

COLMA ADMINISTRATIVE CODE
CHAPTER THREE. PERSONNEL POLICIES

Subchapter 3.10: Ticket Distribution Policy

Division 1: Basic Gift Rules

3.10.010 Purpose

The purpose of this subchapter is to establish a uniform policy relating to the acceptance of gifts to the Town which provide a personal benefit to a Town Official.

[History: Res 2012-24; 7/11/12]

3.10.020 Definitions

Unless otherwise expressly provided herein, words and terms used in this subchapter shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code Sections 81000, et seq., as the same may from time to time be amended) and the Fair Political Practices Commission ("FPPC") Regulations (Title 2, Division 6 of the California Code of Regulations, Sections 18110 et seq., as the same may from time to time be amended). As used in this subchapter:

(a) "Ceremonial role" means an act performed at an event by the official as a representative of the Town at the request of the holder of the event or function where, for a period of time, the focus is on the act performed by the official. Some examples include: cutting a ribbon at an opening; tossing out the first pitch at a ball game; making a presentation of a certificate, proclamation, award or other item, such as a key to the city.

(b) "Earmark" means to designate by name, title, class or otherwise an official who may use the payment. The donor may identify the purpose for a payment, but may not earmark who may use the payment.

(c) "Gift" means a payment made by any person of any thing of value, whether tangible or intangible, real or personal property, that confers a personal benefit on the recipient to the extent that the recipient pays the donor consideration of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. A gift excludes any of the exceptions to the definition of a gift set forth in FPPC Regulation 18942, including but not limited to payments to certain family members, returned or donated gifts, gifts for which reimbursement is paid, etc.

(d) "Immediate family" shall mean and refer to the spouse and dependent children.

(e) "Payment" means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

(f) "Ticket" shall mean and refer to a "ticket" or "pass" as those terms are defined in FPPC Regulation 18946 and referenced in FPPC Regulation 18944.1, both Regulations as being amended from time to time, but which currently define a "ticket" or "pass" as anything that provides access to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

(g) "Town" shall mean and include the Town of Colma and any other affiliated agency created or activated by the Colma City Council, and any departments, boards and commissions thereof.

(h) "Town Official" shall mean and refer to the Town's "public officials," as that term is defined by Government Code Section 82048 and FPPC Regulation 18701, including but not limited to any elected or appointed official or designated employee required to file a Statement of Economic Interests (FPPC Form 700).

[Ref: FPPC Regulation 18942.3, 18944.1]

[History: Res 2012-24; 7/11/12]

3.10.030 Policy

No official or designated employee may accept any gift in violation of the Political Reform Act.

[History: Res 2012-24; 7/11/12]

3.10.040 Gift Limit

No official or designated employee shall receive gifts per calendar year that exceed the current gift limit as set forth in the related FPPC gift regulations.

[History: Res 2012-24; 7/11/12]

3.10.050 Receipt and Reporting Requirements

All officials and designated employees shall report all gifts from a single reportable source during a calendar year worth \$50 or more on his or her Statement of Economic Interests (Form 700). Gifts from a single reportable source must be added up over the course of a calendar year; once the \$50 threshold is reached, an official and designated employee's reporting obligation for that single reportable source is triggered unless an exception under the Political Reform Act and/or FPPC Regulations apply.

[History: Res 2012-24; 7/11/12]

3.10.060 Gifts to the Town Benefitting a Town Official

(a) The distribution of a gift that qualifies under the next paragraph must be reported by the Town on Form 801. The distribution of a gift that does not qualify under the next paragraph is reportable on Form 700 by the official who receives the gift.

(b) A payment that otherwise would be considered a gift to a Town Official shall be considered a gift to the Town and not a gift to the Town Official if all of the following conditions are met:

- (1) The City Manager determines and controls the Town's use of the payment. The donor may not earmark the payment.
- (2) The payment must be used for official Town business.
- (3) Within 30 days after use of the payment, the Town shall report the payment on FPPC Form 801 (or on such alternative form(s) as may from time to time be designated by the FPPC) and post the completed form on the Town website. The completed form must be maintained as a public record and be made subject to inspection and copying as required under Government Code section 81008 (a).

(c) This section does not apply to certain payments for travel that are described in FPPC Regulation 18944(c) or to a gift of a ticket, as described in FPPC Regulation 18944.1, which is governed by that regulation and Division 2 of this subchapter.

[History: Res 2012-24; 7/11/12]

Division 2: Tickets and Passes

3.10.070 Purpose

The purpose of this Division is to ensure that all Tickets the Town receives from public and private entities and individuals are distributed in furtherance of governmental or public purposes.

[History: Res 2012-24; 7/11/12]

3.10.080 Scope

(a) This Division applies to a Ticket which provides admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose, and are either:

- (1) gratuitously provided to the Town by an outside source;
- (2) acquired by the Town by purchase;
- (3) acquired by the Town as consideration pursuant to the terms of a contract for the use of a Town venue; or
- (4) acquired and distributed by the Town in any other manner.

(b) This Division shall only apply to the Town's distribution of Tickets to, or at the behest of, a Town Official.

(c) This Division shall supersede and replace any prior Town policy governing Tickets to which this Division applies.

(d) This Division does not apply a ticket or pass distributed to or at the behest of a Town Official when:

- (1) The Official pays full consideration for the value of the ticket;
- (2) The Official treats the Ticket as income consistent with applicable federal and state income tax laws, and the Town complies with the reporting requirements of Section 3.10.140 below;
- (3) The Ticket is provided to an official and one guest of the official for his or her admission to a facility, event, show, or performance at which the official performs a ceremonial role on behalf of the Town, provided the Town complies with the reporting requirements of Section 3.10.140 below; or
- (4) A ticket is provided to an official who attends a facility, event, show or performance as part of his or her job duties to assist another official who is performing a ceremonial role at the event. A ticket provided to an official under these circumstances is not a gift or income under the FPPC regulations.

[History: Res 2012-24; 7/11/12]

3.10.090 Distribution of Tickets or Passes

(a) The distribution of a gift of a ticket that qualifies under the next paragraph must be reported by the Town on Form 802. The distribution of a gift of a ticket that does not qualify under the next paragraph is reportable on Form 700 by the official who receives the gift.

(b) A complimentary Ticket obtained by the Town by donation from an outside source or by purchase at fair market value, through a contract for use of public property, or because the Town controls the event, may be distributed to or at the behest of a Town Official provided that:

- (1) The distribution was not earmarked by the original source for a particular Town Official;
- (2) The distribution is controlled by the City Manager and meets all other provisions of this Division;
- (3) The distribution accomplishes a governmental or public purpose, as described in section 3.10.130; and
- (4) The distribution is disclosed as set forth in section 3.10.140 below.

[History: Res 2012-24; 7/11/12]

3.10.100 General Provisions.

(a) The use of complimentary Tickets is a privilege extended by the Town and not the right of any person to which the privilege may from time to time be extended.

- (b) The value of any Ticket shall be the face value of the Ticket.
- (c) The provisions of this Division apply only to benefits the Town Official receives that are provided to all members of the public with the same class of Ticket.

[History: Res 2012-24; 7/11/12]

3.10.110 Transfer or Return

- (a) A public official may not transfer his or her ticket except to one guest or a member of the official's immediate family, solely for that person's attendance at the event.
- (b) Any Town Official, any member of the public official's immediate family, or guest of the public official may return any unused ticket to the Town for re-distribution pursuant to this Division.

[History: Res 2012-24; 7/11/12]

3.10.120 City Manager's Authority

- (a) The Town delegates the authority to distribute any tickets and passes in accordance with this Division to the City Manager or his or her designee. If the City Manager desires to obtain a ticket or pass, the City Council authorizes the Mayor to exercise the Town's sole discretion in determining whether the City Manager's use or behest of tickets and passes is in accordance to the terms of this Division.
- (b) The City Manager shall have the authority, in his or her sole discretion, to establish procedures for the distribution of Tickets in accordance with this Division. All requests for Tickets which fall within the scope of this Division shall be made in accordance with the procedures established by the City Manager.
- (c) The City Manager shall be the "Agency Head" for purposes of implementing the provisions of this Division and completing and posting the FPPC California Form 802.

[History: Res 2012-24; 7/11/12]

3.10.130 Public Purposes

- (a) The FPPC recognizes the discretion of the Town Council to determine whether the distribution of a Ticket serves a legitimate public purpose of the agency, provided the determination is consistent with state law.
- (b) The following is a list of governmental and/or public purposes the Town may accomplish through the distribution of Tickets. The list is illustrative rather than exhaustive:
 - (1) Facilitating the performance of a ceremonial role or function by a Town Official on behalf of the Town at an event;
 - (2) Facilitating the attendance of a Town Official at an event where the job duties of the Town Official require his or her attendance at the event;

- (3) Promoting intergovernmental relations and/or cooperation and coordination of resources with other governmental agencies, including, but not limited to, attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members and their guests;
- (4) Promoting Town resources and/or facilities available to Colma residents;
- (5) Promoting Town-run, sponsored or supported community programs or events;
- (6) Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting Colma residents;
- (7) Promoting business activity and development within the Town;
- (8) Promoting Town-owned businesses;
- (9) Promoting Town tourism on a local, state, national or worldwide scale;
- (10) Promoting Town recognition, visibility, and/or profile on a local, state, national or worldwide scale;
- (11) Promoting open government by Town official appearances, participation and/or availability at business and/or community events;
- (12) Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the Town;
- (13) Attracting or rewarding volunteer public service;
- (14) Encouraging or rewarding significant academic, athletic, or public service achievements by Colma students, residents or businesses;
- (15) Attracting and retaining highly qualified employees in the Town service;
- (16) Recognizing or rewarding meritorious service by a Town employee;
- (17) Promoting enhanced Town employee performance or morale; or
- (18) Recognizing contributions made to the Town by former Town Council Members or Town employees.

(c) Any Ticket that is distributed to a Town official other than a Council Member for the official's personal use to support general employee moral, retention, or to reward public service is also deemed to serve a public purpose. Such Ticket distribution shall be disclosed pursuant to Section 3.10.140. For purposes of this paragraph, "personal use" is defined as use by the official, his or her family, or no more than one guest.

[History: Res 2012-24; 7/11/12]

3.10.140 Disclosure Requirements

- (a) This Division shall be posted on the Town's website in a prominent fashion.
- (b) Tickets distributed by the Town to any Town Official which the Town Official treats as income or which are distributed for one or more public purposes described in Section 3.10.130 above, must be recorded on FPPC California Form 802 or, on such alternative form(s) as may from time to time be designated by the FPPC. This form must be maintained as a public record, be subject to inspection and copying as required under Government Code section 81008 (a). These forms must be forwarded directly to the FPPC for posting on its website.
- (c) Tickets distributed by the Town for which the Town receives full payment from the Town Official as provided shall not be subject to these disclosure provisions.
- (d) Tickets distributed by the Town to any Town official other than an elected official or member of the governing body of the Town, for use by the official, his or her family, or no more than one guest, to support general employee moral, retention, or to reward public service is also deemed to serve a public purpose shall be disclosed in accordance with paragraph (b) of this Section.
- (e) For Tickets distributed pursuant to this Division, the Agency may post the name of the department or other unit of the Town and the number of Tickets provided to the department or other unit in lieu of posting the name of the individual employee(s) as otherwise required.
- (f) Tickets distributed to an organization outside of the Town for a public purpose described in Section 3.10.130 shall be disclosed in accordance with paragraph (b) of this Section, but may be done by posting the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization as otherwise required.

[History: Res. 2012-24, 7/11/12]