

## **SUBCHAPTER 3.06: LEAVES**

### **Division 1: General**

#### **3.06.010 Inconsistent Actions; Failure to Return to Work**

An employee may not take any action during a leave of absence that is inconsistent with an intention to return to employment with the Town, such as accepting employment with another employer or failing without authorization to return after expiration of leave. An employee who takes any action during his or her leave of absence that is inconsistent with an intention to return to employment with the Town may be terminated.

[History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

#### **3.06.020 Exhaustion of Paid Leave**

An employee who is absent from work may be required to use his or her accrued and available paid leave to the extent allowed by law and these policies.

[History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

#### **3.06.030 General Rule for Accruing Paid Leave**

(a) An employee must be in paid status in order to earn and accrue paid leave of any type. An employee who has exhausted all paid leave shall not earn any paid leave until he or she has returned to paid status.

(b) An employee will not accrue vacation or sick leave, nor will the employee be paid for holidays that occur during the employee's leave of absence except during those periods when the employee is on paid sick leave, Personal Leave or compensatory time off.

[History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

#### **3.06.040 Unpaid Leave of Absence**

(a) An employee taking an unpaid leave of absence may request or be required to use his or her accumulated and available sick leave, Personal Leave, or compensatory time off.

(b) An employee is not entitled to an unpaid leave of absence except as expressly provided in this Subchapter or where granted by the City Manager for good cause.

[History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

#### **3.06.050 Coordination of Benefits**

(a) Workers Compensation and State Disability Insurance benefits will be integrated with paid leaves described in this Subchapter so that an employee does not receive over 100 percent of the employee's regular pay.

(b) When an employee is eligible for benefits under the Workers Compensation Act or the State Disability Act, he/she may apply his/her accrued sick leave or other paid leave pro rata to supplement the expected benefit payment, up to a maximum of 100% of the employee's regular pay.

(c) Payments under a long-term disability insurance policy are not subject to coordination of benefits by the Town but may be reduced by the insurance carrier.

[History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.060 Conflicting Provisions**

In the event of a conflict between the provisions of this Subchapter and any collective bargaining agreement, the terms and conditions of the collective bargaining agreement shall apply.

[History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.070 General Rules of Eligibility; Prorated Paid Leave**

(a) Except as expressly provided herein, regular and probationary employees are eligible for paid leaves provided in this Subchapter, while casual and temporary employees are eligible only for sick leave as defined in Division 3 of this subchapter.

(b) Paid leave for a part-time employee shall be prorated according to the employee's Full-Time Equivalency.

### **3.06.080 [Reserved]**

## **Division 2: Holidays**

### **3.06.090 Holiday Leave**

(a) Regular and probationary employees are entitled to holiday pay as provided in this section. Town holidays are set forth in section 1.01.050 of the Colma Municipal Code.

(b) An exempt employee who observes a Town holiday shall be entitled to his or her regular monthly salary.

(c) A non-exempt employee who was in paid status the workday before and the workday after a Town holiday shall be paid for the holiday. If the non-exempt employee worked full-time, the employee shall be paid for a full day. If the non-exempt employee worked part-time, the employee's holiday pay shall be prorated at his or her Full-Time Equivalency.

(d) Regular and probationary employees required to work on a Town holiday will be paid an amount equal to one and one-half times his or her regular rate of pay, which shall be in addition to holiday pay to which he or she is entitled.

[Originally 3.06.080; History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

**3.06.100 [Reserved]**

**Division 3: Sick Leave**

**3.06.110 Sick Leave Eligibility and Accrual**

(a) Regular and Probationary Employees

- (1) A regular or probationary full-time employee who is full-time paid status shall accrue paid sick leave at the rate of eight hours per month. Accruals begin on the first day of employment.
- (2) A regular or probationary part-time employee who is in paid status shall accrue sick leave prorated at his or her Full-Time Equivalency. Accruals begin on the first day of employment.
- (3) A regular or probationary full-time employee may accrue sick leave up to a maximum of 1,040 hours. An employee who has accrued 1,040 hours of unused sick leave shall not earn additional sick leave unless and until he or she has an accrued balance of less than 1,040 hours of unused sick leave.
- (4) A regular or probationary part-time employee may accrue sick leave up to a maximum of 1,040 hours prorated at his or her Full-Time Equivalency. An employee who has accrued 1,040 hours of unused sick leave prorated to his or her Full-Time Equivalency shall not earn additional sick leave unless and until he or she has an accrued balance of less than the prorated amount of unused sick leave.
- (5) All sick leave is paid at an employee's regular rate of pay as of the time of the absence, exclusive of overtime or other irregular pay enhancements.

(b) Casual and Temporary Employees

- (1) Effective on the first day of employment or July 1, 2015, a casual or temporary employee shall accrue one hour of sick leave per every 30 hours worked.
- (2) A casual or temporary employee may accrue sick leave up to a maximum accrual cap of 48 hours or six days. A casual or temporary employee who has accrued 48 hours or six days of unused sick leave shall not earn additional sick leave unless and until he or she has an accrued balance of less than 48 hours of unused sick leave.

[Originally 3.06.090; History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.120 When Sick Leave May Be Used**

(a) An eligible employee may use his or her sick leave for any of the following reasons:

- (1) An illness or injury which makes the employee unable to fully perform the essential functions of his or her job duties;
- (2) For an appointment with a health care provider for preventative care or for a medical procedure, provided that if the appointment or procedure is foreseeable, the employee must have made a reasonable effort to schedule it during non-work hours and so as not to unduly disrupt the Town's operations;
- (3) To care for a newborn child or a newly placed child;
- (4) To care for a child, grandchild, parent, parent-in-law, grandparent, sibling, spouse or Registered Domestic Partner who is ill;
- (5) To accompany a child, grandchild, parent, parent-in-law, grandparent, sibling, spouse or Registered Domestic Partner to an appointment with a health care provider for treatment, preventative care or a medical procedure; or
- (6) To obtain relief or attempt to gain relief or services related to domestic violence, sexual assault or stalking for the purposes described in Labor Code section 230(c) and 231(a).

(b) Usage Restrictions.

Notwithstanding the foregoing:

- (1) Absent conditions qualifying for FMLA/CFRA leave, a regular or probationary employee may use up to half his or her annual (i.e. calendar year) sick leave accrual to care for a spouse, child, grandchild, parent, parent-in-law, grandparent, sibling or Registered Domestic Partner.
- (2) A casual or temporary employee may use up to 3 days or 24 hours per calendar year for any permissible purpose. Such employee may carry over unused accrued sick leave to the following year, subject to the maximum accrual cap of six days or 48 hours.
- (3) Any employee who has a break in service of less than one year will have his or her accrued and unused sick leave reinstated and does not need to wait an additional 90 days of employment to use accrued sick leave.

(c) For purposes of this section:

- (1) A "child" is a biological, foster or adopted child, a stepchild, a legal ward, a child of a Registered Domestic Partner, or a child of a person standing in the place of a parent; and

- (2) A "parent" is a biological, foster, or adoptive parent, a stepparent, or a legal guardian or a person who stood in the place of a parent when the employee was a minor.

[Reference: Labor Code §§ 233, 246]

[Originally 3.06.100; History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.130 Conversion or Payment for Unused Sick Leave**

Upon separation of employment with the Town, an employee is not entitled to be paid for his or her accrued and unused sick leave except as follows:

(a) An employee who is eligible for and who has applied for retirement under CalPERS within four (4) months of separation from the Town of Colma may, at the employee's option, convert unused and accrued sick leave to additional PERS service credit or be paid for unused and accrued sick leave, provided that the number of hours to be converted or paid shall not exceed 1,040 hours.

(b) An employee hired after July 1, 2019 who is eligible for and who has applied for retirement under the California Public Employees Retirement System within four (4) months of separation from the Town may, at the employee's options, convert unused and accrued sick leave to additional PERS service credit provided that the number of hours to be converted shall not exceed 1,040 hours. Accrued but unused sick leave shall have no cash value at separation for such employees.

[Originally, 3.06.110; History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2019-17, 4/10/19]

### **3.06.140 Sick Leave Not to Extend Family and Medical Leave Period**

Nothing in this Division shall extend the maximum period of leave to which an employee is entitled under the California Family Rights Act (CFRA), the federal Family and Medical Leave Act (FMLA), or this Subchapter, whether or not the employee received sick leave compensation during that period.

[Originally, 3.06.120; History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.150 Reporting Requirements**

(a) Any employee taking sick leave shall notify his or her supervisor in accordance with rules established by the City Manager. An employee who is on sick leave shall keep his or her supervisor advised as to his or her expected date of return to duty. A non-exempt employee shall report sick leave taken on his or her time sheet, and an exempt employee shall report sick leave taken on his or her Exception Report.

(b) An eligible employee who is on sick leave for a period exceeding three consecutive days may be required to provide a certificate from his or her health care provider verifying the need

for the absence from work and releasing the employee to return to duty with or without restrictions. Except where sick leave is taken for an occupational disability, the certificate should not disclose the underlying diagnosis of the patient's condition.

(c) In appropriate circumstances, the Town may require the employee to participate in a fitness-for-duty examination by a doctor selected by the Town before allowing the employee to return to work.

[Originally, 3.06.130; History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.160 Prevention of Sick Leave Abuse**

(a) The City Manager shall establish guidelines for identifying and correcting abuse of sick leave.

(b) If sick leave abuse is identified, corrective action will be taken, including requiring appropriate documentation.

### **3.06.170 [Reserved]**

## **Division 4: Family and Medical Leave**

### **3.06.180 Family and Medical Leaves of Absence**

(a) The Town provides Family and Medical Leave benefits that are more generous than, and are consistent with, state (the California Family Rights Act – "CFRA") and federal (the Family and Medical Leave Act – "FMLA") leave laws. Specifically, the Town, in its discretion, provides Family and Medical Leave as set forth in this Division, even though there may be fewer than 50 employees within 75 miles, which is the threshold for providing Family and Medical Leave under law. To the extent that the law does not require the Town to provide Family and Medical Leave, this Division may be repealed at the discretion of the City Council. U.S. Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 (FMLA) and the implementing regulations for the California Family Rights Act (CFRA) may be used to supplement the provisions in this division. Unless otherwise provided by this Division, "leave" under this policy shall mean leave pursuant to FMLA and CFRA, as FMLA and CFRA leave shall run concurrently when permitted by law.

(b) To the extent that the law requires the Town to provide Family and Medical Leave and to the extent the Town has agreed to voluntarily provide these rights, the respective rights and obligations of the Town and its employees are set forth in the following provisions and implementing federal and state regulations.

[Reference: 29 C.F.R. 825.100 et seq.]

[History: Formerly § 3.06.150(a); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.190 Definitions for this Division**

As used in this Division, specific terms are defined in the FMLA, CFRA and their respective implementing regulations, and as set forth below. To the extent any conflict arises between definitions below and definitions set forth in FMLA/CFRA and their regulations, the FMLA/CFRA definitions shall control.

“12-month period” means a rolling 12-month period measured backward from the date the leave is taken and continuous with each additional leave day taken; a “single 12-month period” means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered military service member and ends 12 months after that date.

“Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child as well as a child for whom the employee stands in loco parentis (in place of parents).

“Covered active duty” means:

- (1) In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; or
- (2) In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

“Covered military service” member means:

- (1) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is otherwise on the temporary disability retired list for a serious injury or illness; or
- (2) A veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

“Domestic Partner,” as defined by Family Code §§297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA Leave.

“Health care provider” means:

- (1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
- (2) Individuals duly licensed as a physician, surgeon or osteopathic physician or

surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;

- (3) Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
- (4) Nurse practitioners and nurse mid-wives, clinical social workers, marriage and family therapists, acupuncturists, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined by California State law;
- (5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston Massachusetts; and
- (6) Any other health care providers that fall within the definition of FMLA or CFRA regulations; and
- (7) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

"Leave" means leave pursuant to FMLA and CFRA.

"Next of Kin of a covered military service member" means the nearest blood relative other than the covered military service member's spouse, parent or child in the following order of priority: blood relatives who have been granted legal custody of the covered military service member by court decree or statutory provisions, siblings, grandparents, aunts and uncles and first cousins unless the covered military service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under FMLA.

"Outpatient status" means, with respect to a covered military service member, the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control if members of the Armed Forces are receiving medical care as outpatients.

"Parent" means the biological, adoptive, step or foster parent of an employee or an individual who stands or stood in loco parentis (in place of parents) to an employee when the employee was a child. This term does not include parents-in-law.

"Serious health condition" means an illness, injury (including but not limited to, on-the-job injuries), impairment or physical or mental condition of the employee or a child, parent or spouse of the employee that involves inpatient care or continuing treatment, including but not limited to treatment for substance abuse (and except for certain injuries or illnesses incurred by a member of the Armed Forces as defined later in this section):

- (1) Inpatient care (i.e. an overnight stay or admission to the facility with an



expectation of an overnight stay, even if later discharged) in a hospital, hospice or residential medical care facility, including any period of incapacity (i.e. inability to work or perform other regular daily activities due to the serious health condition, treatment involved or recovery there from); or

- (2) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
  - (A) A period of incapacity (i.e., inability to work or perform other regular daily activities) due to serious health condition of more than three full consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:
    - i. Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances are certified by a health care provider, a nurse or by a provider of health care services (e.g. a physical therapist) under orders of or on referral by a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
    - ii. Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
  - (B) Any period of incapacity due to pregnancy or for prenatal care. This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave (see section 3.06.300 *et seq.*, of this subchapter).
  - (C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse, continues over an extended period of time (including recurring episodes of a single underlying conditions), and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave, even if the absence lasts only one day.
  - (D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or eligible family

member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

- (E) Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, whether for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment. "Serious Injury or Illness," in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating. In the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the armed Forces) and that manifested itself before or after the member became a veteran.

[References: Cal. Family Code §§ 297 and 299.2; 29 CFR § 114]

[History: Formerly § 3.06.150(b); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.200 Eligibility and Duration**

(a) To be eligible for Family and Medical Leave, an employee must have at least 12 months of service with the Town and must have worked at least 1,250 hours during the 12-month period preceding the date the leave is to begin. Employment periods prior to a break in service of seven or more years need not be counted in determining whether an employee has been employed for at least 12 months.

(b) Except as provided in this subchapter with regard to certain types of military-related family or medical leave, employees may take up to a maximum of 12 workweeks of Family and Medical Leave within a 12-month period. The Town uses a "rolling" 12-month period to determine an employee's eligibility for leave. The 12-month period is measured backward from the date an employee uses any family leave.

[History: Formerly § 3.06.150(c); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.210 Permitted Reasons for Leave**

An employee eligible for Family or Medical Leave under this Division may take a leave of absence for any of the following reasons:

- (1) The birth of a child of the employee and to care for a newborn;
- (2) The placement of a child with an employee in connection with the adoption or foster care of a child by the employee;
- (3) To care for a child, parent, spouse or Registered Domestic Partner who has a serious health condition;
- (3) Due to the employee's own serious health condition that makes the employee unable to perform the essential functions of his or her position;
- (4) Because of any "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty or has been notified of an impending call or order to covered active duty status, as set forth in section 3.06.290 of this subchapter; or
- (5) To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember, as set forth in section 3.06.290 of this subchapter.

[History: Formerly § 3.06.150(d); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.220 Procedure for Obtaining Medical and Family Leave**

(a) *Advanced Notice.* Whenever possible, the employee must provide at least 30 days advance written notice of the employee's need to take a leave of absence under this Division for foreseeable events (such as the expected birth of a child or a planned medical treatment for the employee or an eligible member of the employee's family). If an employee requests a leave of absence that is foreseeable because of a scheduled medical procedure, the employee must make a reasonable effort to schedule it so that it will not unduly disrupt Town operations, subject to the approval of the employee's health care provider. For events which are unforeseeable, the employee must notify the Human Resources Manager and his or her supervisor, at least verbally, as soon as the employee learns of the need for the leave.

(b) *Request for Leave.* Regardless of the nature of the leave of absence and in addition to the advanced notice, an employee must submit a written Request for Leave of Absence to the Human Resources Manager, with a copy to his or her supervisor, as soon as possible. The employee must also submit written certification from the patient's health care provider, or another qualified person approved by the City Manager, containing the following information:

- (1) The date on which the qualifying condition began or will begin;
- (2) The probable duration of the qualifying condition; and

- (4) In situations where the leave is due to the employee's own condition, a statement that, due to the employee's serious health condition, the employee is (or will be) unable to perform the essential functions of the employee's position; or
  - (5) In situations where the leave is needed to care for a family member having a serious health condition, the date of commencement of the serious health condition, the probable duration of the condition, an estimate of the amount of time that the health care provider believes the employee needs to take in order to care for the child, parent, or spouse, and confirmation that the serious health condition warrants the participation of the employee.
- (c) *Recertification.* Recertification may be required if the employee requests an extension beyond the original certification.
- (d) Qualifying Exigency Leave.
- (1) The first time an employee requests qualifying exigency leave, the employee must provide a copy of the covered military service member's active duty orders or other documentation issued by the military which indicates that the covered military service member is on covered active duty or call to active duty status in a foreign country and the dates of the covered military service member's active duty service.
  - (2) An employee must provide a copy of new active duty orders or similar documentation if the need qualifying exigency leave arises out of a different active duty or call to active duty status of the same or different covered military member.
- (e) *Incomplete Medical Certification.* If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. If an employee fails to provide a medical certification within the timeframe established by this policy, the Town may delay the taking of FMLA/CFRA leave until the required certification is provided.
- (f) *Second Opinion.* If the Town has a good faith, objective reason to doubt the validity of a certification of the employee's own medical condition, the Town may require a medical opinion of a second health care provider chosen and paid for by the Town. The health care provider designated by the Town will not be the one who is employed on a regular basis by the Town. If the second opinion is different from the first, the Town may require the opinion of a third provider jointly approved by the Town and the employee, but paid for by the Town. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

[History: Formerly § 3.06.150(e), (f), and (g); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.230 Intermittent Schedule**

(a) Family or Medical Leave may be taken intermittently (in blocks of time or on a reduced-time schedule) if the leave is for the serious health condition of the employee or the employee's family member and if such intermittent leave is medically necessary as determined by the health care provider of the person with the serious health condition. The smallest increment of time that can be used for such leave is fifteen (15) minutes.

(b) If an employee requests intermittent leave or leave on a reduced-time leave schedule, the employee also must provide certification of the medical necessity for either kind of leave, its expected duration, and, if applicable, the date on which the patient's medical treatment is to be given and the duration of the treatment. If an appropriate medical certification is provided, an employee may take medical leave on an intermittent basis or use a reduced-time schedule, that is, work fewer hours per day or per week than the employee's usual schedule requires.

[History: Formerly § 3.06.150(h); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.240 Additional Time**

If the employee needs additional family or medical leave after the time stated in the employee's original certification, the employee must submit re-certification containing the information outlined above.

[History: Formerly § 3.06.150(i); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.250 Periodic Reports**

If an employee is granted a family or medical leave of absence, he or she may be required to provide periodic status reports, as requested by the Town, which certify the patient's continuing serious health condition and expected date of return to work.

[History: Formerly § 3.06.150(j); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.260 Non-compliance**

Failure to comply with these rules is grounds for, and may result in, deferral or denial of the requested leave.

[History: Formerly § 3.06.150(k); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.270 Compensation and Benefits**

(a) Family and Medical Leave is unpaid leave, but during the leave period, the employee can or may be required to use other forms of paid leave as set forth in this subchapter. During any absence qualifying for non-pregnancy-related Family and Medical leave that is unpaid, an employee must use his or her accrued paid leave (including sick leave, vacation, and any other

form of accrued paid leave available to the employee). This includes, but is not limited to, waiting periods applicable to various wage replacement programs such as SDI. Leave periods when an employee is receiving wage replacement benefits (e.g. SDI, PFL or workers' compensation) are not considered unpaid leaves for purposes of this Section.

(b) If an employee is on Family and Medical Leave for his or her own serious health condition, the employee must use any accrued paid leave, to the extent allowed by other Town policies, during the unpaid portion of the leave (unless the employee is on leave that also qualifies as pregnancy disability leave, in which case the employee is required to use accrued sick leave and has the option of whether to use accrued vacation). For any period of time that the employee is eligible for and is receiving outside wage replacement benefits (e.g., short- or long-term disability benefits, SDI, and/or workers' compensation benefits), if the employee elects to use available paid leave, the Town will apply accrued paid leave as a supplement to the wage replacement benefit on a pro-rated basis to bring the employee to full compensation.

(c) If an employee is on Family and Medical Leave to care for a family member with a serious health condition, the employee must use accrued paid leave during the unpaid portion of the leave to the extent allowed by other Town policies. For any period of time that the employee is eligible for and is receiving outside wage replacement benefits (e.g., California paid family leave), if an employee elects to use available paid leave, the Town will apply accrued paid leave as a supplement to the wage replacement benefit on a pro-rated basis to bring the employee to full compensation.

(d) If an employee is on Family and Medical Leave to bond with a new baby, the employee must use accrued paid leave to the extent allowed by other Town policies. For any period of time that the employee is eligible for and is receiving outside wage replacement benefits (e.g., California paid family leave), if an employee elects to use available paid leave, the Town will apply accrued paid leave as a supplement to the wage replacement benefit on a pro-rated basis to bring the employee to full compensation.

(e) In any event, if all paid leave available from the Town is exhausted, Family and Medical Leave will continue on an unpaid basis for the remainder (if any) of the available 12 weeks. Any Family and Medical Leave, whether paid, unpaid, or a combination thereof, will be counted toward the 12-week leave entitlement. During any period of unpaid leave (i.e. when not using accrued paid leave), employees will not continue to accrue paid leave and will not be paid for holidays that occur during the unpaid leave.

(f) An employee taking Family and Medical Leave will be allowed to continue participating in any health and welfare benefit plans in which he/she was enrolled before the first day of the leave (for up to a maximum of 12 workweeks) at the level and under the conditions of coverage as if the employee had continued in employment for the duration of such leave. The Town will continue to make the same premium contribution as if the employee had continued working, and the employee is expected to continue to pay his or her share of the monthly premiums. An employee who fails to make his or her required premium payment may lose coverage if the payment is more than 30 days late (and upon 15-days advance notice by the Town). The continued participation in health benefits begins on the date leave first begins. Employees are eligible for a maximum of 12 weeks of FMLA benefits continuation during any 12-month period. If leave lasts longer than 12 weeks, then the employee will be placed on COBRA and can opt for continued coverage at his or her own expense. An employee who does not return from leave

may be required, under certain circumstances provided by the law, to reimburse the Town for any employee contributions paid by the Town while the employee was on unpaid leave. Note that for employees on Pregnancy Disability Leave, benefits will be continued as provided in section 3.06.360 of the Town's Pregnancy Disability Leave policy.

[History: Formerly § 3.06.150(l); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.280 Special Rules for Birth, Adoption or Foster Care Placement of a Child**

Leave may be taken for the birth, adoption, or foster placement of a child (i.e. "baby bonding" leave) within one year of the birth or placement of the child with the employee. The basic minimum duration of baby bonding leave is two weeks. An employee may take baby bonding leave for at least one day, but less than two weeks, on two occasions. In addition, employees whose spouses or co-parents are also employed by the Town are entitled to a combined total of 12 weeks of baby bonding leave.

[History: Formerly § 3.06.150(m); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.290 Service Member Family and Medical Leave**

(a) *Eligibility.* Eligible employees are entitled to unpaid "Service Member Family and Medical Leave" in the following instances:

- (1) *Military Qualifying-Exigency Leave.* Eligible employees with a spouse, child, or parent on active duty or called to active duty in the National Guard or Reserves in support of a contingency operation may take up to the normal 12 weeks of leave because of any "qualifying exigency." For purposes of this policy, "qualifying exigency" includes: short-notice deployment, military events and related activities, childcare and school activities, finance and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities agreed to by the employer and the employee. This leave is available only to families of service members in the National Guard or Reserves – not to families of service members in the Regular Armed Forces.
- (2) *Military Caregiver Leave.* An eligible employee who is the spouse, son, daughter, parent, or next-of-kin of a covered service member (includes a current member of the Regular Armed Forces as well as the National Guard or Reserves) may take up to 26 weeks of leave within a twelve-month period to care for such a service member with a serious injury or illness incurred in the line of active duty or which existed before the beginning of the military member's active duty and was aggravated in the line of duty while on active duty. For purposes of this type of leave, the 12-month period begins on the first day the employee takes leave for this purpose and ends 12 months thereafter. This leave entitlement applies on a per-covered service member, per injury basis. Leave to care for an injured or ill service member – when combined with other FMLA-qualifying leave – may not exceed 26 weeks in a single 12-month period.

(b) *Duration.*

- (1) For a qualifying exigency, an employee is entitled to a maximum of 12 weeks leave (when combined with leave for any other qualifying reason) in accordance with the rolling 12-month period measured backward.
- (2) To care for an ill or injured service member, an eligible employee is entitled to a combined total of 26 weeks of leave for any FMLA-qualifying reason during the single 12-month period that starts when the leave begins. During this 12-month period, an employee is entitled to no more than 12 weeks of leave for any qualifying reason other than caring for a service member.

(c) *Other Military Leave Entitlements.* The Town also complies with any applicable leave entitlements provided by any state or local law. Where allowed, military leave under this policy runs concurrently with these other leaves.

(d) *Procedures.* Except in the case of exigency leave for short-notice deployment, the employee shall follow the procedures set forth in section 3.06.190.

[References: 29 CFR 825.126]

[History: Adopted by Res 2014-04, 2/13/14]

### **3.06.300 Return to Work and Reinstatement**

(a) *Right to Reinstatement.* Upon return from a Family and Medical Leave or a Service Member Family and Medical Leave, an employee will be reinstated to his or original position or to an comparable position with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, an employee is not entitled to reinstatement if one of the following conditions exists:

- (1) The employee's job has ceased to exist for legitimate business reasons;
- (2) The employee has directly or indirectly indicated the employee's intention not to return to the employee's job;
- (3) The employee is no longer able to perform the essential functions of the employee's job with or without reasonable accommodation (the Town will engage in an interactive process with the employee at the conclusion of his or her Family and Medical Leave before reaching this determination); or
- (4) The employee is no longer qualified for the job. (However, if the loss of qualification is due to the employee's temporarily inability to attend a necessary course, renew a license, etc. as the result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon returning to work.

(b) *Ability to Perform.* When the employee is ready to return to work from an authorized leave of absence under this Division, and where the leave was due to the employee's own condition, the employee must present certification from the employee's physician that the



employee is able to safely perform all of the essential functions of the employee's position, or can do so with reasonable accommodation. The Town may require the employee to participate in a fitness-for-duty examination by a doctor selected by the Town before allowing the employee to return to work.

(c) *Placement in Similar Position.* If the Town cannot reinstate an eligible employee to the employee's position held before leave was taken, the Town will offer the employee a substantially similar position provided that:

A substantially similar position exists and is available;

Filling the available position would not substantially undermine the Town's ability to operate safely and efficiently; and

The employee is qualified for the position.

(d) *Key employee.* A key employee, as defined by 29 C.F.R. 825.217 or 2 Cal. Code Regs. 11089(d)(2), may not be entitled to reinstatement.

(e) *Fraudulently-obtained Leave.* An employee who fraudulently obtains or uses Family and Medical Leave is not protected by job restoration or maintenance of health benefits.

[Reference: 29 C.F.R. 825.100 et seq.]

[History: Formerly § 3.06.150(n), (o), (p) and (q); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Res 2015-26, 6/10/15]

### **3.06.310 [Reserved]**

## **Division 5: Pregnancy Disability Leave**

### **3.06.320 Eligibility and Terms of Leave**

(a) Pursuant to the California Fair Employment and Housing Act (FEHA), a female employee is entitled to an unpaid pregnancy disability leave during the time that the employee is actually disabled on account of pregnancy, childbirth, or related medical conditions, up to a maximum period of seventeen and one-third weeks (Pregnancy Disability Leave).

(b) The employee may take this leave, as needed, for all disabilities related to each pregnancy. Specifically, the employee may take time off for necessary prenatal or postnatal care, as well as for conditions such as severe morning sickness, doctor-ordered bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss or end of pregnancy, and recovery from childbirth.

(c) An employee may request a reasonable accommodation for pregnancy, childbirth, or related medical conditions if she provides the Town with medical certification from her health care provider. In addition to other possible forms of reasonable accommodation, a pregnant employee may transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties, if she so requests, and the transfer request is supported by proper medical certification, and the transfer can be reasonably accommodated. However, the

Town is not required to create additional employment that would otherwise not be created, discharge other employees, transfer another employee with more seniority, violate a collective bargaining agreement, or promote any employee (including the pregnant employee) to a position for which the employee is not qualified.

[History: Formerly § 3.06.160(a), (h); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.330 Procedure**

(a) *Advanced Notice.* Whenever possible, the employee must provide at least 30 days advance written notice of the employee's need to take a Pregnancy Disability Leave. If an employee requests a leave of absence that is foreseeable because of a scheduled medical procedure, the employee must make a reasonable effort to schedule it so that it will not unduly disrupt Town operations, subject to the approval of the employee's health care provider. For events which are unforeseeable, the employee must notify the City Manager and her supervisor, at least verbally, as soon as the employee learns of the need for the leave.

(b) *Request for Leave and Certification.* As soon as possible, the employee must also submit to the City Manager, with a copy to her supervisor, a written Request for Leave of Absence accompanied by a written statement from the patient's health care provider, or another qualified person approved by the City Manager, verifying the employee's pregnancy disability or the medical advisability of a temporary transfer to a less strenuous or hazardous position or job duties, and stating: the date on which the employee became disabled due to pregnancy, childbirth or related medical condition or the date on which the need for a transfer became medically advisable; the probable duration of the period(s) of disability or the duration of the need for a transfer; and a statement that, due to the disability, the employee is unable to perform one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons, or that the transfer is medically advisable.

(c) The Town may require re-certification if the employee requests an extension beyond the original certification.

(d) If there is any change in the information contained in the health care provider's statement, the employee must report these changes promptly to the City Manager.

[History: Formerly § 3.06.160(d), (e), (f); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.340 Length of Leave**

Normally, full-time employees are granted unpaid leave for the period of actual disability, up to a maximum of seventeen and one-third weeks (i.e., the number of days or hours the employee would work in four calendar months [17 $\frac{1}{3}$  weeks]). For full-time employees, this period is typically 88 working days. Part-time and/or variable schedule employees are granted unpaid leave on a pro-rata or proportional basis. The leave benefits available under this policy are "per pregnancy" rather than "per year." Pregnancy Disability Leave runs concurrently with leave

under the federal Family and Medical Leave Act (FMLA), but not with leave under the California Family Rights Act (CFRA), which is a separate leave benefit.

[History: Formerly § 3.06.160(a); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.350 Intermittent Leave**

(a) Pregnancy Disability Leave does not need to be taken in one continuous period of time, but can be taken on an as-needed basis. Such leave may be taken intermittently, or on a reduced-hours schedule, when medically necessary as determined by the employee's health care provider. The smallest increment of time that can be used for such leave is 15 minutes.

(b) The Town may transfer the employee to an alternative position or alter the existing job to accommodate intermittent leave or a reduced work schedule. The employee will receive the same pay and benefits in the alternative position.

[History: Formerly § 3.06.160(b); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.360 Compensation and Benefits**

(a) Generally, employees taking pregnancy disability leave will be treated the same as other similarly situated employees taking disability leave.

(b) Pregnancy disability leave is unpaid leave, but during the leave period, the employee can or may be required to use other forms of paid leave as set forth in section 3.06.250.

(c) When an eligible employee is on pregnancy disability leave running concurrent with FMLA leave, the Town will continue the employee's group health care benefits for up to a maximum of 12 workweeks under the same terms and conditions as applied prior to the leave of absence as outlined in Section 3.06.250.

(d) During a Pregnancy Disability Leave, the employee shall accrue seniority and participate in employee benefit plans (e.g. short- or long-term disability plans, pension and retirement plans, etc.) to the same extent and under the same conditions as would apply to any other unpaid disability leave granted by the Town for any reason other than a pregnancy-related disability. Specifically:

(1) The employee shall retain employee status during the period of the Pregnancy Disability Leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority under any collective bargaining agreement or employee benefit plan; and

(2) Medical, Dental and Vision coverage will continue during Pregnancy Disability Leave in the same manner as if the employee was actively at work. This means that the employee will be responsible for her contributing premium payments for the entire length of the leave. Failure to timely pay the employee share could result in termination of benefits.

(e) An employee taking Pregnancy Disability Leave must use all accrued sick leave before continuing on an unpaid basis. An employee may substitute accrued vacation, compensatory time and floating holidays before continuing leave on an unpaid basis. Substituted paid leave time will be counted toward the four-month (i.e., 88 working days) entitlement. The employee may also be eligible for State Disability Insurance, in which case sick leave and (where requested) other leave will be applied pro rata to bring the employee to full compensation.

(f) Except while using accrued Town-paid leave, employees on Pregnancy Disability Leave will not continue to accrue additional sick leave or vacation time and will not be paid for holidays during the leave.

(g) Except as provided in paragraph (e)(ii) above, the employee will need to make arrangements to pay her portion of benefits for any time during which an employee is on unpaid leave.

[Reference: 2 CCR 7291.11(b)(2)]

[History: Formerly § 3.06.160(g); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.370 Coordination with FMLA and CFRA Leaves**

FMLA leave may run concurrently with Pregnancy Disability Leave, however, CFRA leave does not run based on disability due to pregnancy. Upon the birth of a child, an eligible female employee may request CFRA bonding leave. CFRA bonding leave need not be taken right after the baby is born, but must be concluded within one year of the child's birth.

[History: Formerly § 3.06.160(c); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.380 Reinstatement**

(a) Generally, an employee is entitled to be reinstated to the same position at the end of the leave upon release to return to work by her health care provider, subject to any exceptions allowed under applicable law.

(b) In order that the Town can properly schedule an employee's return to work, an employee on Pregnancy Disability Leave should provide the City Manager with at least two weeks' advance notice of the date she intends to return to work.

(c) When a Pregnancy Disability Leave ends, the Town will reinstate an employee to her original position or to a comparable position with equivalent pay, benefits, and other employment terms and conditions, in accordance with state and federal law, e.g. 2 Code of California Regulations section 7291.10(c)(1) and (2). However, an employee has no greater right to reinstatement than if the employee had been continuously at work rather than on leave or transferred. For example, if an employee on Pregnancy Disability Leave would have been laid off had she not gone on leave, or if the employee's position has been eliminated during the leave and there is no comparable position available, then the employee would not be entitled to reinstatement. An employee's use of Pregnancy Disability Leave will not result in the loss of any

employment benefit that the employee earned or was entitled to before the leave.

(d) Employees returning from Pregnancy Disability Leave must submit a health care provider's verification of their fitness to return to work.

(e) If an employee fails to make contact, communicate about any needs for continuing leave, or report to work promptly at the end of the Pregnancy Disability Leave (or any approved additional leave commencing after Pregnancy Disability Leave), the Town will assume that the employee has "voluntarily resigned."

[Reference: 2 CCR § 7291 et seq.]

[History: Formerly § 3.06.160(j); Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14]

### **3.06.390 [Reserved]**

## **Division 6: Personal Leaves**

### **3.06.400 Eligibility for Vacation Leave**

(a) A regular or probationary full-time employee who is in paid status shall earn vacation leave as follows:

- (1) From date of hire through the fifth year of continuous service with the Town, at the rate of 80 hours per year;
- (2) From the sixth through the tenth year of continuous service with the Town, at the rate of 120 hours per year;
- (3) From the eleventh through the fifteen year of continuous service with the Town, at the rate of 160 hours per year; and
- (4) (After fifteen years of continuous service with the Town, at the rate of 200 hours per year.

(b) A regular or probationary part-time employee who is in paid status shall earn vacation leave prorated at his or her Full-Time Equivalency (FTE).

(c) A regular or probationary part-time employee shall accrue vacation time at the end of each pay period.

(d) An employee may not take vacation leave until completion of six months of service without the City Manager's approval.

(e) Upon resignation or retirement from Town employment, an employee shall be paid at the normal rate of pay for his or her unused vacation time.

[History: Formerly § 3.06.170; Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14; Renumbered by Res 2014-04, 2/13/14]

### **3.06.410 Administering Vacation Leave**

- (a) An employee must submit a written request to take vacation leave to his or her Department Director for approval a reasonable time prior to the commencement of the requested vacation.
- (b) A Department Director must submit a written request to take vacation leave to the City Manager for approval a reasonable time prior to the commencement of the requested vacation.
- (c) The City Manager shall provide reasonable advance notice to the City Council before he or she takes vacation leave.
- (d) The person reviewing a request for vacation shall consider the requirements of the Town and the efficiency of Town operations as well as the wishes of the employee.
- (e) An employee may accrue unused vacation time up to two times the number of hours the employee may earn in one year. Once an employee has accrued the maximum number of hours of unused vacation time, the employee shall not earn any additional vacation time.
- (f) Commencing October 1, 2019, an employee may elect to cash out vacation to be earned in a subsequent twelve month period, provided that:
  - (1) The employee has in excess of 160 hours of accrued vacation by the last day of the last pay period in July;
  - (2) The employee makes such an election in writing to the Human Resources Division between August 1 and August 15, to cash-out vacation that will be accrued during the following calendar year;
  - (3) The employee can cash-out up to the amount the employee earns on an annual basis as specified in section 3.06.400 (for example, an employee with five or less years of service can elect to cash-out a maximum of 80 hours of vacation);
  - (4) The election is non-revocable;
  - (5) The payout is processed on the first pay date in January of the following year (in other words, if an employee elects on August 15, 2019, to cash-out 80 hours of vacation that will accrue between January 1, 2020, and December 31, 2020, those hours will be paid in the first pay period in January 2021);
  - (6) The pay rate used is the employee's base rate as of the date on which the payout is made;
  - (7) The employee must have no less than a zero vacation balance after the payout;
  - (8) Should the employee use all or part of the vacation elected for cash-out prior to the payout date, the remaining portion of the election shall be cashed-out on the payout date. Similarly, should the employee not earn all of the vacation elected for cash-out (i.e., due to separation from employment or unpaid leave), the

amount of the election actually earned shall be cashed-out on the pay-out date;  
and

- (9) The employee has taken at least 40 consecutive vacation hours off in the previous twelve months from August 1.

[History: Formerly § 3.06.180; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

### **3.06.420 Management Leave**

(a) All unrepresented, exempt, regular employees placed in the *Managerial, Professional and Confidential Employees Unit* pursuant to the Town's Employer-Employee Relations Resolution (Resolution 98-40 or any successor EERR), shall annually be granted 80 hours of management leave, up to a maximum of 80 hours ("cap").

(b) Management leave shall be credited to an eligible employee in advance, as follows:

- (1) In a prorated amount on the date of hire; and
- (2) In the full amount on January 1 of each calendar year thereafter.

(c) The Town shall grant each eligible employee ten days of management leave per year, less the employee's management leave balance at close of business on December 31, if any. Management leave shall be earned and accrued on January 1 of each year only. If an employee has a management leave balance at close of business on December 31, that balance shall be carried over to January 1, and the number of hours of management leave that will be granted to an employee will be ten days minus the balance carried over from December 31 to January 1.

(d) On termination of employment, any unused management leave shall be paid.

[History: Formerly § 3.06.190; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

### **3.06.430 Floating Holidays**

(a) Beginning on January 1 following the date of hire, the Town shall grant each regular or probationary, non-exempt, full-time employee placed in the managerial, professional and confidential employees unit or in the maintenance unit, as described in the Town's employer-employee relations resolution (Colma Administrative Code, Subchapter 3.09), three floating holidays each calendar year less the employee's floating holiday balance at close of business on December 31, if any, as provided in this section.

(b) Floating holidays shall be earned and accrued on January 1 of each year only. If an employee has a floating holiday balance at close of business on December 31, that balance shall be carried over to January 1, and the number of hours of floating holidays that will be granted to an employee will be three days minus the balance carried over from December 31 to January 1.

(c) A regular or probationary part-time employee who is in paid status shall be granted floating holidays as provided in paragraphs (a) and (b), prorated at his or her Full-Time Equivalency (FTE), rounded to the nearest quarter hour.

(d) A newly hired employee, non-exempt, full-time employee in the managerial, professional and confidential employees unit or in the maintenance unit shall be granted floating holidays as provided in paragraphs (a) and (b), prorated from the date of hire to the following December 31, rounded to the nearest quarter hour.

(e) On termination of employment, the Town shall pay the employee any unused floating holidays.

[History: Formerly § 3.06.200; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

### **3.06.440 Bereavement Leave**

(a) A regular or probationary employee in paid status shall receive up to three work days off with pay as bereavement leave to arrange and/or attend funeral activities for a member of his or her immediate family. For purposes of this section only, "immediate family" means whether related by blood, marriage or registered domestic partner, the spouse/registered domestic partner, child, grandchild, sibling, parent and grandparent of the employee.

(b) A regular or probationary part-time employee in paid status shall earn bereavement leave prorated at his or her Full-Time Equivalency (FTE).

[History: Formerly § 3.06.250; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

### **3.06.450 [Reserved]**

## **Division 7: Leaves for Public Duties**

### **3.06.460 Election Officer Leave**

(a) An employee may take unpaid leave to serve as an Election Officer in a local, special or statewide election.

(b) An employee who knows or has reason to believe that he or she will be an Election Officer shall give at least five days' advance notice to the employee's supervisor.

(c) An employee may take accrued paid leave, except sick leave, to serve as an Election Officer.

[Reference: Cal. Elections Code § 12312]

[History: Formerly § 3.06.210; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]



### **3.06.470 Jury Duty Leave**

- (a) A regular or probationary employee who is called for jury duty shall be granted paid leave.
- (b) Juror leave pay for part-time employees shall be prorated at his or her Full-Time Equivalency.
- (c) A probationary employee called to serve on jury duty will have his or her probationary period extended by the same amount of time as required for serving on jury duty.
- (d) The employee shall relinquish to the Town all juror fees to the Town, excluding mileage fees.
- (e) If excused as a juror on any given day, the employee is expected to contact his or her supervisor and to report to work as instructed.

[History: Formerly § 3.06.220; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

### **3.06.480 Leave to Attend Court as a Witness**

- (a) A regular or probationary employee who is required to appear in court or at an administrative proceeding in any action arising out of the course and scope of his or her employment shall be paid as being on duty. The employee shall turn over to the Town any witness fees received by the employee for attendance at court or an administrative hearing. Payments for travel expenses shall be retained by the employee.
- (b) A regular or probationary employee who is required to appear in court or at an administrative proceeding in any action not arising out of the course and scope of his or her employment may request or be required to take Personal Leave, and/or compensatory time for any time off.

[History: Formerly § 3.06.230; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

### **3.06.490 Leave Time for Voting**

- (a) If a regular or probationary employee does not have sufficient time outside working hours to vote at a federal, statewide or local election, then he or she may, without loss of pay, take off enough working time to enable him or her to vote.
- (b) No more than two hours of the time taken off for voting shall be with pay. If additional time is needed, an employee may request use of his or her available Personal Leave.
- (c) Employees shall give their supervisor at least two business days' notice. The supervisor will determine if time off will be allowed at the beginning or end of the shift. If the employee fails to provide proper notice, the employee will be required to use his or her available Personal Leave and/or compensatory time off.

[Reference: Cal. Elections Code § 14000]

[History: Formerly § 3.06.240; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

**3.06.500 [Reserved]**

**Division 8: Administrative Leaves**

**3.06.510 Paid Administrative Leave**

(a) The City Manager may, in his or her sole discretion, place an employee on paid administrative leave on any of the following grounds:

- (1) Pending investigation and review of a potential disciplinary action;
- (2) Pending a determination of the employee's fitness for duty; or
- (3) When the City Manager determines that it is in the best interests of the Town or in the interest of public safety to immediately and temporarily remove the employee from Town service.

(b) An employee on paid administrative leave will have a workweek beginning at one minute after midnight Monday and ending at midnight the following Sunday, and must be available for assignment and able to appear in Colma within two hours of notification, Monday through Friday, except holidays, from 8:00 AM until 4:30 PM (excepting lunch time). An employee on paid administrative leave may, at the sole discretion of his or her Department Director, be required to attend court or administrative hearings relating to the Town's affairs or may be required to be present in Colma for an assignment. An employee on administrative leave who is not so available shall not be entitled to pay during that time but may take his or her unused Personal Leave, unused sick leave (if eligible and for a qualifying reason) or compensatory time off.

[History: [Originally, 3.06.220; History: Res 2008-03, 2/13/08; Res 2014-04, 2/13/14; Res 2014-39, 9/10/14] Formerly § 3.06.260; Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Renumbered by Res 2014-04, 2/13/14]

**3.06.520 Unpaid Administrative Leave**

The City Manager may, after providing the appropriate level of due process, place an employee on unpaid administrative leave, or change paid administrative leave to unpaid administrative leave, in any of the following circumstances:

- (1) When the employee is unable or unwilling to perform the essential functions of his or her job;
- (2) When the employee takes any action which is inconsistent with his or her status as an employee of the Town; or

- (3) When the employee engages in misconduct, on or off-duty, which is detrimental to the public service.

[History: Res 2014-04, 2/13/14]