the nature of all positions and allocate them to existing or newly created classes, make changes in the classification plan as are made necessary by changes in the duties and responsibilities of existing positions, and recommend to the City Council appropriate changes in the classification plan and salary schedules.

3.02.260 Work Period/Work Week

- (a) *Public Safety Officers.* Pursuant to FLSA Section 207(k), the work period established for public safety officers is a regularly recurring period of 84 hours in 14 consecutive days.
- (b) *Other Employees.* The work period for all employees other than public safety officers begins 00:01 each Monday and ends at 24:00 the following Sunday.

3.02.270 Work Hours

- (a) Normal working hours for all employees shall be determined by the City Manager.
- (b) Shift assignments shall be established by the Department Director.

3.02.271 After Work Hour Communications

It is recognized that sometimes a non-exempt employee may receive a work related email, text, phone call, or other form of communication after working hours. The Town does not expect or require non-exempt employees to act upon such a communication. To the contrary, non-exempt employees are not permitted to respond to such communications during non-working hours unless (a) there is an emergency, (b) the employee is on call or standby, or (c) the employee has been given specific direction and permission by his or her supervisor to respond after work hours due to special, temporary circumstances, and time spent responding to such communication is recorded on employee's timecard as time worked. This policy applies whether the after work hour communication is sent to or received by a personal device or Town owned device.

[History: Res 2016-17, 4/13/16]

3.02.272 Standby Duty

- (a) Public Works Department employees are specifically assigned duty to be available outside their normal work schedule to provide urgent repairs or maintenance, access to facilities, or other necessary tasks, as determined by the City Manager or designee.
- (b) An employee on standby must be ready and able to report to the Town of Colma within one hour of being contacted. Specifically, but without limitation, the employee must not be under the influence of alcohol or a controlled substance while on standby duty.
- (c) The routine standby period rotates amongst employees on a weekly basis. The standby period includes all periods of time outside of normal working hours during that week which the employee is scheduled on standby. The Public Works Director shall be responsible for creating the standby schedule and for ensuring the schedule is delivered to the Colma Police Department.
- (d) An employee scheduled for standby duty may trade with another eligible employee to fill his/her standby commitment. The employee initiating the trade is responsible for notifying his/her department head of the replacement at least two days before standby week commences. If the employee cannot find a replacement, he or she is responsible to work standby as assigned.

- (e) Standby pay shall be set by the City Council.

[History: Res 2014-44, 10/8/14]

3.02.273 Callback Pay

An employee who is called to work on his/her day off or after having been relieved of duty for the day at least one hour prior shall earn overtime for the time the employee is called back.

- (1) An employee who is called back to work is paid a minimum of two hours of overtime.
- (2) Compensable time under this policy does not include travel time to or from the employee's residence to the Town Corporation Yard. Compensable time under this policy shall begin when the employee reaches the Town Corporation Yard and shall end when the employee returns to the Town Corporation Yard.

[History: Res 2014-44, 10/8/14]

3.02.274 Value of Uniforms for CalPERS Purposes

(a) The Town shall report to CalPERS a uniform allowance as special compensation in the amount of \$68.67 per pay period for Public Works Maintenance Workers.

(b) The foregoing shall be subject to the provisions and limitations under the Public Employees Retirement Law, including the prohibition against reporting uniform allowance as pensionable compensation for "new members" under the Public Employees' Pension Reform Act of 2013.

[History: Res 2017-45, 9/13/17]

3.02.275 Non-Conflicting Provision

Nothing in this policy shall conflict with provisions of any active and existing labor agreement with any recognized bargaining group within the Town. Should such a conflict arise with this policy and any provisions of any active and existing labor agreement, the labor agreement shall prevail.

[History: Res 2014-44, 10/8/14]

3.02.280 Overtime

(a) Unrepresented, non-exempt employees shall be paid one and one-half times his or her base rate of pay for time worked in excess of forty (40) hours in a work period.

(b) FLSA overtime will be paid in accordance with the FLSA.

(c) An employee may not work overtime without prior written authorization from his or her Department Director.

[Reference: 29 U.S.C. §§ 201-215]

[History: Res 2010-13, 4/14/2010]

3.02.290 Compensatory Time Off

- (a) The City Manager may allow an employee to take compensatory time off instead of receiving overtime pay for overtime work, as provided herein.
- (b) Compensatory time off is earned at the same rate as overtime pay.
- (c) Compensatory time off may be accumulated to a maximum of 48 hours to be used by the employee at a later time upon approval of the City Manager except as otherwise defined in any applicable Memorandum of Understanding.
- (d) At any time, an employee may request that all or any part of his or her bank of compensatory time off hours be converted to the equivalent in pay.

3.02.300 Recognition of Longevity

(a) *Recognition.* After the first and every fifth full year of service, the Town will recognize eligible employees with a tangible award. This program does not constitute a contract to make an award and may be amended or repealed in the sole and absolute discretion of the City Council.

(b) Eligibility

- (1) To receive a recognition award, an employee must meet all of the following requirements:
- (2) The employee must be a regular employee, a probationary employee or a casual employee who worked more than 300 hours in the twelve months prior to October 1;
- (3) The employee must have reached his or her recognizable anniversary date on or before December 31 prior to the recognition event; and
- (4) The employee must be on paid status on the date of the recognition event.
- (5) Casual employees who work less than 300 hours in the twelve months prior to October 1, temporary employees and elected officials are not eligible to participate in the Town's Employee Recognition Program.

(c) Gifts

- (1) The amount of money allowed for gifts shall be established by the City Council from time to time in its discretion. The City Manager shall, in his or her discretion, select a vendor and shall designate the type(s) and value of gifts for the anniversaries to be recognized.

- (2) Elected Officials may not be given a gift, but may be given a commemorative item of nominal value, such as a Town logo pin recognizing the first anniversary of service.

(d) *Recognition Event.* The Employee Recognition Event occurs annually, usually immediately prior to the November City Council meeting. Residents and employees and their families are invited. Employees marking a service year that qualifies for recognition need not attend the event to receive a gift.

3.02.305 Retention Pay

Effective in the first pay period after April 10, 2019, employees will be eligible for retention pay as follows:

(a) Full-time employees will be eligible for retention pay in the amount of 2.5% for continuous ten (10) years of Town of Colma service, and an additional 2.5% for twenty (20) years of continuous Town of Colma service, to a combined maximum of 5% retention pay. The percentage of retention pay shall be calculated on the employee's base pay (not including incentive pay or any other differential pay). After the effective date above, employees are eligible for retention pay beginning in the first pay period following their anniversary date in which the employee meets the 10 year or 20 year of continuous Town service. For purposes of this section, "continuous" service shall include vacation, sick leave, other paid time off, as well as Town-approved leaves of absence and other leaves required by law.

(b) Part-time employees will be eligible for retention pay based on actual hours worked. Once a part-time employee has worked 2,080 hours, the part-time employee will be credited with one year of service credit for purposes of determining eligibility for retention pay. For purposes of applying this provision, "part-time employee" means an employee who normally works a schedule of less than 40 hours per week whether classified as "part-time" or "casual." For purposes of this section, "continuous" service shall include vacation, sick leave, other paid time off, as well as Town-approved leaves of absence and other leaves required by law. When applying service credit for any approved leaves of absence for part-time and casual employees, only the employee's anticipated scheduled hours will be credited. For casual employees, only the employee's anticipated scheduled hours will be credited. For casual employees who work intermittently, any period of the year when work is not assigned will not be counted.

[History: Adopted by Res 2019-17, 4/10/19]

3.02.310 Garnishment

(a) The City Manager (or his/her designee) will notify an employee who is subject to a wage garnishment, in writing, that a garnishment has been levied against the employee's pay.

(b) Repeated garnishments may be considered a cause for disciplinary action.

3.02.320 Pay for Working in a Higher Classification

- (a) Compensation for working out of classification is provided as monetary recognition to an employee for the assumption and performance of duties normally performed by an employee of higher classification.
- (b) Compensation for working out of classification will be provided only if each of the following conditions are met:
 - (1) The employee has assumed the full range of responsibilities of a vacant, higher classification for 30 consecutive days; and
 - (2) The City Manager has approved the assignment to the higher classification.
- (c) Working out of classification pay shall not be given to employees on temporary training assignments.
- (d) Employee assigned to work in a higher classification, which assignment is expected to last for at least thirty days, shall be compensated at the starting salary of the higher classification in which the employee is working or five percent above the employee's then existing salary, whichever is higher, effective at the commencement of the assignment. If the salary of the higher classification is set by contract approved by the City Council, then the employee's salary shall be increased by five percent over his or her then existing salary. If an assignment is not expected to last for at least thirty days but is thereafter extended, the employee will receive the additional pay retroactive to the date the assignment commenced.
- (e) When the higher class assignment is completed, the employee's salary will be readjusted to its previous level. The employee's date of hire and Review Date will remain unchanged.

3.02.330 Pay Advance

An advance in pay will not be granted except by the City Manager for a case of extreme hardship.

3.02.340 Time Sheets

- (a) All non-exempt employees shall accurately and completely report time worked and leave taken on time sheets and shall sign and submit the time sheets to their respective Department Director for review and approval.
- (b) Exempt employees shall accurately report days not worked on an Exception Report.
- (c) Falsification of time sheets or Exception Reports shall be a ground for disciplinary action up to, and including, termination.
- (d) An employee may not sign a time sheet or Exception Report for another person.

3.02.345 Payroll Errors

- (a) To ensure that system or other errors which affect an employee's pay are processed in an efficient and effective manner, once the Town detects a payroll error, it shall notice the affected employee as soon as practicable.
- (b) Payroll errors detected by an employee shall, as soon as practicable, be communicated to the Finance Department.
- (c) Under payments will be processed as soon as practicable.
- (d) In the event of an overpayment, the Accountant or his or her designee will determine a reasonable repayment schedule and inform the employee of the schedule directly or through the Department Director. The affected employee shall be given an opportunity to discuss the repayment schedule and, if necessary, to request a reasonable adjustment to it. Factors considered in determining a reasonable adjustment to the repayment schedule include, but are not limited to, the employee's normal salary and other financial obligations of the employee. The Town will use any and all legal remedies to recover any salary overpayment made to the employee from the employee's wages in the event that (1) the employee does not respond within five working days of being notified of the overpayment or (2) mutual agreement on the repayment schedule is not achieved within 10 working days of the employee being notified of the overpayment.

3.02.350 Performance Evaluations

- (a) The functions of the employee performance evaluation are:
 - (1) To provide each employee with timely reports of the employee's progress and allow for correction of deficiencies;
 - (2) To provide the employee with positive recognition of strengths and special abilities and an opportunity to improve deficiencies;
 - (3) To provide an ongoing performance record which may become part of documentation used in making personnel actions;
 - (4) To provide a basis for step advancements and salary increases;
 - (5) To provide the employee with an opportunity to discuss ways and means for improvement;
 - (6) To serve as a mechanism for updating job descriptions;
 - (7) To allow the employee to give feedback to her or his supervisor; and
 - (8) To reflect higher performance expectations as a result of employee growth and development.
- (b) Each employee should be evaluated at least once a year.

(c) Prior to an employee's Review Date, the employee's supervisor shall meet with the employee and evaluate the employee's overall job performance as exceeds standards, satisfactory, needs improvement or unsatisfactory. The City Manager may, for good cause, extend the time for a performance evaluation until after the employee's Review Date.

(d) Performance evaluations may be considered by the City Manager in determining the advisability of transfers, the level of employee discipline, and in promotional examinations. Performance evaluations are maintained in the employee's personnel file and are available only to the employee's supervisor, the Human Resources Manager, the Department Director, the City Manager, and, when necessary, the City Attorney.

(e) A performance evaluation is not subject to the grievance procedure.

(f) The City Manager, in his or her sole discretion, may require varying levels of review in the evaluation process.

3.02.360 Change of Name, Address and Telephone Number

(a) Each employee shall provide the City Manager with his or her current legal name, mailing address and personal telephone number.

(b) An employee must report any change of legal name, mailing address or telephone number within three business days of such change.

(c) A violation of this policy may result in disciplinary action.

Division 6: Separation

3.02.370 Resignation

An employee wanting to resign in good standing with the Town is requested to provide a written resignation to his or her Department Director at least 14 calendar days prior to the effective date of resignation, is expected to be reasonably available for work during that period, and is expected to participate in an exit interview. Providing less than two weeks notice may affect the employee's ability to be rehired.

3.02.380 Termination

(a) The Town may terminate a regular employee for cause which shall include, but not be limited to, any violation of this Chapter.

(b) The Town may terminate an at-will, probationary or temporary employee at any time, with or without cause and with or without giving advance notice. At-will, probationary and temporary employees shall have no right to appeal or otherwise challenge the termination of their employment.

(c) Upon request of the employee, the Town shall conduct a "liberty interest" hearing when the Town terminates an employee based on charges of misconduct or mismanagement which stigmatizes his or her reputation, seriously impairs his or her opportunity to earn a living, or seriously damages his or her standing in the community. Charges concerning competency or

inability to get along with others do not warrant a liberty interest hearing. The sole purpose of the liberty interest hearing is to afford the employee an opportunity to clear his or her name and refute the charges, not to have his or her job or promotion reinstated or termination rescinded.

3.02.390 Lay-offs; Re-Employment

(a) If the City Council determines, in its discretion, to reduce the Town's workforce for economic reasons, regular employees in those classifications identified for reduction will be laid off in reverse order of seniority.

(b) Any former regular employee who resigned from the Town in good standing, who is terminated because of an abolishment of position, or who is laid off because of a reduction in workforce, is eligible for re-employment as a new employee. The employee must file a completed Town application form and proceed through the regular hiring procedures with other applicants as described in the Hiring Process.

(c) If a position that was abolished because of a reduction in workforce is reinstated within six months thereafter, the Town shall notify all former employees who had been laid off within six months prior to reinstatement of the position. An employee who was laid-off because of that reduction who applies for reemployment shall be given preference over other applicants for that position, and offers of re-employment will be made to former employees who apply for the position in order of seniority.

(d) Reemployment of an employee in the retirement system will be made in accordance with the rules and regulations as set by CalPERS.

(e) All individuals re-employed by the Town must complete a new probationary period.

3.02.400 Out-Processing

An employee who resigns or is terminated for any reason must return all keys to Town buildings and Town automobiles, employee identification cards, all Town records, uniforms and equipment purchased by the Town, and any other Town equipment in the employee's possession or control. The employee shall also disclose in writing any and all passwords to files and documents created or used by the employee, whether authorized or unauthorized.