



**AGENDA
REGULAR MEETING
CITY COUNCIL OF THE TOWN OF COLMA
Wednesday, July 26, 2023
PRESENTATION – 6:30PM
REGULAR SESSION – 7:00 PM**

The City Council, staff and members of the public may participate in the meeting in person at Town Hall or virtually via Zoom Video Conference.

To attend the meeting in person:

Town Hall, Council Chamber, 1198 El Camino Real, Colma CA 94014

To participate in the meeting via Zoom Video Conference:

Join Zoom Meeting: <https://us02web.zoom.us/j/81289976261>

Passcode: 074407

Meeting ID: 812 8997 6261

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Meeting ID: 812 8997 6261

Passcode: 074407

To provide Public Comment in person:

Members of the public wishing to speak are requested to complete a yellow speaker card and submit it to the City Clerk. Comments should be kept to three minutes or less.

To provide Public Comment via Zoom Video Conference:

Live verbal public comments may be made by requesting to speak using the "raise hand" feature in Zoom or, if calling in by phone, by pressing *9 on the telephone keypad prior to the consent calendar being heard, or prior to the close of the public comment period for agenda items or non-agenda items. In response, the Town will unmute the speaker and allow them to speak up to three minutes.

To provide Public Comment in writing:

Members of the public may provide written comments by email to the City Clerk at ccorley@colma.ca.gov before the meeting. Emailed comments should include the specific agenda item on which you are commenting or note that your comment concerns an item that is not on the agenda. The length of the emailed comment should be commensurate with the three minutes customarily allowed for verbal comments, which is approximately 250-300 words.

PRESENTATION – 6:30PM

- Tree Dedication Ceremony for Raquel “Rae” Gonzalez

PLEDGE OF ALLEGIANCE AND ROLL CALL – 7:00PM

ADOPTION OF AGENDA

PRESENTATION

- Proclamation in recognition of 30th Anniversary of the Colma Historical Association

PUBLIC COMMENTS

Comments on the Consent Calendar and Non-Agenda Items will be heard at this time.
Comments on Agenda Items will be heard when the item is called.

CONSENT CALENDAR

1. Motion to Accept the Minutes from the July 12, 2023 Regular Meeting.
2. Motion Accepting the Fiscal Year 2022-23 Annual Investment Report Through June 30, 2023.
3. Motion to Adopt a Resolution Approving Second Amendment to Municipal Services Contract with CSG Consultants, Inc. Pursuant to CEQA Guideline 15378.
4. Motion to Adopt a Resolution Awarding and Authorizing the City Manager to Execute a Contract with Quantum Energy Services for the Electric Vehicle Charging Infrastructure Installation Project at the Colma Community Center Pursuant to CEQA Guideline 15301 and 15303.
5. Motion to Adopt a Resolution Repealing Subchapter 2.03, Amending Subchapters 3.01 Through 3.09, 4.01 and 4.02 of the Colma Administrative Code, Relating to Personnel Policies and Accounting Policies Pursuant to CEQA Guideline 15061.

NEW BUSINESS

6. APPOINTMENT AND APPROVAL OF EMPLOYMENT AGREEMENT FOR CITY MANAGER

Consider: Motion to Adopt a Resolution Appointing Daniel Barros as City Manager and Approving Employment Agreement Pursuant to CEQA Guideline 15378.

STUDY SESSION

7. REVENUE STRATEGIES

This item is for discussion only; no action will be taken at this meeting.

8. ZONING CODE UPDATE

This item is for discussion only; no action will be taken at this meeting.

REPORTS

Mayor/City Council

City Manager

ADJOURNMENT

The City Council Meeting Agenda Packet and supporting documents are available for review on the Town's website www.colma.ca.gov or at Colma Town Hall, 1198 El Camino Real, Colma, CA. Persons interested in obtaining an agenda via e-mail should call 650-997-8300 or email a request to citymanager@colma.ca.gov.

Reasonable Accommodation

Upon request, this publication will be made available in appropriate alternative formats to persons with disabilities, as required by

the Americans with Disabilities Act of 1990. Any person with a disability, who requires a modification or accommodation to view the agenda, should direct such a request to Pak Lin, ADA Coordinator, at 650-997-8300 or pak.lin@colma.ca.gov. Please allow two business days for your request to be processed.



**MINUTES
REGULAR MEETING**

City Council of the Town of Colma
Town Hall Council Chamber
1198 El Camino Real, Colma CA
Also Accessible via Zoom.us
Wednesday, July 12, 2023
7:00 PM

PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor del Rosario called the meeting to order at 7:02 p.m.

Council Present – Mayor Joanne F. del Rosario, Vice Mayor John Irish Goodwin, Council Members Ken Gonzalez, Carrie Slaughter and Helen Fisicaro were all present.

Staff Present – City Manager Brian Dossey, City Attorney Christopher Diaz, Police Chief John Munsey, Administrative Services Director Pak Lin, City Planner Farhad Mortazavi, Director of Public Works and Planning Brad Donohue, Recreation Manager Angelika Abellana, Recreation Coordinators Dinora Navarro and Daisy Esquivias, City Clerk Caitlin Corley, Administrative Technician III Abigail Dometita and Assistant Planner Claire Smith were in attendance.

The Mayor announced, “Regarding Public Comment: Members of the public who are here in person are requested to complete a yellow speaker card and submit it to the City Clerk. Those of you on Zoom may make public comments by using the “raise hand” feature in Zoom or, if calling in by phone, by pressing *9 on the telephone keypad. The City Clerk will unmute your microphone and allow you to speak. Comments should be kept to three minutes or less.”

ADOPTION OF THE AGENDA

Mayor del Rosario asked if there were any changes to the agenda. None were requested. The Mayor asked for a motion to adopt the agenda.

Action: Vice Mayor Goodwin moved to adopt the agenda; the motion was seconded Council Member Gonzalez by and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor	✓				
John Irish Goodwin	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fisicaro	✓				
	5	0			

PRESENTATION

- **Introduction of New Recreation Employees**

Recreation Manager Angelika Abellana introduced the following new employees:

- Ben Angelo Pacis, Recreation Leader
- Rea Angela Vera Cruz, Recreation Leader
- Alexander Whitsitt, Recreation Leader
- Maggie Cai, Recreation Leader
- Micaella Calvo, Recreation Leader
- Emma Sanchez, Facility Attendant
- Vanessa Ramirez, Facility Attendant
- Ingrid Jimenez, Facility Attendant

- **Proclamation in Recognition of Parks and Recreation Month**

The Mayor stated, "It is wonderful timing that we welcome all of these new additions to our Recreation Department Team in July, which is National Parks and Recreation Month. I will now read a proclamation celebrating our amazing Recreation Team and Parks and Recreation Departments everywhere."

The Mayor presented the proclamation to Recreation Manager Angelika Abellana and Recreation Coordinators Dinora Navarro and Daisy Esquivias are here to accept the proclamation.

Vice Mayor Goodwin stated, "Madam Mayor, I just wanted to mention that we should recognize that you celebrated a milestone birthday this Monday, July 10. Please join me in wishing Mayor del Rosario a very happy birthday!"

PUBLIC COMMENTS

Mayor del Rosario opened the public comment period at 7:17 p.m. and seeing no one request to speak, the Mayor closed the public comment period.

CONSENT CALENDAR

3. Motion to Accept the Minutes from the June 28, 2023 Special Meeting.
4. Motion to Accept the Minutes from the June 28, 2023 Regular Meeting.
5. Motion to Approve Report of Checks Paid for June 2023.
6. Motion to Accept Informational Report on Recreation Department Programs, Activities, Events, and Trips for the Second Quarter of 2023.

Action: Council Member Fiscaro moved to approve the consent calendar items #3 through 6; the motion was seconded by Vice Mayor Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor	✓				
John Irish Goodwin	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fisicaro	✓				
	5	0			

STUDY SESSION

7. BICYCLE AND PEDESTRIAN MASTER PLAN

City Planner Farhad Mortazavi presented Edith Verdin, Associate Planner to present the staff report. The Mayor opened the public comment period at 8:10 p.m. and seeing no one request to speak, she closed the public comment period. Council discussion followed.

This item is for discussion only; no action will be taken at this meeting.

COUNCIL CALENDARING

The next Regular Meeting will be on Wednesday, July 26, 2023 at 7:00pm at Town Hall.

REPORTS

City Manager Brian Dossey gave an update on the following topics:

- There will be a Senior Luncheon on Friday, July 14 at Creekside Villas.
- The streetlight vault art project is underway; the artist and her team are working on prepping and will begin painting soon.
- We did not receive any responses to our Request for Qualifications for the F Street Mural project. Staff will update the packet and reissue it.
- Kudos to the Recreation Team for an excellent Community Fair!

ADJOURNMENT AND CLOSE IN MEMORY

Mayor del Rosario stated, "Before we close this evening, I wanted to recognize the birthday of late Vice Mayor Rae Gonzalez on July 8th. She continues to be greatly missed by this community and we will celebrate her life with a tree dedication here at Town Hall at our next Council Meeting on Wednesday, July 26, 2023 at 6:30pm."

Mayor del Rosario adjourned the meeting at 8:03 p.m. in memory of Vickie Benedetti, wife of deceased Colma Fire Chief Robert Benedetti.

Respectfully submitted,

Caitlin Corley
City Clerk



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Pak Lin, Admin. Services Director
 VIA: Brian Dossey, City Manager
 MEETING DATE: July 26, 2023
 SUBJECT: FY 2022-23 Annual Investment Report

RECOMMENDATION

Staff recommends that the City Council make the following motion:

MOTION ACCEPTING THE FISCAL YEAR 2022-23 ANNUAL INVESTMENT REPORT
 THROUGH JUNE 30, 2023

EXECUTIVE SUMMARY

As of June 30, 2023, the Town has \$32.39 million in unrestricted cash and investments and \$10.68 million in restricted investment accounts. Compared to the balance on June 30, 2022, the unrestricted cash and investment balance decreased by \$0.76 million, and the restricted accounts increased by \$2.86 million. The increase in unrestricted accounts are primarily due to General Fund operations where sales tax revenues exceeded expectations and operational expenditures was below budget. As for the restricted investment accounts, the increases are attributed to contributions from the Town's General Fund to the two 115 Trusts.

In terms of investment earnings, the Town experienced an investment gain of \$635,500. Of the \$635,500 of investment gain, \$297,000 from realized earnings from the Town's unrestricted accounts, \$111,000 unrealized loss from the Town's rolling CDs, and \$449,000 realized gain from the 115 Trusts.

FISCAL IMPACT

There is no fiscal impact in accepting this investment report.

BACKGROUND

The City Council periodically reviews and approves the Town's investment policy for compliance with State statute (California Government Code Section §53600, et seq.) and sets investment guidelines for the safekeeping of public funds. For day-to-day operations, the City Council has designated the City Manager, or his designee, to maintain cash balances to meet daily operational needs and to keep the Town's purchasing power through safe and secure investments. A majority of the Town investments are placed in the State and the San Mateo County investment pools, which invest funds for more than one public agency. Both pools comply with the State statute and allocate most of their funds in agency and treasury bonds.

The City Manager or his designee is required to review the Town's investment policy annually and to provide semi-annual investment updates. The Investment Policy was last reviewed and approved by the City Council on March 23, 2022. The proposed change are included with the overall Colma Administrative Code update.

As for the semi-annual investment update, the mid-year investment update was presented to the City Council on March 23, 2022. The annual update is presented after fiscal year end close is completed, usually within the second quarter of the subsequent fiscal year. The annual update includes the FY 2022-23 Annual Investment Report (Attachment A) and the Quarterly Summary (Attachment B), which includes the beginning and ending balances by quarter; net Deposits and Withdrawals by quarter; total interest earned by quarter; the effective annual interest rates earned by quarter; and the cumulative weighted average.

ANALYSIS

Overall, the Town has a healthy balance in its cash and investments account. As of June 30, 2023, the Town's unrestricted cash and investments decreased by \$764,000 with an ending balance of \$32.39 million. For restricted investments, the portfolio increased by \$2.86 million to \$10.68 million. The restricted accounts include \$7.10 million in PARS OPEB Trust to be used to fund future retiree medical and dental costs and \$3.58 million in PARS Pension trust to be used to fund future retiree pension costs.

	Balance @ 06/30/2022	Balance @ 06/30/2023	Increase/ (Decrease)
Unrestricted Cash & Investment			
Cash In Bank	\$ 10,523,990	\$ 9,578,199	\$ (945,791)
Public Agency Investment Pools			
Local Agency Investment Fund (LAIF)	2,138,248	2,175,333	37,085
San Mateo County Investment Fund (SMCIF)	15,760,033	16,020,761	260,727
Other Investment			
Brokered CDs	4,729,009	4,613,211	(115,799)
Subtotal	\$ 33,151,280	\$ 32,387,503	\$ (763,777)
Restricted Investment			
115 Trust - OPEB	5,680,403	7,098,165	1,417,762
115 Trust - Pension	2,140,900	3,584,994	1,444,094
COP - Money Market Fund	39	386	347
Subtotal	\$ 7,821,341	\$ 10,683,545	\$ 2,862,204
Total Cash & Investment	\$ 40,972,621	\$ 43,071,048	\$ 2,098,427

As shown in the table below, the Town's portfolio is in alignment with the Investment Policy.

Securities	Par Value	Market Value	Average Yield	% of Investment	Maximum Investment per Policy	In Compliance
Local Agency Investment Fund	2,175,333	2,147,326	0.37%	10%	--	✓
San Mateo County Investment Pool	16,020,761	15,723,424	0.97%	70%	--	✓
Brokered CDs	4,960,000	4,613,211	1.38%	21%	30%	✓
Total Unrestricted Investments	23,156,093	22,483,961		100%		

REASONS FOR THE RECOMMENDED ACTION

The receipt of this report complies with the adopted Town Investment Policy.

COUNCIL ADOPTED VALUES

A periodic review of the Town's investment performance aligns with the City Council adopted responsibility value. It exemplifies financial accountabilities and ensures the safekeeping of public funds in responsible investment options.

CONCLUSION

Staff recommends the City Council receive and accept the report.

Attachments

- A. FY 2022-23 Annual Investment Report
- B. FY 2022-23 Quarterly Investment Summary





FY 2022-23 ANNUAL INVESTMENT REPORT (JULY 1, 2022 – JUNE 30, 2023)

INVESTMENT POLICY OVERVIEW

Investment Philosophy

To invest public funds in a manner that will provide a reasonable rate of investment return while minimizing exposure to loss of capital and thereby maintaining a consistent source of funds for the Town.

Authorized Investment

Comply with Government Code Section 53646	Maximum Investment	Maximum Maturity
US Treasury Bills, Notes, & Bonds	--	5 Years
US Government Sponsored Agencies*	20%	5 Years
Bankers Acceptances*	20%	180 Days
Commercial Paper*	15%	270 Days
Negotiable CDs*	20%	5 Years
Time CDs	--	5 Years
Bank/Broker CDs	30%	5 Years
Local Agency Investment Fund (LAIF)	\$65 million	--
San Mateo County Investment Pool (SMIF)	--	--
Money Market Funds*	20%	--
Medium Term Notes*	15%	5 Years

* Additional limitations applies. See Colma Administrative Code 4.02

Investment Objective

Safety: seeks to safeguard the principal of the funds under its control by maintaining an appropriate risk level.

Liquidity: sufficiently liquid to enable the Town to meet its reasonably anticipated cash flow requirements.

Yield: attain market average rate of return on its investments throughout economic cycles, consistent with constraints imposed by its safety objectives and cash flow considerations.

Diversification: avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions. This shall also conform with applicable sections of the Government Code

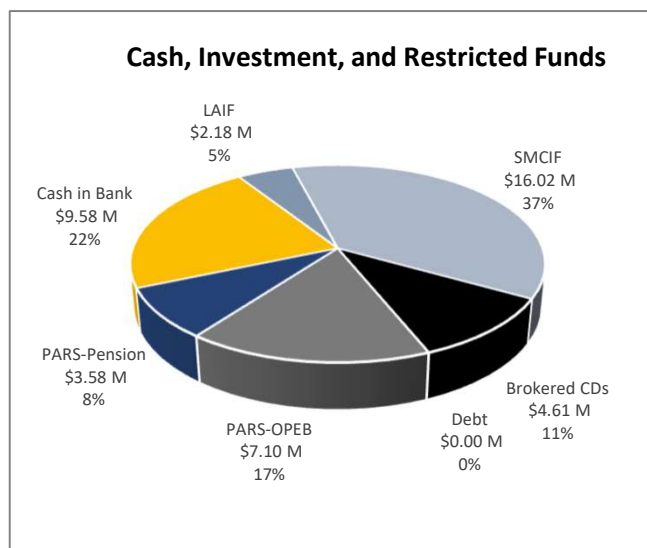
Hold To Maturity: hold its investments to maturity in order to maximize its return on its investments and minimize its exposure to potential losses, when possible.

Benchmark: Based on a passive investment strategy and a portfolio consisting of primarily bank deposits and public agency investment pools. May use as a comparison yield benchmark portfolios of similar average investment maturity.

Cash and Investment Portfolio Summary

On June 30, 2023, the Town has a balance of \$43.07 million in various cash and investment accounts. Unrestricted cash and investment has an aggregate balance of \$32.39 million and restricted investments total \$10.68 million. The restricted funds consist of \$7.10 million in PARS OPEB Trust to fund future retiree medical and dental costs, \$3.58 million in PARS Pension trust to fund future pension costs, and \$386 in Bank of New York Mellon, which would offset debt payments.

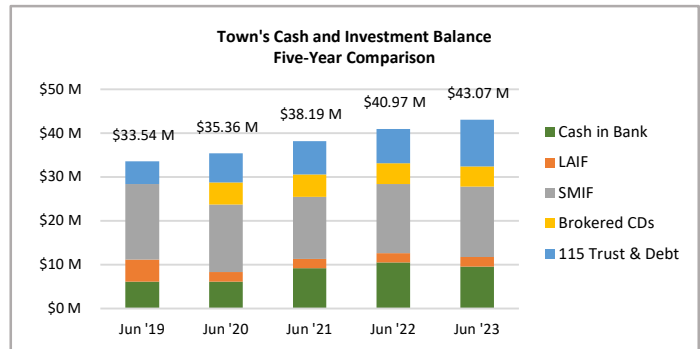
The unrestricted funds of \$32.39 million include \$9.58 million in Cash-in-Bank, \$18.20 million in the State (LAIF) and county (SMCIF) pools, and \$4.61 million in brokered CDs. The pooled accounts focus on liquidity and safekeeping of the assets. The investment strategy for both pools invests 50% or more in agency and treasury bonds and the rest in high-quality low-risk investments. The brokered CDs are limited to \$250,000 per issuer and are fully insured by FDIC or NCUSIF.



Cash and Investment Portfolio Highlights

Five-Year Comparison

As illustrated in the five-year comparison chart, the Town's total cash and investment has grown from \$40.97 million to \$43.07 million. The growth can be attributed to budget surplus and continuous effects in improving its financial management. The different colors in the chart also indicate how the Town's investment portfolio has become more diversified.



Cash Balance

The Town maintains a minimum of \$5.00 million in the Cash in Bank account to ensure adequate working capital to meet operating and capital needs. As shown in the 5-Year Comparison, the green bar stayed close to \$6.00 million in 2019 through 2020 and had closed to \$10.0 million from 2021 through 2023. The Town is maintaining a higher cash balance in the bank to be ready for the \$12.5 million street capital program. The street capital projects is budgeted in FY 2022-23 and is scheduled to start in FY 2023-24.

MBS Brokered CDs

Beginning in December 2019, the Town purchased \$4.96 million worth of bank/brokered CDs, which are 100% FDIA/NCUSIF insured securities. The maturity date of the CDs ranges from 1 to 5 years with each newly matured CDs are replaced with CDs with 5-year maturity. The purpose of this strategy is to stabilize the Town's annual investment yield.

As of June 30, 2023, the Town's CDs have a market value of \$4.61 million. Market value includes unrealized gains/losses.

Agency Investment Pools (SMIF and LAIF)

The Town participates in the Local Agency Investment Fund (LAIF) and San Mateo County Investment Pool Fund (SMIF) and invests majority of its excess unrestricted funds in both agency investments pools.

Both pools are actively managed by State and County Treasurer's, respectively, and follow the California Government Code Section 53646. The table below shows the average portfolio life and average yield for both pools. In general, the longer the portfolio life, the higher the yield. The portfolio life also indicates how often the securities within a portfolio are changed.

As of June 30, 2023, the Town had \$2.18 million in LAIF and \$16.02 million in SMIF.

Investment Types	Average Life	Average Yield
San Mateo County (SMIF)	1.6 Yrs.	0.97%
State of California (LAIF)	0.8 Yrs.	0.37%
Bank/Brokered CDs (MBS)	4.5 Yrs.	1.38%

Total Investment Earnings

Through June 30, 2023, the Town received \$635,500 in investment earnings with \$111,000 in unrealized loss, \$297,000 in realized unrestricted earnings, and \$449,000 in realized restricted earnings. The unrealized loss represents the today's market value of the Town's brokered CDs. The unrealized gain/loss is important to note if the Town were to liquidate its CDs today. Since the Town intends to hold the Brokered CDs until maturity, the unrealized gain/loss is considered as accounting entries and are not true gains or losses. Additionally, the principal of \$61 million is fully

	Balance @ 06/30/23	Interest Earnings	Unrealized Gain/Loss
Cash and Investment			
Cash in Bank	\$ 9,578,199	\$ 4,068	\$ -
LAIF	2,175,333	37,085	-
SMIF	16,020,761	260,727	-
Brokered CDs	4,613,211	76,360	(111,128)
Total Unrestricted	\$ 32,387,503	\$ 378,240	\$(111,128)
115 Trust & Debt	10,683,545	449,416	-
Total Cash & Inv.	\$ 43,071,048	\$ 827,657	\$(111,128)

In FY 2023-24, the Town transferred an additional \$800,000 to the 115 Trust for pension liabilities.

TOWN OF COLMA SUMMARY OF PORTFOLIO
FISCAL YEAR 2022-23 Quarterly Investment Summary
FOR JULY 2022 THROUGH JUNE 2023
(Prepared July 26, 2023)

	2022Q3 @ 9/30/2022	2022Q4 @ 12/31/2022	2023Q1 @ 3/31/2023	2023Q2 @6/30/2023
Unrestricted Cash and Investment				
Cash In Bank	\$ 7,782,739.51	\$ 8,565,585.03	\$ 10,111,507.11	\$ 9,578,199.49
Public Agency Investment Pools	17,944,843.14	18,004,677.37	18,086,489.10	18,196,093.17
Brokered CDs	4,626,144.76	4,634,260.71	4,618,437.33	4,613,210.55
Total Cash & Investment	\$ 30,353,727.41	\$ 31,204,523.11	\$ 32,816,433.54	\$ 32,387,503.21
Restricted Investment				
Bank of New York Mellon (Town Hall COP)				
Money Market Funds	\$ 38.75	\$ 169.66	\$ 171.43	\$ 386.04
Total COP Fund	\$ 38.75	\$ 169.66	\$ 171.43	\$ 386.04
US. Bank (PARS)				
Pension (115 Trust)	\$ 2,546,306.64	\$ 2,633,510.72	\$ 2,730,782.82	\$ 3,584,994.20
OPEB (115 Trust)	5,802,098.31	6,390,272.94	6,727,665.87	7,098,164.69
Total Cash & Investment	\$ 8,348,404.95	\$ 9,023,783.66	\$ 9,458,448.69	\$ 10,683,158.89

	Average Balance		Ending Balance	
	Unrestricted Cash & Investment	Restricted Investment	Unrestricted Cash & Investment	Restricted Investment
Cash In Bank	\$ 9,009,507.79	\$ -	\$ 9,578,199.49	\$ -
Public Agency Investment Pools	\$ 18,058,025.70		18,196,093.17	
Brokered CDs	\$ 4,623,013.34		4,613,210.55	
Money Market Fund - Restricted	-	191.47		386.04
US Bank (PARS)		9,378,449.05		10,683,158.89
Total Average Balance	\$ 31,690,546.82	\$ 191.47	\$ 32,387,503.21	\$ 10,683,544.93

ANNUAL REPORT BALANCES FOR JULY 2022 THROUGH JUNE 2023
TOWN OF COLMA REPORT OF INVESTED FUNDS FISCAL YEAR 2022-2023
INVESTMENT PORTFOLIO SUMMARY
(Prepared July 26, 2023)

	2022Q3 @ 9/30/2022	2022Q4 @ 12/31/2022	2023Q1 @ 3/31/2023	2023Q2 @ 6/30/2023	Total Jul '22 - Jun '23
Local Agency Investment Fund (LAIF)					
Beginning Balance	\$ 2,138,247.70	\$ 2,142,250.95	\$ 2,149,540.24	\$ 2,160,769.37	\$ 2,138,247.70
Purchases / Deposits	-	-	-	-	-
Withdrawals	-	-	-	-	-
Dividend/Interest Posted	4,003.25	7,289.29	11,229.13	14,563.24	37,084.91
Ending Balance	\$ 2,142,250.95	\$ 2,149,540.24	\$ 2,160,769.37	\$ 2,175,332.61	\$ 2,175,332.61
San Mateo County Investment Fund (SMCIF)					
Beginning Balance	\$ 15,760,033.14	\$ 15,802,592.19	\$ 15,855,137.13	\$ 15,925,719.73	\$ 15,760,033.14
Purchases / Deposits	-	-	-	-	-
Withdrawals	-	-	-	-	-
Dividend/Interest Posted	42,559.05	52,544.94	70,582.60	95,040.83	260,727.42
Ending Balance	\$ 15,802,592.19	\$ 15,855,137.13	\$ 15,925,719.73	\$ 16,020,760.56	\$ 16,020,760.56
Brokered CDs					
Beginning Balance	\$ 4,729,009.05	\$ 4,626,144.76	\$ 4,634,260.71	\$ 4,618,437.33	\$ 4,729,009.05
Purchases / Deposits	-	-	-	-	-
Withdrawals	(23,296.36)	(14,610.73)	(23,762.42)	(19,361.03)	(81,030.54)
Dividend/Interest Postec ^[1]	12,852.87	22,752.71	15,083.85	25,670.92	76,360.35
Net Change in Portfolio ^[2]	(92,420.80)	(26.03)	(7,144.81)	(11,536.67)	(111,128.31)
Ending Balance	\$ 4,626,144.76	\$ 4,634,260.71	\$ 4,618,437.33	\$ 4,613,210.55	\$ 4,613,210.55
Total Investment Portfolio					
Beginning Balance	\$ 22,627,289.89	\$ 22,570,987.90	\$ 22,638,938.08	\$ 22,704,926.43	\$ 22,627,289.89
Purchases / Deposits	-	-	-	-	-
Withdrawals	(23,296.36)	(14,610.73)	(23,762.42)	(19,361.03)	(81,030.54)
Interest Posted	59,415.17	82,586.94	96,895.58	135,274.99	374,172.68
Net Change in Portfolio	(92,420.80)	(26.03)	(7,144.81)	(11,536.67)	(111,128.31)
Ending Balance	\$ 22,570,987.90	\$ 22,638,938.08	\$ 22,704,926.43	\$ 22,809,303.72	\$ 22,809,303.72
115 Trust OPEB					
Beginning Balance	\$ 5,680,402.52	\$ 5,802,098.31	\$ 6,390,272.94	\$ 6,727,665.87	\$ 5,680,402.52
Purchases / Deposits	386,364.00	386,364.00	515,152.00	257,576.00	1,545,456.00
Withdrawals	(8,077.15)	(8,128.24)	(425,989.99)	(9,148.66)	(451,344.04)
Dividend/Interest Postec ^[1]	(256,591.06)	209,938.87	248,230.92	122,071.48	323,650.21
Net Change in Portfolio ^[2]	-	-	-	-	-
Ending Balance	\$ 5,802,098.31	\$ 6,390,272.94	\$ 6,727,665.87	\$ 7,098,164.69	\$ 7,098,164.69
115 Trust Pension					
Beginning Balance	\$ 2,140,900.10	\$ 2,546,306.64	\$ 2,633,510.72	\$ 2,730,782.82	\$ 2,140,900.10
Purchases / Deposits	533,281.00	-	-	800,000.00	1,333,281.00
Withdrawals	(3,368.02)	(3,531.62)	(3,644.45)	(3,851.51)	(14,395.60)
Dividend/Interest Postec ^[1]	(124,506.44)	90,735.70	100,916.55	58,062.89	125,208.70
Net Change in Portfolio ^[2]	-	-	-	-	-
Ending Balance	\$ 2,546,306.64	\$ 2,633,510.72	\$ 2,730,782.82	\$ 3,584,994.20	\$ 3,584,994.20

ANNUAL REPORT INTEREST RATES FOR JULY 2022 THROUGH JUNE 2023
TOWN OF COLMA FISCAL YEAR 2023
PORTFOLIO EARNINGS
(Prepared July 26, 2023)

	2022Q3		2022Q4		Interest	
	@ 9/30/2022	% of Portfolio	@ 12/31/2022	% of Portfolio	2022Q3	2022Q4
Balance(s)						
BANK BALANCE	\$ 7,782,740	25.6%	\$ 8,565,585	27.4%	955.13	923.06
LAIF	2,142,251	7.1%	2,149,540	6.9%	4,003.25	7,289.29
SMCIF	15,802,592	52.1%	15,855,137	50.8%	42,559.05	52,544.94
Brokered CDs	4,626,145	15.2%	4,634,261	14.9%	(79,567.93)	22,726.68
TOTAL	\$ 30,353,727		\$ 31,204,523		\$ (32,050.50)	\$ 83,483.97

Effective Annual Interest Rates

BANK BALANCE	0.049%	0.043%
LAIF	0.747%	1.356%
SMCIF	1.077%	1.326%
Brokered CDs	-6.880%	1.962%

Weighted Average **-0.422%** **1.070%**

	2023Q1		2023Q2		Interest	
	@ 3/31/2023	% of Portfolio	@6/30/2023	% of Portfolio	2022Q1	2022Q2
Balance(s)						
BANK BALANCE	\$ 10,111,507	33.3%	\$ 9,578,199	30.7%	1,086.81	1,102.61
LAIF	2,160,769	7.1%	2,175,333	7.0%	11,229.13	14,563.24
SMCIF	15,925,720	52.5%	16,020,761	51.3%	70,582.60	95,040.83
Brokered CDs	4,618,437	15.2%	4,613,211	14.8%	7,939.04	14,134.25
TOTAL	\$ 32,816,434		\$ 32,387,503		\$ 82,898.54	\$ 110,706.68

Effective Annual Interest Rates

BANK BALANCE	0.043%	0.046%
LAIF	2.079%	2.678%
SMCIF	1.773%	2.373%
Brokered CDs	0.688%	1.226%

Weighted Average **1.010%** **1.367%**

FISCAL YEAR 2022 ANNUAL WEIGHTED AVERAGE (YTD) **1.513%**





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Brian Dossey, City Manager
 MEETING DATE: July 26, 2023
 SUBJECT: CSG Contract Amendment

RECOMMENDATION

Staff Recommends the City Council to adopt:

RESOLUTION APPROVING SECOND AMENDMENT TO MUNICIPAL SERVICES CONTRACT
 WITH CSG CONSULTANTS, INC. PURSUANT TO CEQA GUIDELINE 15378

EXECUTIVE SUMMARY

In July of 2019 the Town of Colma and CSG Consultants renewed their agreement for Building, Planning and Engineering services. The Town benefited from the ability of CSG Consultants to provide all three disciplines under one Principal Project Manager, ensuring continuity and effective communication between all three disciplines.

Since April 2023, CSG Consultants had reached out to staff to revisit their rate structure for staff augmentation. They wish to standardize their rates across all agencies. Table 1 of the staff report shows the current CSG rates, the proposed CSG rates, and comparison to the rates CSG currently charges other clients within San Mateo County and Santa Clara County. Table 2 of the staff report shows staff's analysis on whether the proposed rates are reasonable, when compared to what agencies would charge the public for each position. Based on the comparison in Table 2, the proposed rates are within the "fully burdened" rates for all agencies within San Mateo County.

During the negotiation with CSG, we also reviewed the FY 2023-24 budget. Per the projected service levels needed, the contract will be able to stay within the adopted budget for FY 2023-24.

FISCAL IMPACT

There is no fiscal impact for FY 2023-24. Even though hourly rates are increasing, CSG Consultants will remain within the Fiscal Year 2023-2024 and provide the same level of service.

BACKGROUND

CSG Consultants has been providing various staff augmentation services and special project work related to building, planning, public works, engineering, grant management, and capital program management.

The Town of Colma and CSG Consultants has delivered key capital projects, i.e. Town Hall renovation, the Colma Community Center, Police Station, General Plan 2040, and the Mission Road beautification project.

Since 2018, CSG Consultants had secured more than \$10.0 million of grant funding for the Town's capital program. CSG Consultants are the only company staff found that provides full-service planning, building, engineering, and enforcement services.

CSG Consultants has requested to restructure their rate schedule with the Town. The purpose of the proposed rate schedule is to be consistent with their service fees with other agencies.

During the negotiation, staff asked CSG to provide comparison data. As shown in Table 1 below, the proposed rate for nine of the positions ^[a] are below the upper range of fee schedule. Of the nine positions, four are below the average for the area. The Principal Project Manager/Director and Planning Manager/City Planner ^[b] position are generally filled by an in-house staff person in other government agencies and therefore has no comparable.

Table 1: CSG Fee for Services Position Title	Current Rate	Proposed Rate	NOTE	San Mateo & Santa Clara County		
				Low	High	Average
Principal Project Manager/Director	\$190	\$250	[b]	na	na	na
Senior Principal Engineer/City Engineer	\$170	\$235	[a]	\$250	\$280	\$275
Senior Project Manager/ CIP Manager	\$170	\$225	[a]	\$220	\$245	\$242
Senior Engineer	\$160	\$205	[a]	\$200	\$220	\$215
Associate Engineer	\$160	\$190	[a]	\$160	\$195	\$189
Sustainability Program Manager	\$149	\$205	[a]	\$200	\$210	\$209
Planning Manager/ City Planner	\$160	\$190	[b]	na	na	na
Associate Planner		\$147	[a]	\$147	\$147	\$147
Assistant Planner	\$107	\$135	[a]	\$131	\$140	\$134
Code Enforcement Officer II	\$116	\$130	[a]	\$125	\$132	\$128
Building Official	\$142	\$160	[a]	\$117	\$160	\$144
Building Inspector	\$120	\$135	[a]	\$109	\$142	\$122

ANALYSIS

Staff compared CSG's proposed rates to the fully burdened rate of comparable in-house staff within San Mateo County. A billable fully burdened rate includes the employees' hourly rate, employee benefits, and the operating overhead cost associated with the employee. This would include insurance premium, utilities, facilities maintenance cost, and a portion of administrative cost. The multiplier can vary from agency to agency and from position to position. For this analysis, staff was able to find the cost-of-service study from City of San Bruno, compared their fully burdened rate to their hourly pay, and selected the lowest multiplier of 2.51.

To complete Table 2 below, staff collected the hourly rate for each position for every agency within San Mateo County. The hourly rates are adjusted by the multiplier to derive the fully burdened rate. Of all the positions listed below, the Associate Engineer position is the only one where the proposed rate is \$5 more than the highest San Mateo County's fully burdened rate. All other positions are within range.

Table 2: CSG Fee for Services Fully-Loaded Rate (SMC Cities) Position Title	Proposed Rate	NOTE	San Mateo County		
			Low	High	Average
Principal Project Manager/Director	\$250	[a]	\$ 261.65	\$ 340.86	\$ 298.32
Senior Principal Engineer/City Engineer	\$235	[a]	\$ 212.05	\$ 314.13	\$ 246.38
Senior Project Manager/ CIP Manager	\$225	[a]	\$ 179.71	\$ 326.53	\$ 214.52
Senior Engineer	\$205	[a]	\$ 174.97	\$ 234.01	\$ 204.71
Associate Engineer	\$190	[b]	\$ 148.31	\$ 185.11	\$ 170.40
Sustainability Program Manager	\$205	[a]	\$ 155.63	\$ 208.73	\$ 181.14
Planning Manager/ City Planner	\$190	[a]	\$ 189.45	\$ 268.34	\$ 225.04
Associate Planner	\$147	[a]	\$ 91.65	\$ 178.20	\$ 149.11
Assistant Planner	\$135	[a]	\$ 122.36	\$ 165.23	\$ 137.19
Code Enforcement Officer II	\$130	[a]	\$ 114.51	\$ 178.62	\$ 132.42
Building Official	\$160	[a]	\$ 130.15	\$ 235.01	\$ 205.71
Building Inspector	\$135	[a]	\$ 138.43	\$ 188.60	\$ 151.50

In order for CSG to have a consistent rate structure, recruit and retain top talent and continue to provide quality services to the Town, staff recommends the City Council amend the CSG Consultants contract increasing their hourly rates.

Even though, staff is recommending a rate increase, the Fiscal Year 2023-2024 budget for Building, Public Works, Planning and Engineering services will not change.

COUNCIL ADOPTED VALUES

By adopting the proposed resolution, the City Council is making the *responsible* decision by maintaining ever important services to the Town's Building, Public Works, Planning and Engineering Departments.

ENVIRONMENTAL

The City Council's action in adopting the resolution is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15378 as it constitutes a government fiscal activity with no commitment to a specific project.

CONCLUSION

Staff recommends the City Council adopt the proposed resolution.

ATTACHMENTS

- A. Resolution
- B. Contract Amendment No. 2



**RESOLUTION NO. 2023-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPROVING SECOND AMENDMENT TO
MUNICIPAL SERVICES CONTRACT WITH CSG CONSULTANTS, INC. PURSUANT TO
CEQA GUIDELINE 15378**

The City Council of the Town of Colma does hereby resolve:

1. Background.

(a) On July 1, 2019, the City Council entered into a contract with CSG Consultants, Inc. ("CSG") to provide certain municipal services to the Town of Colma ("Town"), including supplemental engineering, building code and plan review, planning, and code enforcement services ("Services Agreement").

(b) On or about May 11, 2022, Town and Consultant entered into Amendment No. 1 to the Services Agreement to amend Section 7(b) to update the window for measuring CPI adjustment from March to February, to better reflect the manner in which CPI data is made available for purposes of adjusting the Services Agreement on an annual basis ("Amendment No. 1").

(c) Staff is now recommending a further amendment to the Services Agreement by amending Exhibit B to increase the staff augmentation hourly compensation amounts paid to Consultant.

2. Order.

(a) Amendment No. 2 to the Services Agreement between the Town of Colma and CSG Consultants, Inc., a copy of which is on file with the City Clerk, shall be and is hereby approved by the City Council of the Town of Colma.

(b) The City Manager shall be, and hereby is, authorized to execute this Second Amendment on behalf of the Town of Colma, with such technical amendments as may be deemed appropriate by the Mayor and the City Attorney.

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Certification of Adoption

I certify that the foregoing Resolution No. 2023-## was duly adopted at a regular meeting of said City Council held on July 26, 2023 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor					
John Irish Goodwin					
Ken Gonzalez					
Carrie Slaughter					
Helen Fisicaro					
<i>Voting Tally</i>					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk

**SECOND AMENDMENT TO MUNICIPAL SERVICES CONTRACT BETWEEN TOWN
OF COLMA AND CSG CONSULTANTS, INC.**

This Second Amendment to the Municipal Services Contract Between Town of Colma and CSG Consultants, Inc. (“Second Amendment”) is made and entered into this __ day of July, 2023 (“Effective Date”), by and between the Town of Colma, a municipal corporation organized under the laws of the State of California (“Town”) and CSG Consultants, Inc., a California corporation (“Consultant”). Town and Consultant are sometimes referred to collectively as “Parties” in this Second Amendment.

RECITALS

WHEREAS, on or about July 1, 2019, Town and Consultant entered into a Municipal Services Contract ("Agreement"), for Consultant to provide Town with engineering, building plan review, inspection, and planning services; and

WHEREAS, on or about May 11, 2022, Town and Consultant entered into Amendment No. 1 to the Agreement to amend Section 7(b) to update the window for measuring CPI adjustment from March to February, to better reflect the manner in which CPI data is made available for purposes of adjusting the Agreement on an annual basis (“Amendment No. 1”); and

WHEREAS, Town and Consultant now desire to further amend the Agreement by amending Exhibit B to increase the Staff Augmentation Services hourly compensation amounts paid to Consultant.

NOW, THEREFORE, in consideration of the Recitals and mutual obligations of the Parties as herein expressed, Town and Consultant agree as follows:

1. Exhibit B titled “Town of Colma – Proposed Fee Schedule, Prepared by CSG Consultants, Inc. Effective July 1, 2019 is hereby amended by amending the “Staff Augmentation Services” category as attached as the new Exhibit B with the Special Services rates remaining the same as current CPI adjusted rates.
2. This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
3. Except as specifically provided in this Second Amendment, and the First Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the Effective Date written above.

THE TOWN OF COLMA

CSG Consultants, Inc.

By: _____

By: _____

Title: City Manager

Title: _____

Signature: _____

Signature: _____

Exhibit B

Town of Colma – Proposed Fee Schedule
 Prepared by CSG Consultants, Inc.
 Effective July 1, 2023

Staff Augmentation Services	Proposed Rates as of July 2023
Director of Public Works	\$ 250.00
City Engineer	\$ 235.00
Deputy Director of Public Works	\$ 235.00
Senior Engineer	\$ 205.00
Associate Engineer	\$ 190.00
City Planner	\$ 190.00
Planning Manager	\$ 190.00
Associate Planner	\$ 147.00
Assistant Planner	\$ 135.00
Building Official	\$ 160.00
Building Inspector	\$ 135.00
Sustainability Programs Manager	\$ 205.00
Code Enforcement Officer	\$ 130.00
Special Services	Proposed Rates as of July 2023
Senior Principal Engineer	\$ 281.00
Principal Engineer	\$ 257.00
Senior Engineer	\$ 223.00
Senior Structural Engineer	\$ 246.00
Associate Engineer	\$ 193.00
Assistant Engineer	\$ 170.00
Engineering Technician	\$ 147.00
Resident Engineer	\$ 235.00
Assistant Resident Engineer	\$ 193.00
Construction Inspector	\$ 165.00
Land Surveyors – 2 person crew	\$ 375.00
Principal Planner	\$ 211.00
Senior Planner	\$ 187.00
Associate Planner	\$ 165.00
Inspector/Assistant Resident	\$ 159.00
CASp Inspection & Consultation	\$ 175.00
Admin support/Counter Technician	\$ 105.00





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Brad Donohue, Public Works Director
 Kathleen Gallagher, Sustainability Manager
 VIA: Brian Dossey, City Manager
 MEETING DATE: July 26, 2023
 SUBJECT: Notice of Award – Electric Vehicle Charging Infrastructure Installation

RECOMMENDATION

Staff recommends that the City Council adopt the following resolution:

RESOLUTION AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH QUANTUM ENERGY SERVICES FOR THE ELECTRIC VEHICLE CHARGING INFRASTRUCTURE INSTALLATION PROJECT AT THE COLMA COMMUNITY CENTER PURSUANT TO CEQA GUIDELINE 15301 AND 15303.

EXECUTIVE SUMMARY

The proposed resolution would award and authorize the City Manager to execute a contract with Quantum Energy Services for the Electric Vehicle Charging Infrastructure Installation Project at the Colma Community Center ("Project"). The Town published the notice inviting bids on July 6, 2023, and the bid opening occurred on July 20, 2023, at 1:00pm. The Town received three bids. Upon examination of the bids, Town staff determined that Quantum Energy Services is the lowest responsible bidder submitting a responsive bid in the amount of \$99,631.

FISCAL IMPACT

The Electric Vehicle Charging Infrastructure project is being funded through the FY2023-24 CIP, however staff was awarded \$120,000 in Measure K and covered costs for the EV Chargers from Peninsula Clean Energy.

BACKGROUND AND ANALYSIS

On July 6, 2023, the Town sent the notice inviting bids to seventy qualified contractors. Bid opening for the Project occurred at 1:00pm on July 20, 2023. The Town received three bids on July 20, 2023. Staff reviewed and analyzed each bid thoroughly to ensure that the proposed project costs met the requirements of the bid specifications. Staff deemed the \$99,631 bid

submitted by Quantum Energy Services to be complete, responsive and the lowest responsible bidder.

ENVIRONMENTAL

The City Council's action in adopting the resolution to award and authorize the City Manager to execute an agreement with Quantum Energy Services is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15303 as the installation of the vehicle charging project would install new small infrastructure on the existing Community Center property for electric vehicle charging. The City Council's action is also exempt pursuant to CEQA Guideline 15301 as the minor alteration of an existing public facility involving negligible or no expansion of use.

COUNCIL ADOPTED VALUES

Adoption of the resolution is consistent with the City Council's value of being *responsible* to its residents and public in their desire to promote a sustainable environment for the residents and public to charge their electric vehicles and reduce greenhouse gas emissions and meet the Town's Climate Action Plan 2030 Update.

SUSTAINABILITY IMPACT

Electric vehicle charging infrastructure installation is one of the top priorities and programs of the Town of Colma's Climate Action Plan 2030 since the transportation sector is the largest source of greenhouse gas emissions in the Town. The installation of electric vehicle charging infrastructure reduces greenhouse gas emissions and assists the Town in meeting the increased need for electric vehicle charging infrastructure and rapidly increasing electric vehicle ownership resulting the Advanced Clean Cars II requirement which require 100% of new cars and light trucks sold in California be electric vehicles/zero-emission vehicles by 2035.

ALTERNATIVES

The City Council could reject the staff's recommendation, but this alternative is not recommended since staff believes the recommended contractor is a quality contractor with the lowest responsible bid.

CONCLUSION

Staff recommends that the City Council adopt a resolution awarding and authorizing the City Manager to execute a contract with Quantum Energy Services for the amount of \$99,631.

ATTACHMENT

- A. Resolution

**RESOLUTION NO. 2023-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE
CONTRACT WITH QUANTUM ENERGY SERVICES FOR ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE INSTALLATION PROJECT AT THE COLMA COMMUNITY CENTER
PURSUANT TO CEQA GUIDELINE 15301 AND 15303.**

The City Council of the Town of Colma hereby resolves:

1. Background

- (a) The Town of Colma opened bids for the Electric Vehicle Charging Infrastructure Installation Project at the Colma Community Center (“Project”) on July 20, 2023.
- (b) Town Staff determined that Quantum Energy Services is the lowest responsible bidder submitting a responsive bid in the amount of \$99,631.

2. Findings

- (a) The City Council finds that Quantum Energy Services is the lowest responsible bidder submitting a responsive bid.

3. Approval and Authorization

- (a) Award of the contract for the Project in the amount of \$99,631 is hereby made to Quantum Energy Services.
- (b) The contract for the Project between the Town of Colma and Quantum Energy Services, a copy of which is on file with the City Clerk, is hereby approved by the City Council of the Town of Colma.
- (c) The City Manager is hereby authorized to execute said contract on behalf of the Town of Colma.

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Certification of Adoption

I certify that the foregoing Resolution 2023-__ was duly adopted at a regular meeting of said City Council held on July 26, 2023 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor					
John Irish Goodwin					
Ken Gonzalez					
Carrie Slaughter					
Helen Fisicaro					
<i>Voting Tally</i>					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Pak Lin, Administrative Services Director
 VIA: Brian Dossey, City Manager
 MEETING DATE: July 26, 2023
 SUBJECT: Personnel and Finance-related Colma Admin Code Update

RECOMMENDATION

Staff recommends that the City Council:

RESOLUTION REPEALING SUBCHAPTER 2.03, AMENDING SUBCHAPTERS 3.01 THROUGH 3.09, 4.01 AND 4.02 OF THE COLMA ADMINISTRATIVE CODE, RELATING TO PERSONNEL POLICIES AND ACCOUNTING POLICIES PURSUANT TO CEQA GUIDELINE 15061

EXECUTIVE SUMMARY

The attached resolution makes various changes to the personnel policies and the financial policies set forth in Colma's Administrative Code to effectuate some administrative clean-up and clarification. The attached resolution also makes various changes recommended or reviewed by the City Attorney's Office to ensure legal compliance with changes in employment-related laws and regulations. Additions to the Administrative Code are underlined and deletions are stricken.

FISCAL IMPACT

The approval of the attached resolutions will not result in a notable increase in employee compensation or benefits. While indirect costs could be incurred for providing certain forms of paid leave as required by law, these are not changes that should have an obvious fiscal impact.

BACKGROUND

The Colma Administrative Code (CAC) is one of the policy documents that govern Town operations. On an annual basis, the Administrative Services Director will review the CAC and identify substantive changes needed to bring the CAC up to date and in compliance with recent law and regulatory changes. The proposed changes are reviewed by the City Attorney's office.

ANALYSIS

Based on staff's review, changes need to be made to Subchapter 2.03 on Town-Owned Affordable Housing, Chapter 3 of the CAC on various Personnel Policies, and Subchapter 4.01 and 4.02 on financial management policies.

Subchapter 2.03: Town-Owned Affordable Housing

This subchapter governs the oversight of the dwelling unit at 1365 Mission Road. In FY 2022-23, the Town sold this unit and has no intention of purchasing another residential property as “affordable housing.” As such, Subchapter 2.03 is no longer relevant and can be repealed.

Chapter 3: Personnel Policies

Staff reviewed all subchapters within Chapter 3 and identified the following changes:

1. Section 3.02.276 was added for Public Works Maintenance Work Boot Reimbursement. It was first authorized by the City Manager in 2012, and the boot reimbursement has been in effect since then. The memo stated that the benefit would be added in the next CAC update. At this time, due to the increase in costs for work boots, staff is recommending the boot reimbursement be set at \$225.00.
2. Section 3.05.030 was reformatted. Through the various edits, subsection c, d, and e was indented under Retiree Health Savings (RHS) Program benefit as (i) through (iii). This typo created confusion on the implementation of RHS.
3. Section 3.05.100 on Health Club membership reimbursement was adjusted to include online fitness subscriptions as well as fitness studio memberships. The frequency of use remains the same.
4. All throughout Chapter 3, change “he/she” pronoun to “they” and wherever applicable, remove Assistant City Manager and add Administrative Services Director.

Subchapter 4.01: Budget Procedures & Reserve Policies

In completing the Fiscal Year Ending June 30, 2022 audit, the Town implemented GASB 87 which is related to lease compliance. Part of the compliance requires that the Town establish a policy on when to recognize lease receivables and liabilities. Since a majority of the Town’s policies are listed under the Colma Administrative Code, an Accounting Policy section (4.01.310-4.01.350) is added to Chapter 4.01 of the CAC to document key accounting policies observed by the Town.

Subchapter 4.02 Investment Policy

There are two changes to the Investment Policy. Both are to comply with California Government Code on authorized investments for governments.

1. Section 4.02.090 on unauthorized investments, Section E was added to prohibit investments that could result in zero-interest accrual, which is to be consistent with the California Government Code Section 53601.6.
2. Section 4.02.140 on reporting requirements is expanded to comply with California Government Code Section 53607 and 53646. Section 53607 relates to actively managed investment portfolios and Section 53646 is applicable to investment portfolios where the majority of the Town’s “surplus funds” are in pooled investments like LAIF and SMCIF.

The Resolution documents all changes where additions are underlined and the deletions are strikeout.

Reasons For the Recommended Action/Findings

Subchapter 2.03 through 4.02 of the Colma Administrative Code is updated to be consistent with current practices and to comply with recent regulations.

COUNCIL ADOPTED VALUES

The Staff recommendation is consistent with the Council adopted values of:

- *Responsibility:* Making decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.
- *Fairness:* Treat all persons, claims and transactions in a fair and equitable manner.

ALTERNATIVES

The City Council could choose to not adopt the resolution approving the changes to the Administrative Code, or could chose to direct Staff to reconsider the recommended changes. Doing so is not recommended, however, as most of the changes are intended to abide by changes in the law and/or to provide clarification in the administration of policies.

CONCLUSION

Staff recommends that the City Council adopt the attached resolution.

ATTACHMENTS

- A. Resolution
- B. Boot Allowance Memo



RESOLUTION NO. 2023-XX
OF THE CITY COUNCIL OF THE TOWN OF COLMA

RESOLUTION REPEALING SUBCHAPTER 2.03, AMENDING SUBCHAPTERS 3.01 THROUGH 3.09, 4.01 AND 4.02 OF THE COLMA ADMINISTRATIVE CODE, RELATING TO PERSONNEL POLICIES AND ACCOUNTING POLICIES PURSUANT TO CEQA GUIDELINE 15061

The City Council of the Town of Colma hereby resolves:

ARTICLE 1. COLMA ADMINISTRATIVE CODE SUBCHAPTER 2.03 REPEALED

Subchapter 2.03 is hereby repealed in its entirety.

ARTICLE 2. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.01

Sections 3.01.010, 3.01.020, 3.01.030, 3.01.040, 3.01.080, and 3.01.090 of Subchapter 3.01 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

3.01.010 Personnel Records

(a) *Custodian.* The City Manager is responsible for establishing and maintaining the personnel files for all employees of the Town.

(b) *Review.*

(1) An employee has the right to review his or her own personnel records during normal business hours and with reasonable notice to the City Manager.

(2) Each employee is responsible for the verification of information contained in the personnel file through periodic review. The City Manager or designee must be present when a personnel file is reviewed. All reviews or inspection of records by employees shall be scheduled through the City Manager. The purpose of the review or inspection is to provide for accuracy and completeness of the file.

(c) *Complaints.* The Chief of Police is responsible for establishing and maintaining the files of all internal investigations of complaints regarding conduct of police officers as follows:

(1) *Chronological File.* The Department shall maintain a chronological file of all complaints along with the disposition of each complaint. The chronological file should not contain ~~the~~ investigative reports or witness statements. Records of citizen complaints are considered a personnel record of the respective employee, and therefore the chronological file shall be kept confidential.

(2) *Frivolous or Unfounded Claims.* Complaints that are determined to be frivolous, unfounded or exonerated shall not be maintained in the employee's general personnel file

and are not to be considered in making personnel decisions. However, such complaints shall be considered personnel records for purposes of the California Public Records Act.

[Reference: PENAL CODE § 832.5]

(d) *Specially Protected Documents.* The following records shall be kept in a file folder separate from the employee's general personnel records folder because of heightened privacy concerns or to prevent claims that access to certain records exposed the employee to retaliation:

- (1) Verification of the right to work in the United States;
- (2) Equal Employment Opportunity Commission (EEOC) charge of discrimination and related documents;
- (3) Department of Fair Employment and Housing (DFEH) or Civil Rights Department (CRD) charge of discrimination and related documents;
- (4) Workers' compensation claims;
- (5) Medical information, including psychiatric evaluations, physicians' reports, and authorizations to return to work; and
- (6) Any information that is not job related.

[Reference: 42 U.S.C. § 12112(D); CALIF. CIVIL CODE § 56.05, *et seq.*]

(e) *Confidentiality.* The following employee information is not confidential: name, job title, department, work phone, work address, work email address, salary scale for the position, and dates of employment. All other information in an employee's personnel file is confidential.

(f) *Access.* Access to the information contained in the personnel file will be limited to Town employees and city officers who require the information to perform their duties, which can, in appropriate instances, include the City Manager, ~~Assistant City Manager~~, Administrative Services Director, City Attorney, Human Resources Personnel, administrative staff assisted HR duties and who have signed a confidentiality agreement, and the employee's Department Director or supervisor.

(g) *Disclosure of Confidential information.* Confidential information may not be disclosed to third parties except as follows:

- (1) When written permission is provided by the employee;
- (2) When disclosure is required by law;
- (3) To a person directly involved in investigating, hearing, or reviewing, on behalf of the Town, any matter that is, or may become, a basis for disciplinary action or a grievance; or

(4) When confidentiality is waived by the employee or when the employee asserts as fact information that is inconsistent with a fact shown in the employee's personnel file.

(h) *Removal of Items.* The City Manager, ~~Assistant City Manager~~, Administrative Services Director or designee, and Chief of Police are the only persons authorized to remove records from an employee's personnel file.

(i) *Personnel Action Form.* Each appointment, transfer, promotion, demotion, change of salary rate and any other temporary or permanent change in the status of employees shall be recorded on a Personnel Action Form, copies of which shall be transmitted to the Department Director, payroll officer, the employee and the personnel file.

[Reference: GOV'T CODE §§ 1098, 6254(c); LABOR CODE § 1102.6] [History: Res. 2020-01, 1/8/20, Res. 2021-44, 12/8/21]

3.01.020 Rights Reserved; Scope

(a) Nothing in this Chapter shall limit the Town's unilateral and exclusive right to operate, administer and manage its municipal services and workforce performing those services in all respects or to amend, modify or repeal anything herein.

(b) This Chapter shall apply to all employees, except that nothing herein shall apply to the appointment or election of elected officials and independent contractors.

(c) An elected official and each independent contractor who is required to file [a-an](#) FPPC Form 700 (Statement of Economic Interests) shall adhere to standards of conduct set forth in this Chapter, including standards set forth in Subchapters 3.03 (Standards of Conduct), 3.07 (Expense Policies) and 3.08 (Email).

3.01.030 Conflicting Provisions

In the event of [a](#) conflict between these policies and any collective bargaining agreement, employment contract, Town ordinance, or state or federal law, the terms and conditions of that agreement, contract, rule, or law shall prevail. In all other cases, these policies and procedures shall apply.

3.01.040 Rules and Regulations

The City Manager may adopt reasonable rules, regulations, and procedures consistent with these policies and in accordance with the Meyers-Milias Brown Act.

3.01.080 Types of Employment

(a) The following is an explanation of the different ways of classifying employees. This explanation is for convenience of the reader only, and is not intended to change, expand or restrict the use of these terms in this Chapter.

(b) A Town employee shall be classified as either regular, probationary, casual, or temporary.

(1) A regular employee may be terminated only as set forth in this Chapter and receives fringe benefits as provided in this Chapter.

(2) A regular employee serving a probationary period as a condition of promotion may be terminated only as set forth in this Chapter and receives fringe benefits as provided in this Chapter.

(3) A probationary employee is an at-will employee and receives fringe benefits as provided in this Chapter.

(4) A casual employee is an at-will employee and receives limited or no benefits, as provided in this Chapter.

(5) A temporary employee is an at-will employee and receives limited or no benefits, as provided in this Chapter. An employee hired under a Special Employee Program will be considered a temporary employee.

(c) As provided by the federal Fair Labor Standards Act, an employee may be classified as either exempt or non-exempt for purposes of determining entitlement to FLSA overtime pay. Generally, executives, professionals and administrative employees are considered exempt employees; all others are considered non-exempt employees.

(d) For the purpose of determining entitlement to certain benefits, an employee may be classified as a full-time or part-time employee, as defined in this Chapter.

(e) For the purpose of determining entitlement to retirement and related benefits, an employee may be classified as a "Local Safety Member" or a "Local Miscellaneous Member" of the California Public Employees Retirement System.

(f) A contract employee is not a separate type but a regular, probationary, casual, or temporary employee with a contract authorized by the City Council.

[Reference: GOV'T CODE §§ 53260-53264]

3.01.090 Definitions

As used in this Chapter, the following terms shall have the following definitions:

Acting means, when used in conjunction with a job title, the performance of the full range of duties and responsibilities of a higher classification, exclusive of temporary assignments that are made pursuant to a mutually agreed upon training opportunity for a mutually agreed upon

duration. An employee may receive additional compensation for the duration of the acting assignment under Town policies.

CalPERS means the California Public Employees Retirement System.

Casual Employee means a person employed on an intermittent or irregular schedule, or who works less than 1000 hours during a fiscal year, or whose position does not require service of more than an average of 20 hours a week for one year or longer, or employees similarly situated. Casual employees will not be scheduled to work more hours than specified by law for enrollment in *CalPERS*.

[Reference: GOV'T CODE §§ 20305, 22772(b)]

Chain of Command means a series of positions in which each has direct authority over the one immediately below.

Contract Employee means a regular, probationary, casual, or temporary employee who has an employment contract, authorized by the City Council, containing one or more terms or conditions of employment different from the terms or conditions of employment described in this Chapter or in a collective bargaining agreement with the Town.

Day means a calendar day.

Department Director means the chief administrative officer in charge of one of the functional departments of the Town set forth in section 1.03.010 of the Colma Municipal Code.

Disability Retirement means retirement based on disability and which meets the requirements of CalPERS.

Employee means any person who provides services or labor for the Town for wages, except for independent contractors or employees loaned by another employer to the Town. The term employee includes regular, probationary, casual, temporary, and other classifications described in this Chapter.

Employee's Representative means any person authorized by the employee to represent the employee, including an attorney-at-law or a member of the Recognized Employee Organization, provided that such representation does not create a conflict of interest with such person's duties to the Town.

Exception Report means a report by exempt employees of days not worked.

Exempt Employee means an exempt employee as defined in the Fair Labor Standards Act.

Full-time Employee means an employee who normally works a schedule which will total no less than 40 hours per week and 2080 hours per year unless otherwise specified in an applicable labor agreement.

Full-time Equivalency (FTE) means the ratio that the number of hours assigned to a part-time employee bears to forty. An employee's Full-Time Equivalency shall be established by the City Council.

Hiring Process means those provisions described in subsections 3.02.070 through 3.02.130.

Interim means, when used in conjunction with a job title, an employee who is hired for a temporary assignment with no expectation of continued employment under the confines of an employment contract.

Local Miscellaneous Member means an employee other than a Local Safety Member of CalPERS who is a member of CalPERS pursuant to a contract between the Town and CalPERS.

[Reference: GOV'T CODE §§ 20305; 20383]

Local Safety Member means a sworn peace officer of the Town who is a member of CalPERS pursuant to a contract between the Town and CalPERS.

[Reference: GOV'T CODE § 20420]

Non-exempt employee means a non-exempt employee as defined by the Fair Labor Standards Act.

Paid Leave means time absent from work during which the Town pays the employee's wages, including sick leave, compensatory time off and Personal Leave (management and vacation leave and floating holidays).

Part-Time Employee means an employee who normally works a schedule of less than 40 hours per week unless otherwise specified in an applicable labor agreement.

Personal Leave means vacation leave, management leave, and floating holidays, as described in Division 5 of Subchapter 3.06 of this Chapter.

Probationary Employee means an employee who has not completed his or her period of probation, as described in section 3.02.150.

Protected Characteristic means a characteristic of a person that is protected by federal or state law prohibiting discrimination in employment, whether actual or perceived, including but not limited to race, religion, creed, color, national origin, ancestry, physical disability, mental disability, medical condition, pregnancy, childbirth, or related medical condition, gender identity, gender expression, marital status, sex, age, or sexual orientation, and military and veteran status, and any other characteristic protected by applicable local, state, or federal law.

[Reference: 42 U.S.C. §§ 2000d *et seq.*, 2000e *et seq.*, 2000h, 12101-12213; GOV'T CODE §§ 12926, 12940.]

Public Safety Officer means a sworn peace officer.

Recognized Employee Organization means an employee organization which has been formally acknowledged by the Town as the sole employee organization representing the employees in an appropriate representation unit, and thereby assuming the corresponding obligation of fairly representing such employees.

Registered Domestic Partner means the domestic partner of an employee in a domestic partnership that has been registered under the California Rights and Responsibilities Act of 2003.

Regular Employee means an employee who is not a casual, temporary, or probationary employee and who has successfully completed the period of probation for appointment to a regular position, as described in section 3.02.150.

Resignation means voluntary termination, initiated by the employee, for any reason other than formal retirement.

Retirement means Disability Retirement or Service Retirement.

Review date means the end of one year of continuous service that began on the most recent date the employee was hired, promoted, demoted or granted a salary step increase.

Service Retirement means retirement from CalPERS based on the age and length of employment requirements of CalPERS.

Special Employment Program is defined in section 3.02.160.

Spouse means a person lawfully married to an employee.

Temporary Employee means an employee whose work assignment is limited in duration to one year or less or whose work assignment is limited to accomplishment of a specific task within a specific time frame. Temporary employees will not be scheduled to work more hours than specified by law for enrollment in CalPERS.

[Reference: GOV'T CODE § 20305]

Termination means involuntary discharge by the Town.

Volunteer means a person who, of his or her own free will, provides services to the Town or a Town-sponsored program without promise, expectation, or receipt of any compensation. Town employees may provide volunteer services to the Town or a Town-sponsored program providing that the volunteer services are not similar to the services performed by the employee in his or her usual position. Volunteers serve in an "at-will" capacity, and the Town may terminate the services of a volunteer at any time.

[Reference: 29 C.F.R. §§ 553.100, *et seq.*]

Throughout this Chapter, the above terms are capitalized. However, for readability, the following terms are not: Day, Employee, Public Safety Officer, Resignation, Retirement, Spouse,

Termination, Volunteer, and employee classifications (Casual, Contract, Exempt, Full-time, Non-exempt, Part-Time, Probationary, Regular, and Temporary).

[History: Adopted by Res 2008-03, 2/13/08; Amended by Res 2011-08, 4/13/2011; Amended by Res 2014-04, 2/13/14; 2021-44, 12/8/21]

ARTICLE 3. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.02 AMENDED

Sections 3.02.020, 3.02.061, 3.02.062, 3.02.064, 3.02.070, 3.02.080, 3.02.100, 3.02.120, 3.02.130, 3.02.150, 3.02.180, 3.02.210, 3.02.235, 3.02.250, 3.02.272, 3.02.305, 3.02.320, 3.02.345, 3.02.350, 3.02.370, and 3.02.380 of Subchapter 3.02 of the Colma Administrative Code of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~) and a new Section 3.02.276 titled "Public Works Maintenance Work Boot Reimbursement" is hereby added as follows:

3.02.020 ADA Compliance/Disability Accommodation

The Town will provide reasonable accommodation in compliance with the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). 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~~their job because of a disability and needs some type of accommodation, the employee should notify the Administrative Services Director or designee. 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~~their 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.

3.02.061 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 Administrative Services Director or designee) 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~~they may be unfit for the position.

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/their 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/their 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/their 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/their discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.

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

3.02.064 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~~u~~
- 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]

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 Administrative Services Director or designee) will administer and coordinate the Hiring Process for all position vacancies. The City Manager is responsible for compliance with contractual, legal~~u~~, 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~~u~~ 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~~u~~ 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.

3.02.100 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.

3.02.120 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) ~~The Following A~~ 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 inat the City Manager's discretion.

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~~their 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 they qualify with substantially the same pay and benefits that the employee possessed in ~~his or her~~their 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~~their 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~~their 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~~their name and refute the charges, not to have ~~his or her~~their job or promotion reinstated or termination rescinded.

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]

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-modified~~ 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."

3.02.235 Starting Step and Step Increases

- (a) A probationary or casual employee, other than a Police Recruit, shall be hired at Step One upon appointment. Lateral hires may be hired at Step 2 or above, with the City Manager's approval.
- (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 in as a public safety officer, ~~his-or~~ her~~their~~ 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.

(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.

3.02.250 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.

3.02.272 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~~their standby commitment. The employee initiating the trade is responsible for notifying ~~his/her~~their 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]

3.02.276 Public Works Maintenance Work Boot Reimbursement

Public Works Maintenance Workers are eligible for annual work boots reimbursement not to exceed \$225.00 per calendar year. To receive the reimbursement, the Maintenance worker must submit a Request for Reimbursement form with a copy of the receipt attached within 4 weeks of purchase. Work boot purchases must be at least ten months apart to be eligible for reimbursement. Work boot reimbursement is a taxable benefit and will be processed through payroll following submission.

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 ~~s~~ 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]

3.02.320 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) ~~An Ee~~ An 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.

3.02.345 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~~ Division.
- (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~~ their 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 Administrative Services Director or designee, 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~~their sole discretion, may require varying levels of review in the evaluation process.

3.02.370 Resignation

An employee wanting to resign in good standing with the Town is requested to voluntarily 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.

ARTICLE 4. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.03 AMENDED

Sections 3.03.020, 3.03.050, 3.03.070, 3.03.090, 3.03.100, 3.03.110, 3.03.120, 3.03.13, 3.03.140, 3.03.160, 3.03.170, 3.03.180, 3.03.190, 3.03.200, 3.03.220, 3.03.240, 3.03.250, 3.03.280, 3.03.300, and 3.03.320 of Subchapter 3.03 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

3.03.020 Duty of Employees, Elected Officials and Certain Independent Contractors

(a) It is the duty of each employee to obey all applicable federal and state laws, codes, and regulations and to comply with all Town ordinances, regulations, and policies. An employee is subject to disciplinary action, including termination, for:

(1) Any violation of any federal or state law, code or regulation that is reasonably related to the employee's duties;

(2) Failure to comply with any ordinance, regulation, policy, or order of the Town or any provision of this Chapter;

(3) Any conduct or omission which adversely affects, is detrimental to the interests of, or may bring discredit on the Town of Colma, whether or not the conduct or omission is described in this Chapter and whether or not the conduct or omission occurs during or outside duty hours;

(4) Conviction under California or federal law of a felony or misdemeanor, which adversely affects, is detrimental to the interests of, or may bring discredit on the Town of Colma, whether or not publicized and whether the conviction is a result of plea, verdict of guilty, or a plea of *nolo contendere*; or

(5) Insubordination.

(b) It is the duty of each elected official to obey all applicable federal and state laws, codes, and regulations and to comply with all Town ordinances, regulations, and policies. Each elected official is expected to comply with the provisions of Subchapters 3.03 (Standards of Conduct), 3.07 (Expense Policies) and 3.08 (Email) of this Chapter. An elected official is subject to censure and, in certain circumstances, forfeiture of office, for:

(1) Any violation of any federal or state law, code or regulation that is reasonably related to the official's duties;

(2) Failure to comply with any ordinance, regulation, policy, or order of the Town or any provision of this Subchapter;

(3) Any conduct or omission which adversely affects, is detrimental to the interests of, or brings discredit on the Town of Colma, whether or not the conduct or omission is described in this Chapter and whether or not the conduct or omission occurs during or outside duty hours; or

(4) Conviction under California or federal law of a felony or misdemeanor which adversely affects, is detrimental to the interests of, or may bring discredit on the Town of Colma, whether or not publicized and whether the conviction is a result of plea, verdict of guilty, or a plea of *nolo contendere*.

(c) Each contract with an independent contractor serving as an officer of the Town shall be deemed to include a duty to obey all applicable federal and state laws, codes, and to comply with all Town ordinances, regulations and policies. Each independent contractor serving as an officer of the Town is expected to comply with the provisions of Subchapters 3.03 (Standards of Conduct), 3.07 (Expense Policies) and 3.08 (Email) of this Chapter. Each of the following may constitute a breach of contract:

(1) Any violation of any federal or state law, code or regulation that is reasonably related to the employee's duties;

- (2) Failure to comply with any ordinance, regulation, policy, or order of the Town or any provision of this Subchapter;
- (3) Any conduct or omission which adversely affects, is detrimental to the interests of, or brings discredit on the Town of Colma, whether or not the conduct or omission is described in this Chapter and whether or not the conduct or omission occurs during or outside duty hours; or
- (4) Conviction under California or federal law of a felony or misdemeanor which adversely affects, is detrimental to the interests of, or may bring discredit on the Town of Colma, whether or not publicized; whether the conviction is a result of plea, verdict of guilty, or a plea of *nolo contendere*.

3.03.050 Job Performance

- (a) It is the duty of each employee to maintain high standards of cooperation, efficiency, and integrity in ~~his or her~~ their work for the Town.
- (b) Specifically, but without limitation, each employee is prohibited from engaging in any of the following acts or omissions in connection with employment with the Town:
 - (1) Being absent from work or reporting late to work, without leave;
 - (2) Failure to adhere to work schedule;
 - (3) Working overtime without prior approval;~~45~~
 - (4) Neglect of duty, i.e., non-performance of assigned responsibilities;
 - (5) Violation of any lawful or reasonable order given by a supervisor or Department Director;
 - (6) Unreasonable failure or refusal to undergo any physical, medical, and/or psychiatric exam lawfully ordered by the Town;
 - (7) Unreliable attendance and/or tardiness;
 - (8) Incompetency;
 - (9) Inefficiency;
 - (10) Willful disobedience;
 - (11) Insubordination; or
 - (12) Violation of any provision of this Chapter, including but not limited to sections 3.01.060(g) (Disclosure of Confidential Information), 3.01.070 (Employee Identification

Cards), 3.02.180 (Outside Employment), 3.02.280 (Overtime), 3.02.340 (Time Sheets), and 3.02.360 (Change of Name, Address and Telephone Number).

3.03.070 Respect for Persons

(a) It shall be the responsibility of employees to represent the Town to the public in a manner that shall be courteous, efficient, and helpful.

(b) The Town expects each employee to act with respect to each other, ~~his or her~~ their superiors, and the public. Each employee should always communicate with basic tact and courtesy.

(c) Specifically, but without limitation, an employee is prohibited from engaging in any of the following acts or omissions:

(1) Discourteous or disrespectful treatment of another employee or any member of the public; or

(2) Threatening or assaulting an employee or any member of the public.

3.03.090 Ethics

The Town expects each employee to act in accordance with the highest standards of business ethics both on and off Town property and to avoid any appearance of impropriety. Specifically, but without limitation, employees designated by the Town's Conflict-of-Interest-Code must file Statements of Economic Interests and disqualify themselves from making, influencing, or participating in decisions, as required by law.

3.03.100 Gifts, Honoraria or Travel Payments

(a) An employee shall not accept a gift, honorarium, or travel payment in violation of the Political Reform Act or the Town's Conflict-of-Interest Code. (See the Town's Conflict-of-Interest Code for definitions of terms, including the terms "gift" and "honorarium.")

(b) An employee shall not solicit, accept, or agree to accept from any source other than the Town, a reward, gift, or other form of remuneration for the performance of official duties.

(c) An employee shall not solicit, accept, or agree to accept from any source other than the Town, a reward, gift, or other form of remuneration where the acceptance of such reward, gift or other form of remuneration gives the appearance of acceptance in exchange for influence.

3.03.110 Bribery

An employee may not ask for, receive, or agree to receive, with intent to influence the recipient, anything of value or advantage, present or prospective, upon any agreement or understanding for ~~his or her~~ their vote, opinion, or action upon any matter then pending, or that may be

brought before ~~him or her~~ them in ~~his or her~~ their official capacity.

3.03.120 Loans

(a) An elected official of the Town may not, from the date of their election to office through the date that ~~he or she~~ they vacate office, receive a personal loan in excess of \$250 from any officer, employee, member, or consultant of the State or the Town.

(b) An employee who is required to file a Statement of Economic Interests pursuant to the Town's Conflicts-of-Interest Code may not receive a personal loan in excess of \$250 from any officer, employee, member, or consultant of the Town.

(c) An elected official or an employee who is required to file a Statement of Economic Interests pursuant to the Town's Conflicts-of-Interest Code may not, while serving in ~~his or her~~ their position, receive a personal loan in excess of \$250 from any person who has a contract with the Town, except for loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the borrower's status as an elected official or employee.

(d) This section shall not apply to loans from the employee's Immediate Relative, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(e) Nothing herein shall be construed to limit the application of Government Code section 87460.

[Reference: GOV'T CODE § 87460]

3.03.130 Conflicting or Incompatible Activities

(a) An employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent with, incompatible with, in conflict with, or inimical to ~~his or her~~ their duties as an employee of the Town. Specifically, but without limitation, an employee may not:

- (1) Use a badge, a uniform, prestige, or influence of the employee's office or employment for a private purpose, gain or advantage;
- (2) Accept any money or other consideration from anyone other than the Town for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of his or her their local agency employment or as a part of their duties as a local agency employee;
- (3) Perform or offer to perform an act in other than ~~his or her~~ their capacity as a Town employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other employee or the

Town;

- (4) Use ~~his or her~~ their time in any manner that would render performance of their duties as an employee less efficient; or
- (5) Disclose confidential information concerning the property or affairs of the Town to advance a private interest with respect to any contract or transaction that is or may be the subject of official action of the Town.

(b) An employee shall not be eligible for appointment or election to any public office when the holding of such office would be incompatible or would substantially interfere with the discharge of official duties.

[Reference: Gov't Code § 1126]

3.03.140 Use of Equipment, Supplies and Staff Time

(a) An employee may use public resources for authorized Town business only. The use of Town funds, equipment, supplies, and staff time for personal purposes or for campaign activity is prohibited, even if reimbursed.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to Town business. Notwithstanding the foregoing, an employee may use public resources, such as equipment or office space, for personal purposes, provided that such use is occasional, necessary, does not interfere with performance of work duties and this minimal usage does not cause the Town to incur additional expenses.

(2) "Campaign activity" means an activity constituting a contribution as defined in Government Code section 82015 or an expenditure as defined in Government Code section 82025. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) "Public resources" means any tangible or intangible property or asset owned by the Town, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, banners, flags, logos, copyrights, service marks, and Town-compensated time.

(4) "Use" means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the State or any local agency for which a monetary value may be estimated.

[Reference: Penal Code § 424; Gov't Code § 8314]

3.03.160 Discrimination, Harassment and Retaliation Prohibited

(a) The Town of Colma promotes a work environment that provides for the safety and well-being of all persons. The Town promotes a culture where each employee values and respects each other as an individual.

(b) For purposes of this section:

(1) "Protected Characteristic" means any characteristic protected by California's Fair Employment and Housing Act (FEHA), including race, color, religious creed, sex (including pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, physical and mental disability, medical condition, age, or military and veteran status.

(c) Any employee, supervisor, manager, or third party is prohibited from engaging in any of the following acts or omissions:

- (1) Discrimination against qualified applicants or employees with respect to any term or condition of employment based on any Protected Characteristic;
- (2) Any form of harassment based on a Protected Characteristic;
- (3) Any form of harassment that creates a hostile work environment based on a Protected Characteristic;
- (4) Any retaliation against the party complaining about or who has reported any discrimination or harassment, or any party for participating in an investigation of discrimination, retaliation, or harassment.

(d) The Town prohibits and will take all reasonable steps to prevent any retaliation against the complaining party or witnesses.

3.03.170 Harassment – Defined

(a) Harassment is any behavior related to an individual, based on a Protected Characteristic, that is unwelcome or offensive when:

~~(b) —when:~~

- (1) Such conduct affects, explicitly or implicitly, a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct is the basis of employment decisions concerning an individual; or

(3) Such conduct creates an intimidating, hostile, or offensive working environment.

~~(e)~~(b) Unwelcome or offensive behavior can be of any form or combination of a verbal, nonverbal, visual, or physical nature. Examples of harassment include, but are not limited to, the following:

(1) Offensive jokes, slurs, derogatory comments, epithets, leering, or insulting noises;

(2) Assault, threats or other acts of verbal or physical intimidation;

(3) Pictures, cartoons, objects, or written displays that are derogatory or of a degrading nature; or

(4) Withholding support or assistance for carrying out a task or assignment.

~~(e)~~(c) Any form of harassment, including sexual harassment, is not within the course and scope of an individual's employment with the Town of Colma.

~~(e)~~(d) Sexual harassment includes:

(1) *Verbal Harassment*: Repeated, unsolicited, derogatory comments or slurs, or continued request for social or sexual contact after being advised such is unwelcome.

(2) *Physical Harassment*: Physical interference or contact including, but not limited to assault; touching; or impeding or blocking movements.

(3) *Visual Harassment*: Derogatory posters, cartoons, or drawings, staring or leering.

(4) *Sexual Favors*: Sexual advances which condition an employment benefit in exchange for sexual favors, or which may be perceived as such.

~~(f)~~(e) The Town does not intend to regulate or control any relationship or social interactions of employees which are freely entered into by both parties. However, the Town discourages romantic or sexual relationships between supervisors and subordinates because there is an inherent imbalance of power and potential for exploitation in such relationships; the relationships may create an appearance of impropriety and lead to charges of favoritism by other employees; and a welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes harassing. Additionally, such a relationship, especially where the employees work in the same department ~~or~~ have a supervisor/subordinate relationship, can create a potential for an actual or potential conflict of interest. An employee involved in a romantic or sexual relationship with another employee is required to disclose that information to his or her immediate supervisor, so that the Town may determine whether a potential or actual conflict exists. If an actual or potential conflict is determined, the Town may take whatever corrective action appears appropriate according to the circumstances.

3.03.180 Harassment – Employee's Role

(a) The following are guidelines for employees to help establish and maintain a professional and healthy working environment, while at the same time preventing harassment and discrimination from occurring.

(b) Each employee should:

(1) Report any conduct believed to fit the definition of harassment or discrimination to ~~his or her~~ their supervisor, the City Manager, or the Administrative Services Director or designee, whether the employee is the victim of or a witness to the conduct.

(2) Make it absolutely clear that he or she is not interested in or flattered by uninvited sexual advances.

(3) Never participate in behavior that can be considered provoking or offensive.

(4) Never create a hostile or offensive work environment for or retaliate against any applicant or employee because that person has opposed a practice prohibited by this policy or has filed a complaint, testified, assisted, or participated in any manner in an investigation, proceedings or hearing conducted by an authorized investigator.

(5) Never condition continued Town employment or any employee benefit, including promotion or job assignment, on an applicant or employee's acquiescence to any of the behavior defined above.

(6) Never assist, commit, or force any individual in doing any act which constitutes harassment.

(7) Never destroy evidence relevant to an investigation of alleged harassment or discrimination.

(8) Cooperate with any investigation of any alleged act of harassment or discrimination conducted by the Town or its agents.

(9) Where feasible, specifically describe to the harasser the conduct that is offensive and unwelcome and advise the harasser that the particular behavior is offensive and unwelcome and must cease immediately. Be specific in advising that person. Ask ~~him or her~~ them to stop the behavior.

(10) Document the incident thoroughly, which should include information about dates, specific unwelcome or offensive conduct, the individual involved and witnesses.

3.03.190 Harassment – Supervisor's Role

(a) Individual supervisors are responsible to report to the Administrative Services Director or designee and work in conjunction with the Administrative Services Director or designee to facilitate the investigation of discrimination, harassment, and sexual harassment incidents where

the supervisor knows or should have known of the incident by nature of ~~his or her~~ their supervisory position.

(b) Whether the complaining party requests formal or informal action, the supervisor must follow through, either by the formal complaint process or by verbally warning the harasser and documenting the admonishment. In any case, the supervisor should work in conjunction with the Administrative Services Director or designee to facilitate the investigation of the complaint fairly and timely and take appropriate corrective action if the complaint is substantiated. The supervisor and the Administrative Services Director or designee shall also maintain confidentiality of all parties involved and any information shared, to the extent possible.

(c) The complaining party's supervisor, as well as the Town, may be held civilly liable if swift corrective action is not taken. Any supervisor who fails to take corrective action can and will be subject to disciplinary proceedings.

(d) It is the responsibility of all supervisors to establish and maintain a working environment which is free from discriminatory intimidation, ridicule, and insult.

3.03.200 Harassment – Complaints

(a) Any employee who believes that he or she has been subjected to harassment shall report the matter immediately to ~~his or her~~ their supervisor, the Administrative Services Director or designee, or the City Manager and shall indicate the basis of the harassment. The employee need not follow the Chain of Command.

(b) All complaints will be processed in accordance with Subchapter 3.04 of this Chapter.

(c) Any employee who is found in violation of this policy will be subject to disciplinary action.

(d) Knowingly filing a false accusation of harassment is a serious offense and is subject to disciplinary action.

3.03.220 Use of Tobacco

(a) An employee is prohibited from using any tobacco-related products while on-duty or during work hours:

(1) inside any public building;

(2) inside any Town vehicle; and

(3) within twenty feet of the main entrance, any exit or any operable window of any public building.

(b):

(1) "tobacco-related products" means any kind of lighted pipe, cigar, cigarette, electronic cigarette, or chewing tobacco; it also includes all vaping products; and

(2) "public building" is defined as any building owned an occupied, or leased and occupied, by the State, a county, a city, a city and county, or a California college district.

[Reference: GOV'T CODE §§ 7596-7598]

3.03.240 Substance Abuse – Procedures; Testing

(a) The City Manager may order an employee to submit to a drug or alcohol test, a physical examination, and a fitness-for-duty examination when there are reasonable grounds to suspect that an employee:

(1) Has used alcohol or drugs in violation of this Subchapter;

(2) Is not fit for duty;

(3) Has operated a Town vehicle or Town equipment that was involved in an accident or vehicle collision; or

(4) Has committed an action, or failed to take an action, that has proximately caused an accident or vehicle collision while performing services for the Town or on Town property (e.g., by failing to maintain the vehicle or equipment or work- site where the accident occurred).

(b) The Town may require urine, blood, or breath tests for alcohol or drug testing. The Town shall pay for the costs of all tests and medical examinations carried out under this policy.

(c) Testing must be conducted within a reasonable time period after the suspicious behavior.

(d) The Town shall maintain confidentiality of test results to the extent possible.

(e) Failure of an employee to take the test(s) may be cause for disciplinary action.

(f) If all tests are negative, there will be no loss of benefits or pay.

(g) In cases where discipline is not warranted, the City Manager, in his-or-her~~their~~ sole discretion, may grant an employee an unpaid leave of absence to attend a rehabilitation treatment program. During any such leave, the employee may be required to use accrued sick leave or Personal Leave until exhausted. The Town shall be entitled to confirm the employee's regular attendance at any such rehabilitation treatment program.

(h) The Town, the employee and the Employee's Representative, where applicable, shall work cooperatively to facilitate the resolution of problems that arise under the administration of this policy. When appropriate, the employee and the Town may enter into joint agreements that

establish the form of treatment and the conditions that will be imposed for the return of an employee to the workplace.

3.03.250 Substance Abuse – Employee Assistance

(a) Through an Employee Assistance Program (EAP), the Town provides assistance for an employee with alcohol, substance abuse and other problems. An employee seeking assistance should contact the EAP provided by the Town or ~~his or her~~ their health care provider or the Administrative Services Director or designee. Assistance will be provided on a confidential basis.

(b) The Town will make every effort to provide reasonable accommodation to officers and employees who voluntarily come forward to seek counseling or treatment. This accommodation may take the form of time off from work, sick leave, Personal Leave or an adjusted work schedule. The time to request assistance is before any violation of this policy has occurred. The Town is not obligated to refrain from imposing or to set aside any discipline imposed for violation of these standards.

3.03.280 Lobbying Before State Legislature or Other Governmental Agency

(a) It is the duty of each employee to properly express official policies of the Town whenever testifying before, corresponding with, or lobbying legislative bodies or governmental agencies or communicating with legislators, regulators, and members of their staffs. Specifically, but without limitation:

(1) The employee shall, whenever the employee's association with the Town is disclosed, clearly state that the information or testimony given represents the views of the employee and not ~~that those~~ of the Town.

(2) The employee shall, whenever ~~he or she gives~~ they give any information or testimony that is contrary to official policies of the Town, state that the information or testimony represents the views of the employee and not that of the Town.

(b) "Lobby" or "lobbying" each mean attempting to influence the passage or defeat of any legislation on the adoption or rejection of any rule, standard, rate, or other legislative enactment that will or could have any impact on the Town.

3.03.290 Coercion or Intimidation of Public Employees

An employee of the Town shall not use their employment to coerce or intimidate any Town employee for the purpose, or with the effect, of:

- (1) Contributing to, opposing or promoting, or refraining from contributing to, opposing or promoting any political cause or candidate;
- (2) Obtaining a personal benefit or advantage for the officer or employee or a member of ~~his or her~~ their family;

- (3) Intentionally committing an unauthorized act under cover of law; or
- (4) Intentionally refraining from performing a duty imposed upon the employee by law.

3.03.300 Illegal Election Activities

(a) No employee of the Town shall engage in any activity that is prohibited under state or federal law applicable to the conduct of elections.

(b) Specifically, but without limitation, an employee is prohibited from engaging in any of the following acts or omissions:

- (1) Engaging in any of the following activities within 300 feet of a polling place:
 - (A) Electioneering;
 - (B) Circulating cards or handbills;
 - (C) Soliciting signatures;
 - (D) Interfering with voting or the administration of the polling place; or
 - (E) Conducting an exit or public opinion poll.
- (2) Obstructing or preventing access to a polling place.
- (3) Removing a ballot from a polling place or soliciting a voter to show ~~his or her~~ their ballot.
- (4) Attempting to intimidate, influence or bribe a voter by menace, force, threat or corrupt means.
- (5) Directly or indirectly offering a bribe or reward to induce a voter to vote for or against a person, proposition, or measure.
- (6) Attempting to influence a voter to vote or not to vote, directly or indirectly, by menace or corrupt means.
- (7) Hindering, disturbing, persuading threatening, or intimidating any person from giving ~~his or her~~ their vote.
- (8) Knowingly and willfully making a false assertion or propagating a false report concerning a candidate that has a likelihood to prevent his or her election.

3.03.320 Violence Prevention

(a) The Town is committed to providing a safe work environment that is free of workplace violence and making the Town of Colma a safe place. Violence or the threat of violence against or by employees or any other person is a violation of this policy. This policy explains the guidelines for dealing with intimidation, harassment, violent acts, or threats of violence that might occur during business hours or on Town property at anytime.

(b) The Town does not allow behavior at any time, including off-duty time, that threatens, intimidates, bullies, or coerces another employee, a customer, or a member of the public. Specifically, but without limitation:

- (1) An employee shall not fight, play tricks on others, or behave in any way that might be dangerous or threatening to other people; and
- (2) An employee may not carry, possess, or store a firearm, weapon, or other dangerous or hazardous device on Town property or while on-duty.

(c) Each employee who witnesses or is the victim of violence or observes any suspicious person or activities and any threat or act of violence:

- (1) Shall immediately call the police;
- (2) Shall promptly report to their supervisor or another member of management; and
- (3) Should not put himself or herself in danger by attempting to stop it.

(d) Notwithstanding the foregoing:

- (1) A peace officer may carry, possess or store firearms on Town property and may use force in accordance with policies and procedures approved by the Chief of Police; and
- (2) An employee may use force in justifiable self-defense.

(e) An employee engaged in a dispute with another employee is encouraged to talk it over with ~~his or her~~ their supervisor, the City Manager, or the Administrative Services Director or designee.

(f) An employee who violates these policies will be subject to disciplinary action.

ARTICLE 5. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.04 AMENDED

Sections 3.04.010, 3.04.020, 3.04.030, 3.04.040, 3.04.060, 3.04.08, 3.04.090, 3.04.100, 3.04.110, 3.04.130, 3.04.140, 3.04.150, 3.04.170, 3.04.180, 3.04.190, 3.04.270, 3.04.280 of Subchapter 3.04 of the Colma Administrative shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

3.04.010 Summary of Procedures for Submitting Complaints or Grievances

(a) *Introduction.* This section summarizes the procedures set forth in this Subchapter. These procedures are designed to encourage resolution of employee concerns in a fair and speedy manner at the lowest level possible, while protecting the rights of all persons involved. This is a summary only; in case of any inconsistencies between this section and other provisions of this Subchapter, such other provisions shall prevail.

(b) *Change in Pay, Hours, or Other Conditions of Employment.* The terms and conditions of employment, such as salaries, are set by the City Council and can only be changed by the City Council.

(1) An employee not represented by a collective bargaining agent who wishes the City Council to consider a pay raise, a change in the number of hours or any other change in the terms and conditions of employment, must follow the following process:

(A) The employee should meet with ~~his or her~~ their supervisor regarding the request and the reasons for the proposed change. The supervisor is required to communicate the request to the City Manager.

(B) Upon receipt of the supervisor's report, the City Manager may prepare and forward recommendations to the City Council.

(C) The City Council has the sole and absolute discretion to grant or deny any pay raises or other similar change.

(2) Employees represented by a Recognized Employee Organization, such as the Police Officers Association, are required to negotiate through their agent.

(c) *Misconduct, Harassment or Discrimination.* If an employee (reporting employee) believes that another employee or supervisor has committed an act of misconduct, harassment, or discrimination against an employee, then the following procedures will apply:

(1) The reporting employee should report the matter to a supervisor, the City Manager, the Administrative Services Director or designee, or the Chief of Police. The reporting employee does not have to follow the normal Chain of Command.

(2) The person receiving the report must take appropriate action, which may include reporting the matter to the City Manager or another person in a position to take action, and conducting an informal or formal investigation. The report will be kept confidential, to the extent possible. However, if disciplinary action is taken against the alleged perpetrator, the reporting employee may be requested to testify in an appeal hearing in order for the Town to impose discipline on that person.

(3) In the event a complaint is sustained, discipline may be imposed on the alleged perpetrator pursuant to the procedures set forth in this Subchapter.

(4) The person receiving the complaint shall advise the reporting employee of the final disposition. However, privacy rights may preclude the Town from publicly announcing specific disciplinary actions.

(d) *Grievances.* If an employee believes that a specific written departmental or Town rule or regulation or specific provision of a Memorandum of Understanding has been violated, misinterpreted, or misapplied, the employee ("grievant") may file a "grievance." The procedures set forth in Division 3 of this Subchapter govern the handling of grievances. Some examples of matters that may be "grieved" are: a belief that job assignments were made on the basis of favoritism or discrimination; a belief that an employee has accrued more sick leave or vacation leave than is shown on the Town's records; and a complaint that the Town is not following its own rules or policies in administering a certain program.

3.04.020 Definitions

As used in this Subchapter, the following terms are defined.

Alternative Dispute Resolution (ADR) Panel means a panel of five persons selected in accordance with this Subchapter to mediate or hear an appeal from an order imposing disciplinary action.

Appellant means an employee who has filed a Notice of Appeal from a Final Notice of Disciplinary Action.

Appropriate Department Director means the Director of the department in which the complainant works provided that the Department Director is not the subject of the complaint, in which case the Appropriate Department Director shall mean the ~~Assistant City Manager~~ Administrative Services Director or City Manager.

Complaint means a charge or allegation of harassment, discrimination, or similar alleged offensive conduct which, if sustained, could lead to disciplinary action against the employee who committed the wrongful conduct.

Complainant means the person bringing a charge or allegation of harassment, discrimination, or similar alleged offensive conduct which, if sustained, could lead to disciplinary action against the employee who committed the wrongful conduct.

Grievance means a written statement alleging a violation, misinterpretation, or misapplication of a specific written departmental or Town rule or regulation or specific provision of a Memorandum of Understanding, other than a complaint as defined in this Subchapter.

Grievant means the employee or group of employees who files a grievance.

Hearing Officer means the person selected in accordance with this Subchapter to hear an appeal from an order imposing disciplinary action.

For readability the following terms are not capitalized in this Subchapter: Appellant, Complaint, Complainant, Grievance and Grievant.

3.04.030 No Retaliation

(a) No reprisals or retaliation may be taken against any individual for reporting or complaining about an incident of harassment, discrimination, or misconduct, real or perceived, or for cooperating or participating in any investigation of harassment, discrimination, or misconduct.

(b) Nothing in the preceding paragraph shall prevent disciplinary action against an employee who has presented false information, false testimony, or a false complaint.

3.04.040 Employee's Duties

It is the duty of each employee to cooperate fully in any investigation of, or disciplinary proceedings related to, harassment, discrimination, or misconduct, and to answer truthfully and completely all questions asked during such an investigation or disciplinary proceeding.

3.04.060 Disposition of Harassment or Discrimination Complaints

(a) *Policy.* It is the policy of the Town of Colma to immediately conduct a thorough, objective, and complete investigation of each complaint of harassment and discrimination; to attempt to determine whether unlawful conduct has occurred; and to take remedial action, if appropriate. In appropriate cases, the City Manager may order the investigation to be conducted by a person other than a Town employee.

(b) *Initial Complaint.* An employee or job applicant who believes he or she has been harassed or discriminated against may make a complaint orally or in writing to any of the following, without following the Chain of Command: the Administrative Services Director or designee; the Department Director; ~~the Assistant City Manager;~~ or the City Manager.

(c) *Confidentiality.* A complaint may be made anonymously, and every reasonable effort will be made to protect the confidentiality of the complainant. The complainant's identity, however, may have to be disclosed if the investigation reveals the potential for formal disciplinary action or criminal prosecution.

(d) *Notifications.* Anyone who receives a complaint should immediately notify the City Manager (or, the ~~Assistant City Manager~~ Administrative Services Director if the City Manager has allegedly committed or permitted the harassment or discrimination) and the City Attorney.

(e) *Documentation.* Each person receiving or investigating a complaint shall document all reports and actions taken.

(f) *Investigation.* Upon receipt of a complaint of harassment, retaliation, or discrimination, the City Manager and/or the Administrative Services Director or designee shall ensure that a prompt and thorough investigation is conducted. Any investigation of a peace officer must comply with the requirements of the Public Safety Officers' Procedural Bill of Rights Act.

(g) *Determination and Report.* Upon completion of an investigation, the Appropriate Department Director shall, in consultation with the City Manager and/or the Administrative Services Director or designee:

(1) Make a determination whether the alleged conduct constitutes harassment, discrimination, or other misconduct within the meaning of Town policy, after giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct and the context in which the alleged incidents occurred; and

(2) Through the Administrative Services Director or designee, report the results of the investigation (i.e., "merit," "no merit," or "inconclusive") to the appropriate persons, including the complainant and the alleged harasser, other management-level employees will be informed of necessary information on a need-to-know basis ; and

(3) Timely close the investigation.

(h) *Disciplinary Action.* If harassment, discrimination, or other misconduct is found to have occurred, the Appropriate Department Director shall take or recommend to the City Manager to take prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense.

(i) *Protection.* The Appropriate Department Director shall take all reasonable steps to protect the victim from retaliation and from further harassment or discrimination, if sustained. The Appropriate Department Director shall also take all reasonable steps to protect any witnesses or participants in the investigation from retaliation.

(j) *~~DFEH Administrative Agency Complaint.~~* Because it is the goal of the Town to identify and prevent harassing and/or discriminating behavior, if problems or concerns arise, the affected employee is urged to make use of the process set forth above. However, any employee has a right to go directly to the appropriate government agency, including the California Civil Rights Department ("CRD") or the federal Equal Employment Opportunity Commission ("EEOC"). ~~Department of Fair Employment and Housing.~~ In addition to this policy, the CRD and the EEOC provide additional information regarding the legal remedies and complaint process available through government agencies. If a worker thinks they have been harassed, discriminated against, or that they have been retaliated against for complaining, that person may file a complaint or obtain additional information from CRD at (800) 884-1684 or from the EEOC at (800) 669-4000.

(k) *Harassment Prevention Training.* The Town provides training to all employees periodically as required by law. While the Town will select the training module for employees to complete, Town employees can also access CRD's training at the following link: www.calcivilrights.ca.gov.

[Reference: GOV'T CODE §§ 53296; 53297; 53298; 53298.5]

3.04.080 Representation in Grievance Matters

(a) The grievant may be represented by an Employee's Representative. The grievant must inform the Department Director within a reasonable time prior to the grievance meeting of the name and contact information of the person, if any, who will represent the employee at the grievance meeting.

- (1) If the representative is a fellow employee and the meeting or hearing is expected to be completed in one hour or less, the Employee's Representative may take paid, on-duty time to attend the hearing, provided the grievant acknowledges and agrees that the on-duty Employee's Representative's primary obligations shall be calls for service and if the on-duty Employee's Representative is called away, the meeting or hearing may proceed without the presence of the Employee's Representative.
- (2) In all other cases, if the representative is a fellow employee, the Employee's Representative will receive unpaid time off from ~~his or her~~ their work assignment for the time of the grievance meeting or hearing and reasonable travel time.

(b) Any employee may present a grievance without the involvement of a representative. However, the Town shall not consider a grievance of an alleged violation of a Memorandum of Understanding or a negotiated rule until the employee filing the grievance has given ~~his or her~~ their bargaining unit a copy of the grievance, and the bargaining unit has been given the opportunity to respond.

3.04.090 Grievance Procedure

(a) *Reporting.* A grievant shall first present the grievance to ~~his or her~~ their immediate supervisor within seven calendar days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void.

(b) *Informal Conference.* Within seven calendar days after the presentation of the grievance, the immediate supervisor shall investigate the grievance, document the investigation, and attempt to resolve the matter. At least one conference, either personal or by phone, shall be held between the grievant and the immediate supervisor. At the conclusion of the informal conference, the supervisor shall advise the grievant of ~~his or her~~ their right to present a formal grievance to the next supervisory level.

(c) *Formal Submittal of Grievance.* If the grievance is not resolved during the informal conference and the grievant wishes to pursue the matter, the grievant may present a formal grievance to the Appropriate Department Director within seven days after the decision by the immediate supervisor. A formal grievance must be in writing and must set forth the following information:

- (1) The specific written departmental or Town rule or regulation or specific provision of a Memorandum of Understanding allegedly violated, misinterpreted or misapplied;
- (2) The specific act or omission which gave rise to this alleged violation, misinterpretation or misapplication;
- (3) The date or dates on which the violation, misinterpretation or misapplication occurred; and
- (4) The identity of each document, witness or other evidence supporting the grievant's position.

(d) *Decision.* The Department Director shall communicate ~~his or her~~ their decision to the grievant in writing within 14 days after receiving the grievance, unless an extension has been granted in writing by the City Manager. Prior to rendering a decision, the Department Director may, in ~~his or her~~ their discretion, hold a conference with the employee.

(e) *Appeals.* If the Appropriate Department Director does not respond within the time limits or if the grievant is not satisfied with the decision of the immediate supervisor, the grievant may appeal to the City Manager. An appeal to the City Manager must be in writing, and must be delivered to the City Manager within seven calendar days after the decision of the Appropriate Department Director is due or rendered. Prior to rendering a decision, the City Manager may, in ~~his or her~~ their discretion, may hold a conference with the employee. The decision of the City Manager shall be final.

3.04.100 Disciplinary Action

(a) Regular employees shall be subject to disciplinary action for cause in accordance with the procedures set forth in this Division.

(b) All other employees of the Town may be subject to disciplinary action, at the discretion of the Appropriate Department Director with concurrence from the City Manager. The remaining provisions of this Subchapter shall not be applicable to employees who are not regular employees of the Town. Nothing herein shall prevent the Appropriate Department Director, with concurrence of the City Manager, from terminating an at-will employee without cause and without progressive discipline.

(a) This Division shall not be applicable to an employee challenging a rescission of ~~his or her~~ their promotion while the employee is on promotional probation, except where the rescission is accompanied by termination, demotion to below the classification held immediately prior to the promotion, or suspension for up to 60 days.

3.04.110 Types of Disciplinary Action

The grounds for disciplinary action are set forth elsewhere in this Chapter and include unsatisfactory job performance and misconduct. The following types of disciplinary action may be imposed:

- (1) *Termination.* Involuntary discharge from Town employment.
- (2) *Demotion.* Reduction to a classification having lesser responsibilities and duties and a lower maximum salary.
- (3) *Reduction in pay (step within range).* Withdrawal of step advancements granted for merit, efficiency and length of service. Withdrawal of step advancements may be temporary or permanent.
- (4) *Suspension without pay.* Suspension from duty without pay for up to 60 days. An employee who is suspended shall forfeit all rights, privileges, and salary, during the period of suspension, but shall not forfeit health and welfare benefits or retirement benefits.

3.04.130 Written Reprimand

- (a) A written reprimand is an official notification to the employee that there is cause for dissatisfaction with the employee's performance or conduct and that further disciplinary measures may be taken if that cause is not corrected.
- (b) Written reprimands shall be made a part of the employee's personnel file and may be considered as relevant evidence in any hearing resulting from subsequent disciplinary action. However, an employee may attach a written rebuttal statement to the written reprimand within 30 calendar days of the issuance of the written reprimand. Three years after the date of a written reprimand, the employee may request that the reprimand be removed from ~~his or her~~ **their** personnel file. The request shall be directed to the Department Director who shall have sole and absolute discretion to grant or deny the request. In exercising ~~his or her~~ **their** discretion, the Department Director may consider the presence or absence of any other disciplinary actions in the intervening three years as well the underlying conduct for which the reprimand was issued.
- (c) The procedures set forth in this Division for imposing or appealing disciplinary actions shall not apply to written reprimands except that a public safety officer may, within 30 days after receiving a written reprimand, file a written response.

3.04.140 Right to Representation

- (a) At any step in the disciplinary process described in sections 3.04.150 through 3.04.280, the employee shall have the right to represent himself or herself, or to designate an Employee's Representative to represent him or her.
- (b) The employee must inform ~~his or her~~ **their** Department Director, within a reasonable time prior to the disciplinary meeting, of the name and contact information of the person, if any, who will represent the employee at a disciplinary meeting or a meeting that may lead to discipline.
 - (1) If the representative is a Town employee and the meeting or hearing is expected to be completed in one hour or less, the employee's representative may take paid, on-

duty time to attend the hearing, provided the employee acknowledges and agrees that the on-duty employee's representative's primary obligations shall be calls for service, and if the on-duty employee's representative is called away, the meeting or hearing may proceed without the presence of the employee's representative.

- (2) In all other cases, if the representative is a Town employee, the employee's representative will receive unpaid time off from ~~his or her~~ their work assignment for the time of the disciplinary meeting, a meeting that may lead to discipline or a hearing, and reasonable travel time.

3.04.150 Authority to Impose Disciplinary Action

(a) With respect to all employees under the supervision of the Chief of Police, the Chief of Police shall have the authority to issue the Notice of Intent to Take Disciplinary Action described in this Subchapter, to conduct the informal conference described in this Subchapter and to make the final decision to impose disciplinary action, or to delegate to another employee, the authority to perform any or all ~~of those~~ functions.

(b) With respect to all other employees, the City Manager shall have the authority to issue the Notice of Intent to Take Disciplinary Action described in this Subchapter, to conduct the informal conference described this Subchapter and to make the final decision to impose disciplinary action, or to delegate to another employee the authority to perform any or all those functions.

3.04.170 Informal Conference on a Disciplinary Matter

The employee shall be given at least seven calendar days to respond orally or in writing to the Notice of Intent to Take Disciplinary Action and to request an informal conference. If the employee requests an informal conference, the person designated in section 3.04.150 shall meet with the employee in an informal conference to provide the employee an opportunity to present ~~his or her~~ their oral response. The informal conference shall be non-evidentiary. Because the conference is informal, witnesses are generally not permitted. However, the employee may convey all information supporting ~~his or her~~ their case without regard for the rules of evidence.

3.04.180 Final Notice of Disciplinary Action

(a) Within 15 calendar days after the informal conference, the person designated to take final action shall:

- (1) Dismiss the Notice of Intent and take no disciplinary action against the employee;
or
- (2) Prepare and serve upon the employee a Final Notice of Disciplinary Action, which may uphold, modify, or reduce the proposed discipline.

(b) The Final Notice of Disciplinary Action shall include the following:

- (1) Notice of the disciplinary action to be imposed upon the employee;

- (2) Notice of the effective date of the disciplinary action;
- (3) Notice of reasons for the disciplinary action, including the causes for the disciplinary action; and
- (4) Notice of the right and time limit, if any, to appeal the disciplinary action.

(c) The above written notice shall be served upon the employee either personally or by certified mail, return receipt requested, and addressed to the last known address of the employee.

3.04.190 Appeal from Final Notice of Disciplinary Action

(a) Within 15 calendar days after a Final Notice of Disciplinary Action is personally served on the employee, or 20 calendar days after a Final Notice of Disciplinary Action is served by mail as provided above, an employee may appeal a termination, demotion, reduction in pay, or suspension without pay, by filing a Notice of Appeal with the City Manager. The Notice of Appeal must be in writing signed by the employee ("appellant") or the Employee's Representative and must state the grounds for the appeal.

(b) The appeal will be dismissed if the Notice of Appeal is not filed on time. An appeal is considered filed when it is actually delivered to the City Manager.

(c) The effective date of the disciplinary action shall be determined by the person imposing the discipline.

(d) An appeal by the employee shall not stay imposition of the disciplinary action, except that the City Manager may, within ~~his or her~~ their sole discretion, stay a suspension pending the appeal.

(e) An appeal is an evidentiary hearing.

3.04.270 Conduct of Hearing

(a) All hearings shall be closed.

(b) The hearing shall proceed in the following order unless the Hearing Officer directs otherwise:

- (1) Opening statement by the Town;
- (2) Opening statement by the appellant;
- (3) Evidence by the Town;
- (4) Evidence by the appellant;

- (5) Rebuttal evidence by the Town;
 - (6) Oral argument by the Town;
 - (7) Oral argument by the appellant; and
 - (8) Rebuttal argument by the Town.
- (c) Oral evidence shall be taken only on oath or affirmation.
- (d) Each party shall have the right to be represented by an attorney; to call and examine witnesses; to introduce exhibits; to cross-examine the other party's witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called ~~him or her~~ them to testify; and to rebut the evidence against him or her. If the appellant does not testify in ~~his or her~~ their own behalf, he or she may be called and examined as if under cross-examination.
- (e) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection on civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded. Evidence of prior misconduct of the appellant is relevant and admissible. All objections to the admission of evidence must be made at the time said evidence is presented or such objection shall be deemed waived.
- (f) A record must be made, at the Town's expense, to preserve the matter for judicial review. The City Clerk shall determine whether the record shall be made by stenographer or audio tape. A written copy of the record shall be provided to the appellant without charge provided that, if the record was an audiotape, the appellant shall bear the cost of transcribing the tape recording into a printed record and shall provide the Town with a printed copy of the transcribed record. The record shall include each and every piece of documentary or real evidence admitted.
- (g) During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
- (h) No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing.
- (i) The Hearing Officer may grant a continuance for any reason he or she believes to be important to reaching a fair and proper decision.

3.04.280 Decision on Appeal

After hearing all evidence and argument, the Hearing Officer shall render a written Statement of Decision which shall include a finding as to each charge (sustained, not sustained, or exonerated); a statement of the nature of the discipline approved, if any; and a general explanation of the factual basis for the decision. All findings and conclusions that sustain the charges made shall be proved by a preponderance of the evidence. The Hearing Officer shall render ~~his or her~~ their Statement of Decision as soon after the conclusion of the hearing as possible, but no later than 30 calendar days after conducting the hearing, unless otherwise stipulated by the parties.

ARTICLE 6. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.05 AMENDED

Sections 3.05.010, 3.05.030, 3.05.040, 3.05.050, 3.05.070, 3.05.080, 3.05.100, 3.05.120, 3.05.150, 3.05.170, and 3.05.180 of Subchapter 3.05 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

3.05.010 Eligibility

(a) *Employees and Dependents.* Eligibility of employees and dependents is prescribed by the governing contract between the Town of Colma and the insurance provider and the provisions of this Subchapter.

(b) *Employees Not Eligible.*

(1) Temporary and casual employees are not eligible for the benefits described in this Subchapter except where required by federal and state law, by a contract with the employee, or as expressly provided in this Subchapter.

(2) An eligible employee who works less than ~~his or her~~their normally scheduled hours or who is on an unpaid leave of absence will be responsible for paying a pro-rata share of the Town's contribution toward his or her benefits, except where required by federal and state law, by a contract with the employee, or as expressly provided in this Subchapter.

(3) Individual insurance providers may exclude otherwise eligible employees from eligibility.

(c) *Retired Employees.*

(1) A retired employee is entitled to paid medical and hospital benefits as set forth herein only if he or she qualifies as an Annuitant.

(2) The term "Annuitant" means a person of retirement age, who has had at least five years of service credit, who has retired with an effective date that is within 120 days of separating from Town service, and who is receiving a retirement allowance under a contract between the Town and CalPERS, or a surviving family member, as defined by CalPERS, who is receiving the retirement allowance in place of the deceased member.

(d) *Represented Employees.* Unless stated otherwise herein, the Town shall pay medical and hospital, and dental benefits for a member, or an Annuitant who was a member, of the Colma Peace Officers Association or the Colma Police Communications/Records Association as provided in the Memoranda of Understanding between the Town and the applicable employee organization and for which the retired employee is eligible and enrolls.

(e) *Council Members:* Council Members are eligible for all benefits provided to non-safety employees except as prohibited or limited by law on the same terms as are applicable to non-safety employees as set forth in this Subchapter 3.05.

(f) *Retired Council Members*

(1) A retired Council Member is entitled to paid medical and hospital benefits only if ~~he or she~~they qualify ~~ies~~ as an Annuitant and only on the same terms as are set forth in Section 3.05.030.

(2) A retired Council Member who was first elected to office before January 1, 1995, may be entitled to dental benefits. Each case must be examined to determine if all statutory requirements have been met.

(g) *Registered Domestic Partner.* A Registered Domestic Partner is entitled to all benefits that are granted to a spouse, e.g., medical, dental and disability insurance, pension, and death benefits for surviving spouses.

[Reference: GOV'T CODE §§ 22754, 22760, 22775, 53201]

[History: Res 2010-13, 4/14/10; Res 2017-10, 2/8/17]

3.05.030 Medical and Hospital Insurance

(a) Medical and hospital care benefits are provided to eligible employees under the provisions of the California Public Employees Medical and Hospital Care Act (PEMHCA). The following persons are eligible to participate in the Town's medical and hospital insurance for themselves and all eligible dependents in accordance with the terms of the medical and hospital insurance policy or policies provided under PEMHCA and pursuant to the terms set forth in this Subchapter 3.05: regular employees, probationary employees, Council Members, and Annuitants (as defined in 3.05.010(c)(2)).

(b) Medical and Hospital Insurance Benefits:

(1) PEMHCA Minimum Contribution

The Town contracts with PERS pursuant to the Public Employees Medical and Hospital Care Act (PEMHCA) for the purpose of providing eligible employees, dependents, and Annuitants with access to medical insurance. The Town shall revise its current PEMHCA contract with CalPERS through the adoption of a new PEMHCA resolution to provide that the Town shall pay to PERS, on behalf of each eligible employee and Annuitant, a monthly employer contribution equal to the minimum contribution required under Section 22892(b)(2) of PEMHCA (PEMHCA Minimum). This amount is established by CalPERS and may change annually. Annuitants will receive the PEMHCA Minimum regardless of hire date.

Supplemental benefits will be provided to eligible employees and Annuitants in accordance with the terms set forth in paragraphs (2), (3) and (4) below.

(2) Supplemental Benefit for Eligible Employees

The Town offers an Internal Revenue Code Section 125 Plan (Plan) which contains premium conversion, health care reimbursement and dependent care reimbursement as available benefits. The availability of the Plan is contingent on compliance with state and federal rules and regulations. In addition to the PEMHCA Minimum which will be paid by the Town directly to CalPERS, eligible employees will receive a contribution under the Plan equal to the full cost of the PERS health plan selected, for which ~~he or she~~ they and ~~his or her~~ their dependents are eligible and enrolled, minus the PEMHCA Minimum. This contribution is to be used to pay for premiums for Health Insurance Coverage through the Plan.

(3) Supplemental Benefit for Annuitants Originally Hired Before January 1, 2017

In addition to the PEMHCA Minimum, each Annuitant hired by the Town on or before December 31, 2016, is eligible for an Employer contribution, as set forth below, to be used for reimbursement of additional medical costs under a Retiree Health Reimbursement Arrangement (HRA) established by the Employer. Receipt of Reimbursements may be made through a ~~third-party~~ third-party administrator and subject to administrative requirements.

(i) Annuitants Who Were Originally Hired Prior to July 1, 2012 (Tier A)

Annuitants hired by the Town prior to July 1, 2012, will receive a monthly HRA contribution equal to the monthly cost of the PERS health plan selected, for which ~~he or she~~ their and his or her dependents are eligible and enrolled, minus the PEMHCA Minimum.

(ii) Annuitants Who Were Originally Hired on or after July 1, 2012, but on or before December 31, 2016 (Tier B)

Annuitants hired by the Town on or after July 1, 2012, but on or before December 31, 2016, who have five years of service with the Town and at least ten years of total PERS service credit, will receive an HRA contribution equal to the "applicable percentage" of the cost of the PERS

health plan in which ~~he or she~~ their and his or her dependents are eligible and enrolled.

The “applicable percentage” shall be determined on the basis of the Annuitant’s years of service (with a minimum of five years of service with the Town) pursuant to the following vesting schedule:

CREDITED YEARS OF SERVICE	APPLICABLE PERCENTAGE
10	50%
11	55%
12	60%
13	65%
14	70%
15	75%
16	80%
17	85%
18	90%
19	95%
20 or More	100%

Notwithstanding the preceding service requirement, the contribution payable by the Town shall be equal to 100 percent of the cost of the PERS health plan in which ~~he or she~~ they and ~~his or her~~ their dependents are eligible and enrolled, on behalf of any Annuitant who retired for disability.

(iii) Retiree Health Benefit Preserved in Event of Reinstatement and Subsequent Retirement

In accordance with AB 410 (2013), as codified in Government Code Section 22838, an Annuitant eligible for retiree health benefits pursuant to Section (b)(3)(i) or (ii) who reinstates from retirement may, upon ~~his or her~~ their subsequent retirement, elect to enroll in a health benefit plan approved or maintained by CalPERS as an Annuitant of the Town and receive the applicable benefit under Section (b)(3)(i) or (ii), if all of the following apply:

- (A) The subsequent retirement occurs on or after January 1, 2014;
- (B) The Annuitant is eligible for retiree health coverage through the Town prior to reinstatement from retirement;
- (C) The subsequent retirement occurs within 120 days of separation; and

(D) The retiree health contribution available from the Town is higher than the retiree health contribution from the employer through which the subsequent retirement occurs.

To the extent that the Town's conversion to the PEMHCA Minimum causes the requirement at (D) above to fail and, as a result, the Annuitant enrolls in a PERS health benefit plan through the subsequent employer, the Town shall cause the difference between the total benefit described in Section (d)(3)(i) or (ii), as applicable, and the retiree health benefit to which he or she is entitled under the subsequent employer, to be paid to the Annuitant in the form of a reimbursement under the HRA of substantiated expenses for a PERS health insurance plan in which ~~he or she~~they has are enrolled.

(4) Supplemental Benefit for Annuitants Hired ~~On~~ or After January 1, 2017

(i) Mandatory Participation - Members Hired on or after January 1, 2017

Eligible employees hired on or after January 1, 2017, receive a monthly Employer contribution to an individual account under the Retirement Health Savings Plan (RHSP). The Town shall contribute to the Member's individual ~~Retirement Health Savings Plan (RHSP)~~ account an amount equivalent to one and one-half percent (1.5%) of the Member's monthly base salary as shown in the Town's adopted salary schedule. The base salary for the initial month of service and final month of service shall be prorated based on actual base salary paid in those months.

The Town's RHSP is administered by a third-party administrator selected by the Town. The design of the RHSP is intended to be a tax advantaged savings plan to be used exclusively for qualifying medical expenses during retirement.

(ii) Optional Participation - Members Hired Prior to January 1, 2017

Eligible employees hired prior to January 1, 2017, may exercise a one-time irrevocable election and waiver as defined in the RHSP Plan Document. Any Member who elects to receive the RHSP benefit shall receive the same benefit as described in Section (b)(4)(i) above and will no longer receive the benefits in Section (b)(3) above.

~~(5) Retirement Health Savings Program (RHSP)~~

~~The Town offers a Retirement Health Savings Program (RHSP), administered by a third party third-party administrator selected by the Town. The design of the RHSP is intended to be a tax advantaged savings plan to be used exclusively for qualifying medical expenses during retirement.~~

~~(c)~~ (c) An eligible person who has applied for Annuitant status shall continue to be eligible to receive paid medical and hospital insurance for 120 days after separation from employment from the Town provided that such person is diligently pursuing his or her retirement application.

~~(#)(d)~~ An eligible employee who provides the Town with proof of other group medical and hospital insurance may receive \$250 per month in lieu of medical and hospital insurance.

~~(#)(e)~~ A Council Member shall be required to enroll in a medical and hospital insurance plan provided under PEMHCA. However, this requirement shall not apply to a Council Member who the Town determines is covered through other group medical and hospital insurance. In such an instance, the Town shall contribute \$250 per month toward a deferred compensation plan for the benefit of the Council Member as determined solely within the discretion of the Town.

[Reference: GOV'T CODE §§ 22750-22755, 22800-22826]

[History: Adopted by Res 2008-03, 2/13/08; Amended by Res 2014-04, 2/13/14; Res 2016-01, 1/13/16; Res 2017-10, 2/8/17; Res 2020-01, 1/8/20; Res 2021-44, 12/8/21]

3.05.040 Dental Insurance

(a) The following persons are eligible to participate in the Town's dental insurance plan for themselves and all eligible dependents in accordance with the terms of the dental insurance policy or policies provided by the Town: regular employees, probationary employees, Council Members and Annuitants except as set forth in (b) below.

(b) Notwithstanding the above, see section 3.05.010(d) for represented employees and (f)(2) for retired Council Members. In addition, a retired employee who was first hired prior to May 1, 2010, is entitled to the same Town-paid dental benefits as are provided to current miscellaneous employees, provided that ~~he or she~~ they qualify ies as an Annuitant. A retired employee hired on or after May 1, 2010, is not entitled to Town-paid dental benefits.

(c) The Town shall contribute, for each eligible person, the amount necessary to pay the cost of ~~his or her~~ their enrollment, including the enrollment of eligible dependents in the member's plan. An eligible person who has applied for Annuitant status shall continue to be eligible to receive paid dental insurance for 120 days after separation from employment from the Town provided that such person is diligently pursuing ~~his or her~~ their retirement application.

3.05.050 Vision Plan

(a) The following persons are eligible to participate in the Town's vision plan for themselves and all eligible dependents in accordance with the terms of the plan provided by the Town: regular employees, probationary employees, and Council Members.

(b) The Town shall contribute, for each eligible person the amount necessary to pay the cost of ~~his or her~~ their enrollment, including the enrollment of eligible dependents in the member's plan.

3.05.070 Life Insurance

(a) The following persons are eligible to participate in the Town's life insurance plan in accordance with the terms of the plan provided by the Town: regular employees, probationary employees, and Council Members.

(b) The Town shall contribute, for each eligible person, the amount necessary to provide a \$50,000 life insurance policy. Benefits are reduced for covered participants at the age of 72.

3.05.080 Employee Assistance Program

(a) The Employee Assistance Program is a confidential way of obtaining professional help to reduce the impact of life and job problems for employees and their eligible dependents. The following persons are eligible to participate in the Town's Employee Assistance Program for themselves and all eligible dependents in accordance with the terms of the plan provided by the Town: regular employees, probationary employees, and Council Members.

(b) The Town shall contribute, for each eligible person the amount necessary to pay the cost of ~~his or her~~ their enrollment, including the enrollment of eligible dependents in the member's plan.

3.05.100 Health Club

(a) All regular employees, probationary employees and Council Members who attend a health club at least four times a month are eligible to receive an annual reimbursement to offset the cost of an individual health club membership.

~~(b) The amount of the annual reimbursement is the employee's monthly dues up to a maximum of \$47 or the amount specified in a represented employee's Memorandum of Understanding. Health club membership includes traditional gym membership, studio membership, and online fitness subscriptions.~~

~~(c) Reimbursement of health club dues is subject to federal and state income and payroll taxes. Participants are responsible for paying all applicable taxes. The amount of the annual reimbursement is the employee's monthly dues up to a maximum of \$47 or the amount specified in a represented employee's Memorandum of Understanding.~~

~~(d) Reimbursement of health club dues is subject to federal and state income and payroll taxes. Participants are responsible for paying all applicable taxes.~~

3.05.120 Deferred Compensation

(a) The Town provides an option to any regular employee and Council Member to invest a portion of ~~his or her~~ their present earnings in a deferred compensation plan on a pre-tax basis.

(b) Except as provided in the next paragraph, contributions to the program are financed solely by the participant, either through direct deposit or payroll deduction.

(c) For any regular, unrepresented employee and Council Member who participates in the Town of Colma's deferred compensation plan, the Town shall pay a sum equal to the amount

withheld from salary by the participant and contributed to that participant's deferred compensation plan in an amount not to exceed one hundred dollars (\$100.00) per month. If the additional sum conferred by this benefit causes the participant's contribution to exceed the

3.05.150 State Unemployment Insurance Benefits

- (a) All employees are eligible for unemployment insurance benefits, if they meet the statutory requirements for such benefits.
- (b) Elected officials are not eligible for unemployment insurance benefits under the Town's program.
- (c) The program is financed completely by the Town.

3.05.170 Workers' Compensation

- (a) All employees and elected officials are covered by the Town's workers' compensation insurance, a program of industrial insurance to protect workers, their families, and dependents from loss due to an industrial accident or illness. Any person who performs voluntary service without pay for the Town of Colma shall be deemed to be an employee of the Town for workers' compensation purposes only, provided that the volunteer services are authorized by the City Manager.
- (b) Financing for this program is paid by the Town.
- (c) Any employee involved in an industrial injury or an occupational illness, as defined by the State Workers' Compensation Law, must follow procedures set up by the law to receive benefits.
- (d) Any benefits received under this insurance must be coordinated with any sick leave payments and disability insurance benefits.

[Reference: LABOR CODE § 3363.5]

3.05.180 Reimbursement for Education Expenses

- (a) All regular and probationary promoted employees are eligible to participate in the Town's Education Reimbursement Program.
- (b) The Town will reimburse eligible employees the cost of ~~his or her job-related~~their job-related education expenses incurred in a calendar year to a maximum of \$1,000, if all of the following conditions are met:
 - (1) Courses must be offered by accredited colleges, universities or vocational training institutes and must be approved in advance by the City Manager;
 - (2) Certification of satisfactory completion or a grade of C (2.0 grade point) or better is required to receive reimbursement; and

(3) Reimbursement shall be allowed for tuition, registration fees, required text books, laboratory fees and other material costs submitted within 90 days of completion.

ARTICLE 7. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.06 AMENDED

Sections 3.06.090, 3.06.120, 3.06.130, 3.06.150, 3.06.180, 3.06.190, 3.06.210, 3.06.220, 3.06.250, 3.06.290, 3.06.300, 3.06.360, 3.06.380, 3.06.400, 3.06.410, 3.06.430, 3.06.440, 3.06.460, 3.06.470, 3.06.480, 3.06.490, 3.06.510, and 3.06.520 of Subchapter 3.06 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

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~~their 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~~their 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~~their 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]

3.06.120 When Sick Leave May Be Used

(a) An eligible employee may use ~~his or her~~their 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~~their 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, or a "designated person" who is ill;

(5) To accompany a child, grandchild, parent, parent-in-law, grandparent, sibling, spouse or Registered Domestic Partner, or a "designated person" 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).

(7) For purposes of this policy, a "designated person" means a person identified by the employee at the time the employee requests paid sick leave. Employees are permitted to identify a designated person once every 12-month period, measured from the date on which an individual is first identified.

(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~~their 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 an 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~~their 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~~their accrued and unused sick leave except as follows:

(a) An employee hired prior to or on July 1, 2019, 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]

3.06.150 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~~their time sheet, and an exempt employee shall report sick leave taken on ~~his or her~~their 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]

3.06.180 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. In cases where leave qualifies only under CFRA and not FMLA (i.e., for a domestic partner or a Designated Person), leave will be designated only under CFRA. In cases where leave qualifies only under CFRA and not FMLA (i.e., for a domestic partner or a Designated Person), leave will be designated only under CFRA.

(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.

“Designated person,” for purposes of this policy and CFRA leave, means any individual related by blood or whose association with the employee is the equivalent of a family relationship. Employees may identify a “designated person” once every 12-month period, measured from the date on which the individual is identified.

“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]

3.06.210 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, [grandparent](#), [grandchild](#), [sibling](#), parent, spouse or Registered Domestic Partner, or Designated Person who has a serious health condition;
- ~~(3)~~(4) 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)~~(5) 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)~~(6) 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~~their 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~~their 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)~~(3) 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)~~(4) 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, grandparent, grandchild, sibling, parent, or spouse, or Registered Domestic Partner or Designated Person, 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]

3.06.250 Periodic Reports

If an employee is granted a family or medical leave of absence, ~~he or she~~they 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]

3.06.290 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 Regular Armed Forces as well as the National Guard or Reserves in support of a federal call to active duty or a contingency operation or foreign deployment 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, Registered Domestic Partner, 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 a 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.~~

(ed) *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]

3.06.360 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. Benefits will be extended beyond that time when required by applicable law.

(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) During otherwise unpaid leave, aAn 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 can 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]

3.06.380 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. [Title 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]

3.06.400 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) All hours are earned on a pro rata basis per pay period as hours are worked.

~~(bc)~~ 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).

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

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

(ef) 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 within 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~~they 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]

3.06.430 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~~their 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 five work days off, three ~~of which 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. Time off allowed under this policy may be taken intermittently, but must be completed within ninety (90) days of the death. In lieu of unpaid time off, an employee can use any available form of paid leave, including sick leave, vacation, compensatory time off, or other form of paid time off.

(b) All employees who have worked for the Town for thirty (30) days are eligible for bereavement leave under this policy. 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]

3.06.460 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~~they 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~~their Full-Time Equivalency.

(c) A probationary employee called to serve on jury duty will have ~~his or her~~their 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~~their 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~~they may, without loss of pay, take off enough working time to enable ~~him or her~~them 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~~their 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]

3.06.510 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~~their 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~~their job;
- (2) When the employee takes any action which is inconsistent with ~~his or her~~their 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]

ARTICLE 8. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.07 AMENDED

Sections 3.07.020, 3.07.050, 3.07.060, 3.07.080, 3.07.120, 3.07.210, and 3.07.220 of Subchapter 3.07 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

3.07.020 Policy

- (a) It is the policy of the Town to reimburse Town employees and elected officials for reasonable, actual, necessary, and proper expenses incurred in the performance of official duties.
- (b) Proper expenses are those which meet the standards set forth in this policy. The standards set forth herein supplement the definition of actual and necessary expenses for purposes of state laws relating to permissible uses of public resources and the definition of necessary and reasonable expenses for purposes of federal and state income tax laws.
- (c) This policy applies regardless of the medium of payment, e.g., charges made to a city credit card, cash advances and lines of credit.

[*Authority:* Gov't Code §§ 36514.5, 53232.2, 53232.3] [*History:* Res. 2005-59, 10/12/05; Res. 2008-48, 9/10/08]

3.07.050 Attendance at Certain Organizational Activities

- (a) Expenses related to participating in regional, state, and national organizations whose activities affect the Town's interests and expenses related to participating in charitable organizations may be reimbursed according to the following guidelines:
- (1) The organization must have had, or it must be reasonably foreseeable that the organization will have, a measurable impact on the Town's interests, e.g., for example, participation in a local Chamber of Commerce where the number of Colma businesses can be counted or participation in a local food pantry which can estimate the number of recipients who have been residents of the Town of Colma;
 - (2) Dues and program expenses are reimbursable;
 - (3) Notwithstanding the cost limits set forth in the section below entitled "Meals," the full cost of meals are reimbursable provided that attendance at the meal serves a business purpose of the Town;
 - (4) Entertainment expenses, such as a golf tournament, are not reimbursable.

[*Authority:* Gov't Code §§ 36514.5, 53232.2, 53232.3]
[*History:* Res. 2005-59, 10/12/05; Res. 2008-48, 9/10/08]

3.07.060 Transportation

- (a) No mileage will be paid for commuting to and from City Hall or a work station. When an employee travels directly to or from ~~his or her~~ their residence from or to any authorized or required event or activity, mileage will be determined from the employee's residence or work station to the training site or Town-related activity, whichever is shorter.
- (b) The most economical mode and class of transportation reasonably consistent with

scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. In the event that a more expensive transportation form or route is used, the cost borne by the Town will be limited to the cost of the most economical, direct, efficient and reasonable transportation form.

(c) Automobile mileage is reimbursable at Internal Revenue Service rates presently in effect (see WWW.IRS.GOV). These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.

[*Authority:* Gov't Code §§ 36514.5, 53232.2, 53232.3] [*History:* Res. 2005-59, 10/12/05; Res. 2008-48, 9/10/08]

3.07.080 Overnight Travel and Lodging

(a) Lodging costs will be reimbursed or paid for when travel on official Town business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging costs should not exceed the group rate published by the conference sponsor for the meeting in question. For overnight stays in other contexts, lodging costs should be within

Internal Revenue Service per diem rates for lodging (see Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem).

(b) Notwithstanding the foregoing, an employee with the prior approval of the City Manager, the City Manager with the prior approval of the Mayor, and any elected official, may incur higher lodging rates where the higher cost of lodging is offset by the savings in travel time by staying at a more convenient location.

(c) Hotel and motel expenses will be reimbursed on completion of authorized travel upon submittal of proper claim, or lodging may be pre-arranged with payment made before travel occurs. A reasonable class of accommodation shall be selected here choice is available. The single rate should be clearly indicated on all receipts.

(d) Employees who utilize their personal vehicles on travel assignments will be allowed the IRS published mileage reimbursement amount. Each employee who drives a private vehicle on City business must have liability insurance on said vehicle and must provide proof of insurance on request by ~~his or her~~their supervisor.

(e) No reimbursement for mileage shall exceed the dollar amount of round trip airfare at the coach rate on a licensed common carrier, plus auto rental or taxi fare at point of destination. When two or more employees are attending the same seminar, convention, or meeting, carpooling shall be practiced whenever possible. The actual odometer reading from City Hall to destination and return to City Hall is to be used. If not available, mileage will be determined by usage of GPS or other reasonably reliable form of distance estimation through a navigation program.

(f) If an employee for ~~his or her~~their own convenience travels by an indirect route or interrupts travels by the most economical route, the employee shall bear any extra expense

involved. Reimbursement for such travel shall be for only that part of the expense as would have been necessary.

[*Authority:* Gov't Code §§ 36514.5, 53232.2, 53232.3]

[*History:* Res. 2005-59, 10/12/05; Res. 2008-48, 9/10/08; Res. 2020-01, 1/8/20]

3.07.120 Prior Approval Required

(a) An employee must obtain prior approval of the City Manager, or ~~his or her~~ their Department Head, before incurring any expense other than transportation to or from any activity or event at which the employee's attendance is required as part of ~~his or her~~ their duties.

(b) The City Manager must obtain prior approval of the City Council before incurring any of following expenses:

(1) Expenses exceeding the annual limit established in the Town's budget for the City Manager;

(2) Expenses for any event the total cost of which exceeds 40% of the annual expense limit for the City Manager; or

(3) International travel.

(c) An elected official must obtain approval of the City Council before incurring any of following expenses:

(1) Expenses which exceed the annual limits established in the Town's budget resolution for each office holder;

(2) Expenses for any event the total cost of which exceeds 40% of the annual expense limit for the office holder; or

(3) International travel.

[*Authority:* Gov't Code §§ 36514.5, 53232.2, 53232.3] [*History:* Res. 2005-59, 10/12/05; Res. 2008-48, 9/10/08]

3.07.210 Meetings

(a) The City Council recognizes that a legitimate public purpose is served by having the Town expend monies to provide food and beverages to officials and employees while attending, in ~~his or her~~ their official capacity with the Town:

(1) Meetings conducted pursuant to the Ralph M. Brown Act (Government Code sections 54950 *et seq.*), including any meetings called by either the Town or a legislative body whose jurisdictional boundaries incorporate, in whole or in part, any portion of the Town's jurisdictional boundaries;

(2) Meetings, events, activities, or educational seminars for which officials and employees are eligible for receipt of compensation or reimbursement from the Town including, without limitation, meetings, events, activities or educational seminars conducted by or with Town officials or employees as required by state or local law or for the day-to-day operation of the Town;

(3) Meetings, events, activities, or educational seminars hosted or sponsored by or for the benefit of the Town for purposes of community outreach, intergovernmental relations, hosting dignitaries, honoring members of the community and promoting the use of Town facilities; or

(4) Meetings, events, activities, or educational seminars in which an official or employee is required or requested to appear pursuant to ~~his or her~~ **their** official position with the Town.

(b) The public purposes served by this practice include making efficient and effective use of the official's time and maximizing and accommodating attendance at these meetings by officials whose regular place of employment is outside the Town.

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

3.07.220 Other Purposes

The City Manager, or ~~his or her~~**their** designee, may, from time to time, recognize various other activities and expenditures not listed herein which are necessary for the Town to incur and which qualify as lawful expenditures of public monies.

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

ARTICLE 9. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.08 AMENDED

Sections 3.08.010, 3.08.020, 3.08.070, 3.08.080, and 3.08.090 of Subchapter 3.08 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

3.08.010 Style and Purpose

(a) The purpose of this subchapter is to provide guidance to employees regarding the proper and authorized use of the Town's Electronic Communication Systems (including the Town's E-Mail System).

(b) An employee with any questions regarding the implementation of this policy should contact ~~his or her~~**their** supervisor who may then contact the City Attorney's office for legal questions, such as an interpretation under the Public Records Act; the City Clerk's office regarding the Records Retention Policy; or the Information Technology Officer regarding any technical issues related to the use of the Electronic Communications System.

(c) Each previous administrative policy or regulation regarding the use of the Town's Electronic Communication Systems which is inconsistent with this regulation is hereby repealed.

(d) The City Manager shall be and hereby is authorized to adopt regulations and procedures to implement this policy.

3.08.020 Definitions

As used in this subchapter:

"Electronic Communication" means any communication or writing created by, retrieved by, sent to, or stored by any employee using the Town's Electronic Communication System, including all information, data, and attachments to the communication.

"Electronic Communication System" means the system of devices (including hardware, software, and other equipment) used by the Town for the purpose of facilitating the transmission and storage of electronic information (including the E-Mail System, telephones, radios, computers, and all peripheral storage devices such as hard drives, disks, CDs, DVDs and flash ["thumb"] drives).

"E-Mail" means any electronic Communication to or from any employee using the Town's E-Mail System, including all information, data, and attachments to the communication.

"E-Mail System" means the system of devices (including hardware, software, and other equipment) used, owned, and provided by the Town for the purpose of facilitating the electronic transmission of information, including internet communications, and the Town's use of *Microsoft Outlook* program (including E-Mail, Calendar, and Tasks).

"Information Technology Officer" or "IT Officer" means a qualified computer technician or consulting company appointed or selected by the City Manager to administer the Town's Electronic Communications System.

"Public Record" means any writing defined as such under the Public Records Act.

"Public Records Act" means California Government Code sections 6250, et seq.

"Records Retention Policy" means the Town's Records Retention Policy and Detention, as set forth in Chapter One, Subchapter Seven of the Colma Administrative Code.

"Writing" means, as defined by California Government Code section 6252(g), any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the records has been stored.

[*History:* Res. 2020-01, 1/8/20]

3.08.070 Email for Transmission Not Storage; Transfer of Messages to Storage

(a) The Town provides the E-Mail System to employees as a convenient and efficient method of rapidly communicating transitory information in an electronic format. The E-Mail System is specifically intended and designed to be a tool for transmission of information, and not a tool for storage of information. Each employee is expressly forbidden to use email system for permanent storage of Electronic Communications. Each employee should regularly and routinely empty mail inboxes and outboxes by: (1) deleting emails that are not related to official public business and otherwise not considered "Public Records," and (2) by preserving emails that constitute Public Records pursuant to this subchapter.

(b) Each employee shall regularly review and preserve or delete E-Mail in ~~his or her~~their Town email account pursuant to the schedule set forth in this subchapter and the Town's retention schedule.

(c) Since information on the Town's E-Mail System is automatically purged, each employee who sends or receives an email message that can be considered a Public Record shall transfer the message from the Town's E-Mail system to a records storage medium, such as printing a hard copy and storing the copy in a file folder, or moving the E-Mail to an electronic folder within the Town's computer network. Town E-Mails that constitute Public Records must not be permanently stored on individual PCs, individual laptops, or peripheral devices (CDs, DVDs, flash drives).

3.08.080 Duty to Protect the Electronic Communications System

Each employee shall take all reasonable and necessary efforts to prevent unauthorized intruders from accessing the Town's Electronic Communications System and prevent the introduction or spread of computer viruses. Specifically, but without limitation, employees:

- (1) Shall not download any executable file (for example, a file with ".exe" or at the end of its name), program, game, toolbar or utility without permission of the IT Officer;
- (2) Shall not open email from unknown sources with attachments;
- (3) Shall promptly notify the City Manager or IT Officer if the employee believes that ~~his or her~~their computer has been downloaded or received any virus, worm, pornographic images, sexually explicit messages, and sexually explicit graphic, ethnic or racial slurs.

3.08.090 Duty to Protect Confidential Information

(a) Whenever an employee possesses "confidential" information, the employee has an obligation to take all reasonable and necessary steps to protect the confidentiality of the information and minimize the likelihood of inadvertent transmission of the confidential

information to unintended recipients. An employee with any questions regarding the implementation of this section should contact ~~his or her~~ their supervisor who may then contact the City Attorney's office for legal questions.

(b) An employee shall treat information as "confidential" if there is any reasonable possibility that the information relates to a Town personnel matter such as personal information, financial information, or medical information; if a party claims that it is valuable, proprietary information not generally known to the public; or if it could potentially expose the Town to liability.

(c) An employee with the care and custody of confidential information shall be responsible for determining which other employees (or possibly private attorneys or consultants hired to represent the Town) are authorized recipients of the information. Generally, only people with a "need to know" the confidential information are authorized recipients. ~~employees~~ Employees with any questions as to who is an authorized recipient for confidential information shall contact the City Attorney's office.

(d) An employee shall not communicate confidential information to any person other than an authorized recipient, or forward a confidential E-Mail to any unauthorized recipient

ARTICLE 10. COLMA ADMINISTRATIVE CODE SUBCHAPTER 3.09 AMENDED

Sections 3.09.020, 3.09.045, and 3.09.140 of Subchapter 3.09 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

3.09.020 Definitions.

As used in this subchapter, the following terms shall have the meanings indicated:

(a) "Appropriate Unit" means a unit of employee classes or positions, established pursuant to Division 2 hereof.

(b) "Town" means the Town of Colma and, where appropriate herein, refers to the City Council or any duly authorized Town representative as herein defined.

(c) "Confidential Employee" means an employee who, in the course of his or her duties, has access to information relating to the Town's administration of employer-employee relations.

(d) "Consult/Consultation in Good Faith" means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counter-proposals in an endeavor to reach agreement, nor is it subject to Division 4 hereof.

(e) "Day" means calendar day unless expressly stated otherwise.

(f) "Employee Relations Officer" means the City Manager or his/her duly authorized representative.

(g) "Impasse" means that the representatives of the Town and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

(h) "Management Employee" means an employee having responsibility for formulating, administering, or managing the implementation of Town policies and programs.

(i) "Proof of Employee Support" means:

(1) An authorization card recently signed and personally dated by an employee; or

(2) A verified authorization petition or petitions recently signed and personally dated by an employee. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.

(j) "Recognized Employee Organization" means an employee organization which has been formally acknowledged by the Town as the sole employee organization representing the employees in an appropriate representation unit pursuant to Division 2 hereof, and thereby assuming the corresponding obligation of fairly representing such employees.

(k) "Supervisory Employee" means any employee having authority, in the interest of the Town, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not a merely routine or clerical nature, but requires the use of independent judgment.

[Formerly 1.02.020]

[*History:* Res. 729, 5/8/85; Res. 917, 11/12/86; Res. 89-47, 6/14/89; Res. 94-46, 7/13/94; Res. 96-28, 4/10/96; Res. 98-40, 5/13/98; Res. 1999-50, 12/8/99; Res. 2008-52, 9/10/08; Res. 2008-54, 10/8/08]

3.09.045 Employee Units

Pursuant to the factors set forth in this subchapter, employees of the Town of Colma are hereby grouped into the following units:

- (1) *Peace Officers Employees Unit.* Sworn peace officers with rank up to and including sergeant;
- (2) *Police Clerical/Dispatching Employees Unit.* All non-sworn employees in the Police Department who are not in the Peace Officer Employees Unit, such as clerks, dispatchers and the Communications and Records Supervisor;
- (3) *Managerial, Professional and Confidential Employees Unit.* All Department Directors, and all employees classified as Managers, such as the Chief of Police, Police Commander, ~~Director of Recreation Services~~ ~~Administrative Services Director~~, and Human Resources ~~Manager~~Analyst, and any employee who has privy to confidential information relating to labor negotiations;
- (4) *Miscellaneous Employees Unit.* All probationary and regular miscellaneous employees other than managerial, professional and confidential employees; and
- (5) *Casual Employees Unit.* All casual employees, including per diem dispatchers.

3.09.140 Employee Organization Activities - Use of Town Resources.

(a) Recognized Employee Organizations complying with these rules and regulations will be provided a reasonable amount of space for posting organization bulletins. Employee organization representatives may post material, provided such activities do not disrupt official business. No material, other than notices of meetings, social events, elections, and appointments, shall be posted on any bulletin board.

- (1) Posted material shall bear the identity of the organization, not be misleading or in violation of any law, and be removed when no longer timely. The Town, through the management representative, reserves the right to remove objectionable material, after consultation with the employee organization which posted it; and
- (2) Department bulletin board space shall be made available to Recognized Employee Organizations in departments which have employees in the representation unit for which the organization is recognized. Location and reasonable quantity of space shall be determined by the department head.

(b) Any other access to Town work locations and the use of Town paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures. Any and all access for Town work locations and the use of Town paid time, facilities and equipment shall be limited to lawful activities consistent with the provisions of this resolution that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of Town operations.

[Formerly 1.02.030]

[History: Res. 729, 5/8/85; Res. 917, 11/12/86; Res. 89-47, 6/14/89; Res. 94-46, 7/13/94; Res. 96-28, 4/10/96; Res. 98-40, 5/13/98; Res. 1999-50, 12/8/99; Res. 2008-52, 9/10/08; Res. 2008-54, 10/8/08]

ARTICLE 11. COLMA ADMINISTRATIVE CODE SUBCHAPTER 4.01 AMENDED

Subchapter 4.01 of the Colma Administrative Code shall be and hereby is amended by changing the title of the subchapter from "Budget Procedure and Reserve Policies" to "Finance, Accounting, and Reserve Policies" and by adding a new Division 5 "Accounting Policies" and adding in new Sections 4.01.310, 4.01.320, 4.01.330, 4.01.340, and 4.01.350 as follows (additions shown in underline and deletions shown in ~~strikeout~~):

SUBCHAPTER 4.01: ~~Budget Procedure and Reserve Policies~~ Finance, Accounting, and Reserve Policies

Division 5: Accounting Policies

4.01.310 Purpose

The purposes of this section is to summarize the Town's key accounting policies.

4.01.320 Accounting Governance Hierarchy

The Town follows the Generally Accepted Accounting Principles (GAAP) established by the Governmental Accounting Standard Board (GASB). In June 2015, GASB issued GASB Statement No. 76, *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments*. This superseded Statement No. 55.

In addition to GAAP, the Town's financial and accounting procedures also follows the Colma Municipal Codes, Colma Administrative Codes, and City Council motions.

4.01.330 Internal Control Policies

(a) **Purpose:** Internal control is a process, effected by an entity's board of directors, management and other personnel, designed to provide reasonable assurance:

(1) That information is reliable, accurate and timely

(2) Of compliance with applicable laws, regulations, contracts, policies and procedures

(3) Of the reliability of financial reporting

(b) **Roles and Responsibility**

- **Management Responsibility:** Administrative management is responsible for maintaining an adequate system of internal control. Management is responsible for communicating the expectations and duties of staff as part of a control environment. They are also responsible for assuring that the other major areas of an internal control framework are addressed.

- **Staff Responsibility:** Staff and operating personnel are responsible for carrying out the internal control activities set forth by management.
- In the event the department is **short staff**, it is the responsibility of the Administrative Services Director and the Accounting Manager to ensure adequate separation of duties and document changes during the year, as needed.

(c) **Structure:** The internal control structure consists of five inter-related components:

- **Control environment:** A sound control environment is created by management through communication, attitude and example. This includes a focus on integrity, a commitment to investigating discrepancies, diligence in designing systems and assigning responsibilities.
- **Risk Assessment:** This involves identifying the areas in which the greatest threat or risk of inaccuracies or loss exist. To be most efficient, the greatest risks should receive the greatest amount of effort and level of control. For example, dollar amount or the nature of the transaction (for instance, those that involve cash) might be an indication of the related risk.
- **Monitoring and Reviewing:** The system of internal control should be periodically reviewed by management. By performing a periodic assessment, management assures that internal control activities have not become obsolete or lost due to turnover or other factors. They should also be enhanced to remain sufficient for the current state of risks.
- **Information and communication:** The availability of information and a clear and evident plan for communicating responsibilities and expectations is paramount to a good internal control system.
- **Control activities:** These are the activities that occur within an internal control system. These are fully described in the next section.

(d) Control activities within your department may include the following:

- Implementing **segregation of duties** where duties are divided (segregated) among different people, to reduce the risk of error or inappropriate actions. No one person has control over all aspects of any financial transaction.
- Making sure transactions are **authorized** by a person delegated **approval** authority when the transactions are consistent with policy and funds are available.
- Ensuring records are routinely **reviewed and reconciled**, by someone other than the preparer or transactor, to determine that transactions have been properly processed.

- Making certain that equipment, inventories, cash, and other property are **secured** physically, counted periodically, and compared with item descriptions shown on control records.
- Providing employees with appropriate **training** and guidance to ensure that they (1) have the knowledge necessary to carry out their job duties, (2) are provided with an appropriate level of direction and **supervision** and (3) are aware of the proper channels for reporting suspected improprieties.

4.01.340 Basis of Accounting

(a) For the purposes of financial reporting, the Town's government funds activities are recorded on modified accrual basis and the enterprise fund activities are on full accrual basis. In compliance with GASB rules, the financial report also presents the government fund activities in full accrual basis.

(b) Accrual process. The Town's accrual process is as followed:

- Payroll: The Town does not split its payroll records at fiscal year-end.
- Accounts Payable: The Town keeps accounts payable open until mid-August to capture all activities in the appropriate fiscal years, regardless of materiality. After August 15, the Town will accrue expenditures in excess of \$20,000 to the appropriate fiscal year.
- Accounts Receivables: The Town accrues all activities received in the first 90 days of the fiscal year into the appropriate year.

(c) Modified Accrual to Full Accrual Basis. In accordance with GASB 34, the Town utilizes Fund 51 and Fund 56 to convert governmental fund activities (in modified accrual basis) to full-accrual basis. This is used to present governmental activities in the Statement of Net Position and Statement of Activities.

4.01.350 Capitalization and Lease Policies

All capitalization and leasing policies are recorded and valued in accordance with GASB rules.

(a) Capitalization Policy. The Town recognizes capital purchases with more than 3 years of useful life and with a historical value in excess of \$10,000.

- Valuation: valuations of capital assets are based on the purchase price. Impairment of values are assessed annually, as needed.
- Reporting: Capital assets are reported in the Statement of Net Position. The Town uses Fund 51 (General Fixed Assets Account Group) to track governmental capital assets, and the activities in Fund 51 are consolidated with the Town's Governmental Funds to be presented as Governmental Activities in the Statement of Net Position.

(b) Lease Policy. The Town recognizes lease liabilities and the right-to-use lease assets (lease assets) in the government-wide financial statements. The City recognizes lease assets and liabilities with an initial, individual value of \$25,000 or more.

ARTICLE 12. COLMA ADMINISTRATIVE CODE SUBCHAPTER 4.02 AMENDED

Sections 4.02.090, 4.02.140 of Subchapter 4.02 of the Colma Administrative Code shall be and hereby are amended as follows (additions shown in underline and deletions shown in ~~strikeout~~):

4.02.090 Unauthorized Investments

- A) Any investment in a security not specifically listed as an Authorized and Suitable Investment above, but otherwise permitted by the Government Code, is prohibited without the prior approval of the City Council.
- B) Section 53601.6 of the Government Code specifically disallows investments in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages.
- C) No direct investment shall be made in repurchase agreements, although it is recognized that they may be a component of a diversified professionally managed pool that is included in the portfolio.
- D) As specified in California Government Code Section 53601, the investment of funds that mature in excess of five years are not generally allowed. Placement of such investments can only occur if the City Council expressly authorize the investment as part of a specific program; and the transaction cannot occur until three months have lapsed from the date of authorization is granted.
- E) No investment shall be made in any security that could result in zero-interest accrual if held to maturity, except that investments may be made in securities issued by, or backed by, the United States government that could result in zero- or negative- interest accrual if held to maturity; such investment may only be made in the event of, and for the duration of, a period of negative market rate interest, and such instrument may only be held until its maturity date.

[*History:* Formerly § 1.03.125; Adopted Res. 2003-34, 6/25/03; Amended Res. 2011-05, 3/9/2011; Res 2013-23, 7/11/13; Res 2016-50, 11/9/16; Res 2018-45, 10/24/18]

4.02.140 Review and Reporting on Investments

The Treasurer shall submit an investment report to the City Council in accordance with the California Government Code section 53607 and 53646. At a minimum, the report shall include the following information based on the type of investments held in the portfolio:

A) Report Contents when Portfolio is Limited to Bank and Public Agency Investment Pool Accounts:

- a. Report the beginning and ending balance by quarter;
- b. Provide a separate breakdown of the quarterly balance based on the Investment Pool (LAIF, SMCIF, etc).
- c. Provide net Deposits and Withdrawals for the period
- d. Identify total interest for the quarter.
- e. Provide the interest rates earned including a cumulative weighted average.

B) Additional Report Contents When Portfolio Includes Securities Authorized Under Section 4.02.070 of this Policy:

- a. Type of Investment
- b. Issuer
- c. Purchase Date
- d. Date of Maturity (Call Date if Applicable)
- e. Par and dollar amount invested
- f. Effective interest rate
- g. Current Market Value as of the date of the report
- h. A list of investment transactions.
- i. A statement of compliance with the investment policy
- j. Portfolio earnings rate.

The report shall state compliance of the portfolio with the Town's investment policy, or the manner in which the portfolio is not in compliance.

The report shall include a statement denoting the ability of the Town to meet its expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

[*History:* Formerly § 1.03.150; Adopted Res 2000-75, 12/13/2000; Res 2014-07, 2/13/14; Res 2016-50, 11/9/16; Res 2018-45, 10/24/18]

ARTICLE 13. SEVERABILITY.

Each of the provisions of this resolution is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this resolution is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this resolution. The City Council hereby declares that it intended

do and would have adopted each and every provision of this resolution independent of any other provision of this resolution.

ARTICLE 14. NOT A CEQA PROJECT.

The City Council finds that adoption of this resolution is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

ARTICLE 15. EFFECTIVE DATE.

This resolution shall be effective upon its adoption by the City Council.

* * * * *

Certification of Adoption

I certify that the foregoing Resolution No. 2023-xx was duly adopted at a regular meeting of the City Council of the Town of Colma held on July 26, 2023 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor					
John Irish Goodwin					
Ken Gonzalez					
Carrie Slaughter					
Helen Fiscaro					
<i>Voting Tally</i>					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk



TOWN OF COLMA

1198 El Camino Real • Colma, California 94014-3212
Tel 650-997-8300 • Fax 650-997-8308

To: Maintenance Technicians

From: Laura Allen, City Manager *LA*

cc: Brad Donohue, Acting Public Works Director
Phil Scramaglia, Public Works Supervisor
Finance Staff
Lori Burns, Human Resources Manager

*JOB ✓
MB ✓*

Date: July 13, 2012

Re: Reimbursement for Work Boots

At the request of the Maintenance Workers, I authorized an annual reimbursement for work boots not to exceed \$130 once per year. This reimbursement program will be reviewed for inclusion in the Town's Personnel Policies at the next revision. Until then this memorandum will outline the requirements to receive the work boot reimbursement.

- (1) Maintenance Workers may be eligible for one reimbursement for work boots not to exceed \$130 every calendar year.
- (2) To receive the reimbursement, the Maintenance Worker must submit a Request for Reimbursement form with a copy of the receipt within 4 weeks of purchase.
- (3) Work boot purchases must be at least ten months apart to be eligible for reimbursement.

If you have any additional questions, please call Lori Burns, Human Resources Manager.





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Christopher J. Diaz, City Attorney
 VIA: Brian Dossey, City Manager
 MEETING DATE: July 26, 2023
 SUBJECT: Appointment and Approval of Employment Agreement for City Manager

RECOMMENDATION

Staff recommends that the City Council adopt the following:

RESOLUTION APPOINTING DANIEL BARROS AS CITY MANAGER AND APPROVING
 EMPLOYMENT AGREEMENT PURSUANT TO CEQA GUIDELINE 15378

EXECUTIVE SUMMARY

At the conclusion of City Manager recruitment process, the City Council expressed a desire to begin contract negotiations with their preferred candidate, Daniel Barros. Contract negotiations have been concluded, and if the City Council is prepared to vote to appoint Daniel Barros to the position of City Manager, an employment agreement has been finalized and is ready for the City Council's approval.

The proposed employment agreement provides for a monthly salary of \$20,000, or \$240,000 per year, and fringe benefits. The employment agreement also provides that the City Manager will serve at the pleasure of the City Council, which means the City Manager can be terminated at any time without notice and without cause. In the event of termination without cause, the Town is required to pay six months' severance pay; if terminated for cause or if there is a voluntary resignation, the City Manager will not be eligible for severance pay.

The employment agreement calls for annual evaluations along with annual strategic plan workshop to set goals for the Town and for the City Manager.

FISCAL IMPACT

None, there is sufficient funds for the salary and benefits proposed in the Fiscal Year 2023-24 budget.

ENVIRONMENTAL

The City Council's action in adopting the resolution to appoint Daniel Barros as the City Manager and approve the employment agreement is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15378 as it constitutes a personnel related action exempt from environmental review.

ANALYSIS

Basic Duties

The employment agreement generally details the scope of duties of the City Manager consistent with the Town's Municipal Code and state law as follows:

- The City Manager is expected to devote the necessary time to the business of the Town and to fulfill the duties of the City Manager.
- The City Manager has a duty of loyalty and a general fiduciary duty to the Town. The City Manager is expected to devote the whole of their working time, skill, experience, knowledge, ability, labor, energy, attention and best effort exclusively to the Town's business and affairs.
- The City Manager shall be subject to and shall comply with the standards of conduct and ethical principles in the ICMA Code of Ethics.
- The City Manager shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with or which interferes with the performance of their duties to the Town.
- The City Manager is encouraged to continue education in his role as City Manager and to attend conferences, etc.

Economic Terms

The annual salary as noted in the employment agreement will be \$240,000 per year. The employment agreement also provides that the City Manager will receive the same benefits as other management employees, except for the following:

- The Town will provide a cell phone and laptop for the City Manager.
- The City Manager will receive a monthly auto allowance of \$300.
- The City Manager will receive a \$3,000 allowance toward meals, travel and lodging to attend professional meetings.
- The City Manager will accrue vacation leave at 120 hours per year with the Town recognizing his 17 years of public service in cities throughout San Mateo County.

Termination; Severance

The City Manager will serve at the pleasure of the City Council. Because of this feature in the agreement, it is typical for cities to guarantee severance pay. The employment agreement provides for the Town to pay the City Manager severance pay equal to six months' salary if there is a termination without cause.

Council Commitments

Section 3 of the employment agreement requires the City Council to conduct an Annual Strategic Planning Workshop and an annual performance evaluation in May of each year beginning in 2025. In the first six months of the employment, the City Council will conduct a performance evaluation, along with a second evaluation at or around the one year anniversary date of the agreement.

CONCLUSION

The City Council should adopt the resolution appointing Daniel Barros as City Manager and approving the employment agreement.

ATTACHMENTS

- A. Resolution
- B. Employment Agreement
- C. ICMA Code of Ethics



**RESOLUTION NO. 2023-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPOINTING DANIEL BARROS AS CITY MANAGER AND
APPROVING EMPLOYMENT AGREEMENT PURSUANT TO CEQA
GUIDELINE 15378**

The City Council of the Town of Colma does hereby resolve:

1. Background.

(a) On April 26 2023, the Town of Colma retained the firm of Ralph Andersen & Associates (“Ralph Andersen”) to recruit candidates for the position of City Manager. Ralph Andersen conducted a nationwide search and presented over two dozen applications to the City Council for its consideration. The City Council interviewed a short list of candidates and after evaluating the applications and conducting two interviews, the City Council expressed a desire to potentially appoint Daniel Barros as City Manager, subject to formal appointment and approval of an employment agreement.

(b) Mr. Barros is ready, able, and willing to serve as City Manager of the Town of Colma.

2. Order.

(a) Effective August 21, 2023, Daniel Barros (Employee) shall be and hereby is appointed City Manager of the Town of Colma and City Treasurer of the Town of Colma. Employee shall be authorized to, and shall perform the functions and duties specified in the Municipal and Administrative Codes of the Town of Colma for the City Manager and such other legally permissible and proper duties and functions as the City Council shall, from time to time, assign.

(b) The employment agreement between the Town of Colma and Daniel Barros, a copy of which is on file with the City Clerk, shall be and hereby is approved by the City Council of the Town of Colma.

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Certification of Adoption

I certify that the foregoing Resolution No. 2023-## was duly adopted at a regular meeting of said City Council held on July 26, 2023 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor					
John Irish Goodwin					
Ken Gonzalez					
Carrie Slaughter					
Helen Fisicaro					
<i>Voting Tally</i>					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk

EMPLOYMENT CONTRACT WITH DANIEL BARROS

This Employment Contract ("Contract") is made and entered into by and between the Town of Colma, a municipal corporation and general law city ("Employer"), and Daniel Barros ("Employee" or "City Manager"), who are sometimes individually referred to as a "Party" and collectively as "Parties" in this Contract. For reference purposes, this Contract is effective August 21, 2023.

1. Recitals. This Contract is made with reference to the following facts:

(a) Employer desires to employ the services of Employee as City Manager, as provided by the Municipal Code of the Town of Colma and by the laws of the State of California; and

(b) Employee desires to serve as City Manager of the Town of Colma on the terms and conditions set forth herein.

2. Employment and Duties

(a) Beginning August 21, 2023, Employer shall employ Employee as City Manager on the terms and conditions set forth herein, and Employee shall serve in said employment on these terms and conditions. Employment under this Contract shall continue until either party gives notice of termination as provided below.

(b) Employee shall perform the functions and duties of a City Manager, as specified in the laws of the State of California and the ordinances and resolutions of the Town of Colma. Employee shall also perform such other legally permissible and proper duties and functions as the City Council shall, from time to time, assign.

(c) Employee is expected to devote necessary time, within and outside normal business hours, to the business of the Town and to fulfill the duties of the City Manager, and Employee shall be allowed flexibility in setting his own office hours to accommodate such activities.

(d) Employee has a duty of loyalty and a general fiduciary duty to the Town. Employee shall devote the whole of Employee's working time, skill, experience, knowledge, ability, labor, energy, attention and best effort exclusively to the Town's business and affairs. Employee shall remain in the exclusive employ of Employer until termination of employment as hereinafter provided

(e) Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with or which interferes with the performance of Employee's duties to the Town. Further, Employee shall not, during the term of this Agreement, engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an

incompatibility of office under California law. Employee will complete annual disclosure forms required by law.

(f) Employee is encouraged to continue his education in his role as City Manager. On reasonable notice to the City Council, Employee may, and is highly encouraged, to attend conferences, professional development meetings and conventions as a part of his duties, provided that the subject matter is related to Employee's duties and that attendance does not unduly interfere with performance of his regular duties.

(g) The City Manager shall be subject to and shall comply with the standards of conduct and ethical principles set forth in the Town's ordinances and resolutions, and with the ICMA Code of Ethics, a copy of which is attached as Exhibit A.

3. City Council Commitments

(a) *Annual Strategic Plan Workshops.* The City Council recognizes that to meet the challenges facing the Town, it must exercise decisive policy leadership. As one step in carrying out this leadership responsibility, the City Council commits to spending time each year outside of regular City Council meetings to work with the City Manager and staff on creating and revisiting the Town's strategic plan, setting goals and priorities for the City government, and working on issues that may be inhibiting the maximum achievement of the Town's goals. Each year, between January 1 and March 31, the City Council and the City Manager shall meet at an Annual Strategic Plan Workshop to review the City's existing Strategic Plan, review and establish goals and priorities for the City Manager to implement prior to the City Manager's annual performance evaluation or such other dates as determined in the course of the meeting, and to establish a relative priority among those goals and objectives within the Strategic Plan.

(b) *Performance Evaluations.* After the first six months of employment, the City Council shall conduct a performance evaluation of the City Manager. In 2024, the City Council shall conduct a performance evaluation on or around the one year anniversary date of this agreement. Thereafter, beginning in 2025, the City Council shall meet with the Employee each May to evaluate his performance, discuss performance expectations and other objectives, and consider an increase in his base salary. The annual performance review and evaluation shall be in accordance with specific criteria developed jointly by the City Council and the City Manager during the strategic planning and goal setting workshops. Such criteria may from time to time be added to or deleted as the City Council determines in consultation with the City Manager.

(c) *Standards of Conduct and Ethics.* Neither the City Council nor any of its members will give the City Manager any order, direction, or request that would require the City Manager to violate the ICMA Code of Ethics or the City Council Protocols set forth in the Colma Administrative Code, subchapter 1.02, as amended from time to time.

4. **Salary and Benefits**

(a) *Salary.* Employer shall pay Employee a salary of \$240,000 per year, or such greater amount as may hereafter be approved by the City Council, which shall be subject to all appropriate deductions and withholdings, and which shall be paid at the same time and in the same manner as salaries are usually paid to Miscellaneous Employees of the Town.

(b) *Deductions. CalPERS Contribution and Employment Taxes.* Employee shall be responsible for, and shall pay by deduction from Employee's pay check, Employee's contributions to the California Public Employees' Retirement System (Cal PERS) and all employment taxes to be paid by law by Employee including, but not limited to, the Federal Insurance Contributions Act (FICA), the Federal Unemployment Act (FUTA), and the State Unemployment Insurance Act (SUI).

(c) *No Reduction.* Employer shall not, at any time during this Contract, reduce the salary, compensation or other financial benefits of Employee except to the degree of such reduction across the board for all employees of Employer who are classified as "Local Miscellaneous Members" of the California Public Employees Retirement System.

(d) *Catch-all.* Except as specifically provided herein, Employee shall be entitled to receive all benefits of employment generally available to Employer's other executive and managerial employees when and as he becomes eligible for them. With regard to vacation leave, Employer is acknowledging Employee's years of service at other public agencies, and Employee shall accrue vacation leave at the rate of 120 hours per year from the effective date of this Agreement through the fifth year of continuous service, or through August of 2028. Employee shall not be eligible to accrue a higher amount of vacation leave until the beginning of the sixth year of service.

(e) *Bonds.* Employer shall pay the cost of any employment bonds required for Employee by Employer.

(f) *Reservation of Rights.* Employer reserves the right to modify, suspend or discontinue any and all benefit plans, policies, and practices at any time without notice to or recourse by Employee, so long as such action is taken generally across the board for all employees of Employer.

(g) *Auto Allowance.* Employer shall provide Employee an auto allowance of \$300 per month for traveling to meetings, events, conferences and workshops.

5. **Expenses and Allowances**

(a) *Expense Policies.* Town shall pay for or provide the City Manager reimbursement for all actual business expenses consistent with Government Code section 53234 et seq., also known as "AB 1234" and subchapter 3.07 of the Colma Administrative Code.

(b) *Professional Development.* Employer shall pay for subscriptions, dues and membership fees and similar expenses to local, state and national professional associations and the International City Manager's Association (ICMA). Payment or reimbursement of reasonable travel, lodging and meals incurred in connection with attendance at professional meetings is subject to an annual limit of \$3,000.00, or such higher amount as may be approval by the City Council either through approval of the expense as a budget item or specific approval of a particular event.

(c) *Technology.* Employer shall, at Employer's expense, provide Employee with a Town-paid cell phone and laptop and Town associated phone and data plans.

6. Personnel Policies and Procedures Manual

(a) Except as explicitly provided to the contrary in this Contract, all provisions of the Town of Colma Personnel Policies and Procedures Manual in effect from time to time will be applicable to the City Manager.

(b) Employer may take disciplinary action relating to Employee without following the procedures set forth in the Colma Personnel Policies and Procedures Manual for imposing discipline. Nothing herein is intended to authorize any disciplinary action that would change Employee's status as an exempt employee under federal or state employment laws or as an at-will employee.

7. City Treasurer

(a) Employer may also appoint Employee as City Treasurer of the Town to perform the functions and duties specified in the Municipal Code of the Town of Colma and to perform other legally permissible and proper duties and functions as the City Council shall, from time to time, assign. There shall be no additional compensation for services as City Treasurer.

(b) Notwithstanding any other provision in this Contract, Employer may terminate Employee as City Treasurer at any time, and Employee shall not be entitled to any severance pay upon such termination.

8. At-will Employment; Termination by Employer; Severance Pay

(a) *At-will.* Notwithstanding any Town ordinance, resolution, or policy, this employment is "at-will," which may be terminated by either party, with or without notice, and with or without cause, except as expressly provided in this Contract. Employee understands and agrees that Employee has no constitutionally protected property or other interest in Employee's employment as City Manager. Employee understands and agrees that Employee works at the pleasure of the Council, and that Employee may be terminated, or asked to resign, at any time, with or without cause.

(b) *Termination for Cause.* Employer may terminate this Contract at any time for cause. No severance shall be paid in the event of termination for cause.

(i) For purposes of this Contract, "cause" shall mean willful commission of a material act of dishonesty; willful disclosure of confidential information without prior authorization by the City Council; commission of an act punishable as a felony under California law; the habitual or willful neglect of duties, commission of a material act of moral turpitude; the Town has a reasonable good faith belief that Employee has engaged in theft, embezzlement, fraud, or any other material act of dishonesty in matters affecting the Town, the inability to fully perform the essential duties of this contract due to drug or alcohol abuse; repeated and extended unexcused absences from the City Manager's office and duties; or a willful and serious violation of the Town's Standards of Conduct, as set forth in subchapter 3.03 of the Colma Administrative Code.

(ii) Employer must give written notice of its intent to terminate for cause. The Town shall provide thirty (30) days' advance notice. Within three calendar (3) days after delivery to Employee of such notice of termination for cause, Employee may, by written notification to the City Council, request a name-clearing hearing before the City Council. Thereafter, the City Council shall fix a time for the hearing, which shall be held at the usual meeting place, and should be held within thirty (30) days of receipt of the written request from Employee, at which Employee shall appear and be heard, with or without counsel. The meeting shall be informal, and shall not involve the taking of testimony. The Parties agree that the purpose of this hearing is to allow Employee to present any "name-clearing" information he wishes to provide. The City Council has the sole and absolute discretion to terminate, and its action shall be final and binding and shall not depend upon any particular showing or degree of proof at the hearing.

(c) *Severance Pay.* If the City Council terminates Employee's employment without cause or requests the Employee's resignation, the Town shall pay Employee, on the effective date of termination, a lump sum cash payment equal to the Employee's base salary for six months, and shall pay COBRA premiums for medical and dental insurance for six months or until Employee becomes re-employed, whichever occurs first. The Employee's base salary shall be determined without regard to the value of any benefits provided to Employee. This Agreement shall be deemed to incorporate by reference the provisions of Sections 53260 et seq., concerning the maximum cash settlement in an employment contract, and Sections 53243 et seq. of the Government Code, limiting and/or restricting payment or continued retention of severance payments and/or legal criminal defense payments should Employee be convicted of a crime involving an abuse of office or position, as these sections may be amended or renumbered.

9. Termination by Employee

(a) *Notice.* Subject to the limitation hereinafter set forth in this section, the Employee may resign at any time from the Employee's position with Employer upon giving the City

Council at least thirty (30) days' notice in writing of Employee's intention to resign. No severance shall be paid in the event of Employee's voluntary resignation or retirement.

(b) *Not in May.* Notwithstanding the foregoing, Employee agrees that voluntary resignation shall not take effect during the month of May, unless the City Council expressly agrees thereto. The purpose of this restriction is to minimize disruption to year-end budget planning.

(c) *No Personal Leave.* During the 30-day period after giving notice of termination, Employee agrees not to take any vacation leave or management leave without the express consent of the City Council. Employee further agrees, during said period, to assist in transition of duties to the new City Manager as may be directed by the City Council.

(d) *No Other Restrictions.* Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from such position with Employer, subject only to the provisions set forth in this Contract.

10. Notice

Any notice required or permitted to be given under this Contract shall be sufficient if in writing and if sent by first class mail, postage prepaid, to Employee's residence in the case of the Employee, or to the City Attorney or to the Mayor in the case of the Employer.

11. Waiver of Terms

A waiver of any of the terms and conditions hereof shall not be construed as a general waiver by Employer, and the Employer shall be free to reinstate such part or clause.

12. Applicable Law

This Contract shall be governed by and shall be construed in accordance with the laws of the State of California.

13. Disputes

Any dispute that arises under or relates to this Contract (whether contract, tort, or both) shall be resolved in a court of competent jurisdiction located in San Mateo County. If an action is commenced by either party in connection with this Contract the prevailing party shall be entitled to an award of reasonable attorneys' fees

14. Investigation and Advice

Employee acknowledges that he has fully and independently apprized himself of the facts prior to entering into this contract and that he has been given a reasonable opportunity to consult with an attorney of his own choosing. Employee acknowledges that he has not received legal advice from the City Attorney and is not relying on any statements or representations of the Town.

15. Entire Contract

This instrument supersedes all prior contracts between the parties and contains the entire contract of the parties. It may not be changed orally but only by an amendment in writing signed by the party (and, with respect to Employer, approved by the City Council) against whom enforcement of any waiver, change, modification, extension or discharge is sought.

Execution. In Witness thereof, the parties hereto have signed this Contract on the respective dates shown below.

Dated _____

Daniel Barros, Employee

Dated: _____

TOWN OF COLMA (Employer)

By _____

Joanne del Rosario, Mayor



ICMA Code of Ethics with Guidelines

The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in April 2023. The Guidelines for the Code were adopted by the ICMA Executive Board in 1972, and most recently revised in June 2023.

The mission of ICMA is to advance professional local government through leadership, management, innovation, and ethics. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

Tenet 1. We believe professional management is essential to effective, efficient, equitable, and democratic local government.

Tenet 2. Affirm the dignity and worth of local government services and maintain a deep sense of social responsibility as a trusted public servant.

GUIDELINE

Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities in order to uphold local government professionalism.

Tenet 3. Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public.

GUIDELINES

Public Confidence. Members should conduct themselves so as to maintain public confidence in their position and profession, the integrity of their local government, and in their responsibility to uphold the public trust.

Length of Service. For chief administrative/executive officers appointed by a governing body or elected official, a minimum of two years is considered necessary to render a professional service to the local government. In limited circumstances, it may be in the best interests of the local government and the member to separate before serving two years. Some examples include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or significant personal issues. It is the responsibility of an applicant for a position to understand conditions of employment, including expectations of service. Not understanding the terms of employment prior to accepting does not justify premature separation. For all members a short tenure should be the exception rather than a recurring experience, and members are expected to honor all conditions of employment with the organization.

Appointment Commitment. Members who accept an appointment to a position should report to that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time. However, once a member has accepted a formal offer of employment, that commitment is considered binding unless the employer makes fundamental changes in the negotiated terms of employment.

Credentials. A member's resume for employment or application for ICMA's Voluntary Credentialing Program shall completely and accurately reflect the member's education, work experience, and personal history. Omissions and inaccuracies must be avoided.

Professional Respect. Members seeking a position should show professional respect for persons formerly holding the position, successors holding the position, or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity.

Reporting Ethics Violations. When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report possible violations to ICMA. In reporting the possible violation, members may choose to go on record as the complainant or report the matter on a confidential basis.

Confidentiality. Members shall not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.

Seeking Employment. Members should not seek employment for a position that has an incumbent who has not announced his or her separation or been officially informed by the appointive entity that his or her services are to be terminated. Members should not initiate contact with representatives of the appointive entity. Members contacted by representatives of the appointive entity body regarding prospective interest in the position should decline to have a conversation until the incumbent's separation from employment is publicly known.

Relationships in the Workplace. Members should not engage in an intimate or romantic relationship with any elected official or board appointee, employee they report to, one they appoint and/or supervise, either directly or indirectly, within the organization.

This guideline does not restrict personal friendships, professional mentoring, or social interactions with employees, elected officials and Board appointees.

Influence. Members should conduct their professional and personal affairs in a manner that demonstrates that they cannot be improperly influenced in the performance of their official duties.

Conflicting Roles. Members who serve multiple roles – either within the local government

organization or externally – should avoid participating in matters that create either a conflict of interest or the perception of one. They should disclose any potential conflict to the governing body so that it can be managed appropriately.

Conduct Unbecoming. Members should treat people fairly, with dignity and respect and should not engage in, or condone bullying behavior, harassment, sexual harassment or discrimination on the basis of race, religion, national origin, age, disability, gender, gender identity, or sexual orientation.

Tenet 4. Serve the best interests of all community members.

GUIDELINES

Effects of Decisions. Members should inform the appropriate elected or appointed official(s) of a decision's anticipated effects on community members.

Promote Equity. Members should ensure fairness and impartiality in accessing programs and services and in the enforcement of laws and regulations. Members should assess and propose solutions to strive to eliminate disparities.

Tenet 5. Submit policy proposals to elected officials; provide them with facts, and technical and professional advice about policy options; and collaborate with them in setting goals for the community and organization.

Tenet 6. Recognize that elected representatives are accountable to their community for the decisions they make; members are responsible for implementing those decisions.

Tenet 7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

GUIDELINES

Elections of the Governing Body. Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not participate in an election campaign on behalf of or in opposition to candidates for the governing body.

Elections of Elected Executives. Members shall not participate in the election campaign of any candidate for mayor or elected county executive.

Running for Office. Members shall not run for elected office or become involved in political activities related to running for elected office, or accept appointment to an elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

Elections. Members share with their fellow citizens the right and responsibility to vote. However, in order not to impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

Elections relating to the Form of Government. Members may assist in preparing and presenting materials that explain the form of government to the public prior to a form of government election. If assistance is required by another community, members may respond.

Presentation of Issues. Members may assist their governing body in the presentation of issues involved in referenda such as bond issues, annexations, and other matters that affect the government entity's operations and/or fiscal capacity.

Personal Advocacy of Issues. Members share with their fellow citizens the right and responsibility to voice their opinion on public issues. Members may advocate for issues of personal interest only when doing so does not conflict with the performance of their official duties.

Tenet 8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

GUIDELINES

Self-Assessment. Each member should assess his or her professional skills and abilities on a periodic basis.

Professional Development. Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of ICMA.

Tenet 9. Keep the community informed on local government affairs. Encourage and facilitate active engagement and constructive communication between community members and all local government officials.

GUIDELINE

Engagement. Members should ensure community members can actively engage with their local government as well as eliminate barriers and support involvement of the community in the governance process.

Tenet 10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

GUIDELINE

Information Sharing. The member should openly share information with the governing body while diligently carrying out the member's responsibilities as set forth in the charter or enabling legislation.

Tenet 11. Manage all personnel matters with fairness and impartiality.

GUIDELINE

Diversity and Inclusion. It is the member's responsibility to recruit, hire, promote, retain, train, and support a diverse workforce at all levels of the organization.

Tenet 12. Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

GUIDELINES

Gifts. Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.

The term "Gift" includes but is not limited to services, travel, meals, gift cards, tickets, or other entertainment or hospitality. Gifts of money or loans from persons other than the local government jurisdiction pursuant to normal employment practices are not acceptable.

Members should not accept any gift that could undermine public confidence. De minimus gifts may be accepted in circumstances that support the execution of the member's official duties or serve a legitimate public purpose. In those cases, the member should determine a modest maximum dollar value based on guidance from the governing body or any applicable state or local law.

The guideline is not intended to apply to normal social practices, not associated with the member's official duties, where gifts are exchanged among friends, associates and relatives.

Investments in Conflict with Official Duties. Members should refrain from any investment activity which would compromise the impartial and objective performance of their duties. Members should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict of interest, in fact or appearance, with their official duties.

In the case of real estate, the use of confidential information and knowledge to further a member's personal interest is not permitted. Purchases and sales which might be

interpreted as speculation for quick profit should be avoided (see the guideline on “Confidential Information”). Because personal investments may appear to influence official actions and decisions, or create the appearance of impropriety, members should disclose or dispose of such investments prior to accepting a position in a local government. Should the conflict of interest arise during employment, the member should make full disclosure and/or recuse themselves prior to any official action by the governing body that may affect such investments.

This guideline is not intended to prohibit a member from having or acquiring an interest in or deriving a benefit from any investment when the interest or benefit is due to ownership by the member or the member’s family of a de minimus percentage of a corporation traded on a recognized stock exchange even though the corporation or its subsidiaries may do business with the local government.

Personal Relationships. In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual, spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization. For example, if the member has a relative that works for a developer doing business with the local government, that fact should be disclosed.

Confidential Information. Members shall not disclose to others, or use to advance their personal interest, intellectual property, confidential information, or information that is not yet public knowledge, that has been acquired by them in the course of their official duties.

Information that may be in the public domain or accessible by means of an open records request, is not confidential.

Private Employment. Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest, or impair the proper discharge of their official duties. Prior notification of the appointing authority is appropriate in all cases of outside employment.

Representation. Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

Endorsements. Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, marketing materials, social media, or other documents, whether the

member is compensated or not for the member's support. Members may, however, provide verbal professional references as part of the due diligence phase of competitive process or in response to a direct inquiry.

Members may agree to endorse the following, provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Pak Lin, Administrative Services Director
 VIA: Brian Dossey, City Manager
 MEETING DATE: July 26, 2023
 SUBJECT: Revenue Strategies Study Session

RECOMMENDATION

This item is a study session for informational purposes only. No City Council action is required; however, staff seeks City Council direction.

EXECUTIVE SUMMARY

On March 22, 2023, the City Council approved and accepted the 2023-2025 Strategic Plan. The Strategic Plan includes direction for staff to conduct studies, surveys, and public outreach to identify potential revenue strategies for the upcoming 2024 election year. The possible strategies that would impact the 2024 election year were sales tax and business license tax.

If the City Council wishes for staff to focus on a sales tax measure, the Town will secure the last 0.5% sales tax buffer and will generate an additional \$2.0 million annually. If the City Council wishes for staff to focus on a business license tax measure, the Town will need to conduct a more intense study to determine the appropriate tax structure which may not meet the 2024 election year. At present, staff anticipates business license tax to generate around \$300,000 to \$500,000 a year.

The City Council approved the FY 2023-24 budget which includes an appropriation of \$100,000 to conduct the survey, public outreach, and other services needed to prepare for the 2024 election year. The 2023-2025 Strategic Plan also includes other operating and capital projects that can help the Town recover some of its service costs or attract small and mid-size businesses to expand within Town borders.

FISCAL IMPACT

There is no fiscal impact for FY 2023-24.

BACKGROUND AND ANALYSIS

During the FY 2023-24 budget development process, the City Council directed staff to revisit sales tax and business tax initiatives. Currently, the Town estimates total sales tax revenues for FY 2023-24 is \$13.6 million and \$7,000 as total business license fee revenues.

Sales Tax Revenues:

Sales tax revenue is the largest source of income for the Town. Colma also generates around 7% of total sales tax revenues within San Mateo County. The maximum voter-approved sales tax rate is limited by the California Revenue and Taxable Code. According to Section 7251.1, without special amendments and provisions approved by the State of California, the total combined sales tax rate for local government cannot exceed 2 percent. The State defines local government as counties and municipalities. At current, the sales tax rate can increase by no more than 0.5% within Colma's city limit.

From 2016 through 2020, many municipalities proposed and voter-approved sales tax measures to secure that last 0.5% sales tax buffer. Securing the last 0.5% of sales tax rate ensures that 100% of the sales tax revenue generated within city borders stay within the city. Equivalently, if that same tax revenue were approved for county's use, the funds would then be distributed by population or other demographic data. As of January 1, 2023, Colma's population represents 0.18% of the total county population.

In 2019, Colma researched on whether to bring forward a tax measure in 2020 to secure the last 0.5% for the benefit of Colma residents and businesses. In the end, the project was deferred during the COVID-19 pandemic. At the time of the research, the Town's tax consultant HdL estimated the 0.5% sales tax would generate \$2 million in additional sales tax revenues. Per the survey completed by Godbe Research (Attachment A), Colma residents' key priorities include roadway repair, police services, and economic development.

If the Town moves forward with a sales tax measure, the entire estimated \$2.0 million of new sales tax revenues can be used to improve pedestrian, bicycle and roadway safety, and to attract potential new businesses and development, as well as meet the increasing demand on police services in terms of regulatory reporting, training for police officers, and increase support to Colma businesses to discourage theft and other dangerous activities.

Business License Fee vs Tax:

During the 2023-2025 Strategic Planning development, the City Council was also interested in understanding business license fee vs tax. Currently, the Town charges a business license fee on businesses operating within the Town. By definition, the Town can charge fees to recover the cost of providing said service. When the revenue generated by the activity exceeds the service, these are taxes and requires voter approval. The current annual fee is \$25 per year per business plus regulatory passthrough fees and generates roughly \$7,000 in revenues.

Many of the Town's neighboring agencies assess business license tax. The tax structure varies by agencies and by business types. It generally includes a minimum flat fee plus an assessed fee based on gross receipts, size of the occupied space, and number of employees. Attachment B through D, are sample tax structure from the City of San Bruno, South San Francisco, and Daly City.

A study can be conducted to assess what is a reasonable tax structure. Likely the structure will be a combination of flat fee plus an assessed fee by business type and by number of employees. For example, home offices may be assessed a flat fee and commercial businesses are assessed based on business type and number of employees. Food establishments may be on gross receipts.

As for the projected annual revenues from business license tax, Staff collected the Business Tax revenue budget from all San Mateo County municipalities and compared the budgeted business tax revenues to the number of approved permits at each agency. If the Town's business tax structure mimicked one of these agencies, the Town could collect \$113,000 to \$1.01 million, with an average of \$353,000. See Table 1 below for more information.

Table 1	Budget Source	Business Tax Budget	# of Permit	Average \$ per Permit
		[a]	[b]	[a]/[b]
Belmont	FY 2023-24	\$ 1,188,075	547	\$ 2,172
Brisbane	FY 2021-22	\$ 300,000	272	\$ 1,103
Burlingame	FY 2023-24	\$ 1,300,000	1,488	\$ 874
Daly City	FY 2022-23	\$ 5,846,044	1,524	\$ 3,836
East Palo Alto	FY 2022-23	\$ 1,348,250	264	\$ 5,107
Foster City	FY 2022-23	\$ 1,583,800	501	\$ 3,161
Half Moon Bay	FY 2023-24	\$ 305,000	531	\$ 574
Menlo Park	FY 2023-24	\$ 1,700,000	1,156	\$ 1,471
Millbrae	FY 2023-24	\$ 394,192	536	\$ 735
Pacifica	FY 2023-24	\$ 520,700	738	\$ 706
Redwood City	FY 2023-24	\$ 3,312,374	1,913	\$ 1,732
San Bruno	FY 2023-24	\$ 610,287	897	\$ 680
San Carlos	FY 2023-24	\$ 1,063,400	1,342	\$ 792
San Mateo	FY 2023-24	\$ 6,302,889	3,198	\$ 1,971
South San Francisco	FY 2023-24	\$ 3,700,000	1,878	\$ 1,970
		\$ per Permit		@ 197 Permits
Colma	Highest	\$ 5,107		\$1,006,080
	Lowest	\$ 574		\$113,154
	Average	\$ 1,792		\$353,079

Further analysis will be needed to determine the appropriate tax structure. The analysis can be extensive depending on the Council's direction. Factors to consider include:

- Should the tax formula be the same for all businesses? Or should some business types be charged a flat fee and others on a sliding scale?
- Are or should certain business types be exempted from the tax?
- Are all revenue types considered in gross receipts?

Next Steps

Feedback from the City Council will be used to secure the election consultant and begin developing the path to securing the new revenue. This item will be brought to the City Council and public comments for further discussion at key milestones.

COUNCIL ADOPTED VALUES

The City Council is acting *responsibly* and *strategically* by considering and providing feedback on which path the Town should embark on to secure additional funding.

CONCLUSION

Aside from having additional resources for Town operations, beautification, and sustainability, additional tax revenues can ensure that Town residents and businesses are contributing equitably towards Town services and the use of Town infrastructure. A sales tax measure is simpler to apply and ensures that tax dollars generated within Colma borders are used for the benefit of Town residents and businesses.

ATTACHMENTS

- A. Godbe Survey
- B. San Bruno Business License Tax
- C. South San Francisco Business License Tax
- D. Daly City Business License Tax



GODBE RESEARCH
Gain Insight

MEMORANDUM

August 7, 2019

TO: Town of Colma

FROM: Bryan Godbe
President
Godbe Research

RE: 2019 Community Priorities Survey – Summary of the Results

Introduction:

The Town of Colma commissioned Godbe Research to conduct independent public opinion research to assess resident priorities for City services.

The results show constituents have a very favorable impression of the job the Town is doing to provide services, with an outstanding 11.4-to-1 satisfaction-to-dissatisfaction ratio.

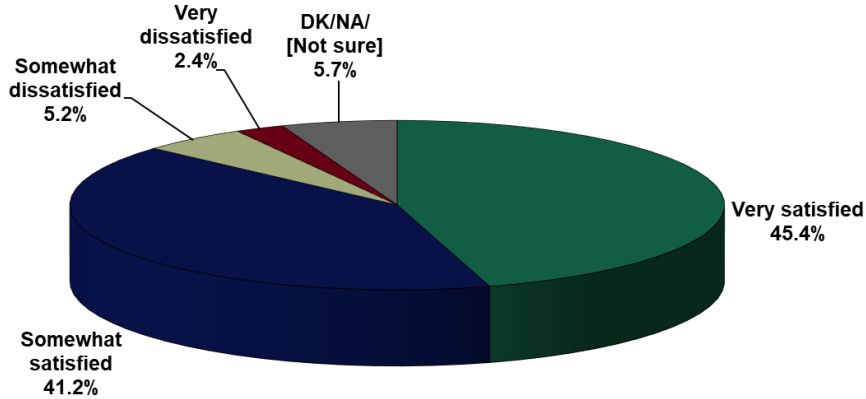
Among other findings, the survey also indicates respondents are interested in a potential local funding measure to maintain service priorities at a high watermark of two-thirds of respondents – well above the simple majority (50 +1%) requirement.

Methodology Overview:

Telephone and online interviews were conducted from June 4 through June 16, 2019 and the average phone interview time was approximately 17 minutes. A total of 78 Town of Colma respondents participated in the survey, and the study parameters resulted in a margin of error of plus or minus 10.28 percent among Likely November 2020 Voters.

Satisfaction with the Town of Colma’s Job Performance:

Eighty-seven percent of Likely November 2020 respondents indicated that they had a favorable impression of the job the Town is doing to provide services, an outstanding 11.4-to-1 satisfaction-to-dissatisfaction ratio.



Respondents Identified a Variety of Key Priorities:

Respondents were presented with a variety of community services provided by the Town to determine their importance. The results suggest clear preferences, with top priorities including “Pothole repair”, “Maintaining neighborhood police patrols”, and “Attracting and retaining local small businesses”.

Pothole repair	1.14
Maintaining neighborhood police patrols	1.08
Attracting and retaining local small businesses	1.07
Ensuring sidewalks are accessible for people with disabilities	1.04
Crime investigation and reduction services	1.01
Funding additional police patrols and crime reduction programs near shopping centers	0.99
Expanding services to support local businesses	0.93
Recreational services and community events	0.92
Addressing homelessness	0.83
Street maintenance and improvements including Serramonte Boulevard, Hillside Boulevard and Junipero Serra Boulevard	0.72
Traffic and parking enforcement	0.58

Information of Greatest Interest to Respondents:

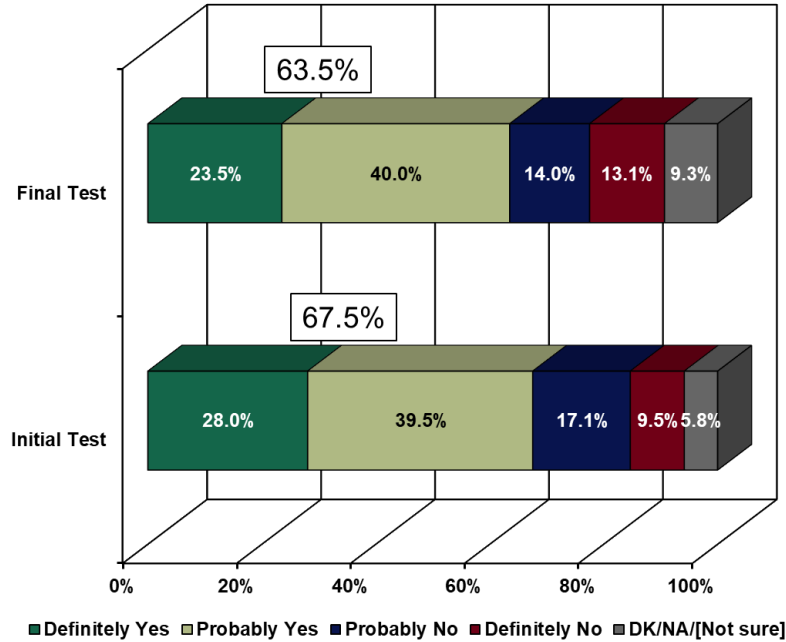
The respondents were also presented with a variety of factual statements about the potential measure. Of most interest to November 2020 Likely Voters were: “By law, all funds from this measure must stay in and benefit Colma and cannot be taken by Sacramento”, “None of the money raised by the measure would be used for City administrator salaries”, “This measure requires independent financial audits, and yearly reports to the community to ensure the funds are spent as promised”, and “The police department spends 60 percent of its time

responding to property crimes at the shopping centers, it is only fair that out-of-town shoppers pay for police protection”.

By law, all funds from this measure must stay in and benefit Colma and cannot be taken by Sacramento	1.44
None of the money raised by the measure would be used for City administrator salaries	1.38
This measure requires independent financial audits, and yearly reports to the community to ensure the funds are spent as promised	1.27
The police department spends 60 percent of its time responding to property crimes at the shopping centers, it is only fair that out-of-town shoppers pay for police protection	1.27
More than 80 percent of the sales tax will be paid by out-of-town visitors and shoppers, easing the burden on residents	1.22
In the next 5 to 10 years, the Town must invest \$10 to \$15 million dollars to improve and rehabilitate major roadways within the Town. If the improvements are delayed, the cost of major reconstruction could rise to \$20 to \$29 million dollars	1.21
If the measure is approved, street and pothole repair efforts will be enhanced to include residential streets	1.16
Visitors and shoppers from outside of Colma will pay their fair share for local city services	1.16
The police department spends 70 percent of its time responding to property crimes at the shopping centers, and the measure will ensure that shoppers are safe and continue shopping in Colma	1.09
The Town's infrastructure is aging and needs to be replaced to ensure that visitors will continue to come to Colma to shop and visit	1.08
The town has been very fiscally conservative and has won awards for its fiscal management practices	1.05

Support for a Simple-Majority Sales Tax Measure:

Among respondents likely to participate in the November 2020 election, on both an initial test and a final test of a hypothetical revenue measure, (67.5 percent and 63.5 percent respectively) indicated support.



Conclusion:

The results show constituents are very satisfied with the job the Town is doing to provide services. The survey also indicates Likely November 2020 Voters are interested in a potential local funding measure to maintain service priorities at nearly 14 points above the simple majority requirement.

Appendix: Schedule of Taxes**Business License Tax****Generally applicable tax rate.**

Every person having a fixed place of business transacting, engaging in, or carrying on a business in the city, except a business as to which the tax rate established by another section of this article is made specifically applicable, shall pay a business license tax based upon the annual gross receipts of such businesses as follows:

Gross Receipts	Annual Tax
Less than \$75,000	\$ 75.00
\$75,000 or more, but less than \$100,000	\$ 100.00
Over \$100,000	\$110.00, plus \$5.25 for each additional \$5,000 or fraction thereof up to \$500,000
Over \$500,000	\$530.00, plus \$4.00 for each additional \$5,000 or fraction thereof up to \$1,000,000
Over \$1,000,000	\$930.00, plus \$2.75 for each additional \$5,000 or fraction thereof up to \$5,000,000
Over \$5,000,000	\$3,130.00, plus \$1.65 for each additional \$5,000 or fraction thereof.

Central administrative offices, auxiliary units manufacturing.

Every person who, at a fixed place of business within the City, transacts, engages in, or carries on any central administrative office, auxiliary unit or manufacturing establishment shall pay an annual license tax based upon the area of the place of business occupied and the average number of persons employed, as follows:

Area of Place of Business Occupied	Annual tax
999 square feet or less	\$ 150.00
1,000--2,499 square feet	250.00
2,500--4,999 square feet	350.00
5,000--9,999 square feet	550.00
10,000 square feet or more	850.00

Number of Employees	Additional Annual Tax
1—10	\$7.50 per employee
11—25	\$75.00, plus \$5.00 for each employee in excess of 10
26—50	\$195.00, plus \$4.00 for each employee in excess of 25
51 or more	\$350.00, plus \$3.00 for each employee in excess of 50

Amusement concessions.

Every person conducting any amusement concession, not in conjunction with a carnival or fair, shall pay a license tax for each concession and device as follows:

Type of concession	Quarterly tax
A. Merry-go-round, ferris wheel, dodgem, swing or other mechanical device for the carrying of passengers	\$75.00
B. Ball and ring throwing games, spin-the-wheel, mechanical and electrical games, shooting gallery, keno, lotto, and similar games of chance	\$50.00
C. Sales of merchandise or foodstuffs, not in connection with any game of chance	\$30.00

Apartment and rooming houses.

Every person conducting the business of apartment house or rooming house shall pay an annual license tax of \$50.00 base fee and \$1.00 for each room, based on a three room minimum.

Commercial property rental.

Every person conducting the business of commercial property rental shall pay an annual license tax of a \$50.00 base fee and \$10.00 for up to the first 1,000 square feet and \$10.00 for each additional 1,000 square feet of property available for commercial rental.

Bowling alleys and similar games

Every person conducting a public bowling alley, skee ball, bat ball, or other similar device, equipment or means of entertainment shall pay an annual license tax of \$40.00 for each alley.

Master Fee Schedule, Effective September 1, 2021
Appendix

66

Boxing or wrestling exhibitions

Every person staging a boxing or wrestling exhibition shall pay a license tax of \$200.00 for each such exhibition.

Carnivals and circuses

Every person conducting any carnival, circus, menagerie, wild west show, rodeo, any other like or similar exhibition or amusement shall pay a license tax of \$300.00 for the first day, and \$75.00 for each additional day, payable in advance.

Gambling Clubs

Every person, corporation, partnership or other entity conducting the business of a gambling club shall pay a quarterly tax in advance, and due on January 1st, April 1st, July 1st and October 1st of each calendar year. Commencing January 1, 1995, the tax per quarter shall be calculated as follows:

Tables Permitted by Gambling Club License	1995 Quarterly Tax Per Table (Base)	FY2021-22 Quarterly Tax per Table
Minimum 10	\$ 400	\$840
11 to 15	1,200	2,521
16 to 20	1,800	3,784
21 to 25	2,400	5,046
26 to 30	3,000	6,308
31 to 35	3,600	7,571
36 to 40	4,200	8,829
41 to 45	4,800	10,096
46 to 50	5,400	11,357
51 to 55	6,000	12,620
56 to 60	6,600	13,878

Beginning with the above schedule, the tax paid by gambling clubs shall automatically increase July 1st of each year, commencing July 1, 1995, by the greater of 2% or the average of the annual percentage increase in the All Urban Consumer Price Index for the San Francisco/ San Jose/Oakland area for the months ending February 28th (or 29th) and April 30th.

Electrical musical devices

No person shall operate or maintain or permit to be operated or maintained in any place of business or premises open to the public and occupied by or under the control of such person any electrical musical device without having first paid a yearly business license tax of \$25.00, applied for and received a license for each electrical musical device so operated and maintained.

Mechanical, electronic, and video amusement devices

No person shall operate, maintain, or permit to be operated or maintained in any place of business or premises open to the public or under his control any mechanical amusement device without having first paid the business license tax of \$30.00, applied for and received a license therefore.

Nonresident contractors and other businesses

Every person not having a fixed place of business in the city who:

- A. Engages in the business of contracting within the city;

or

- B. Engages in a business within the city not specifically licensed by another section of this article shall pay a license tax of \$75.00 per year.

Peddlers and solicitors

Every person who conducts the business of peddler or solicitor shall pay a business license tax of \$40.00 per day for the first day and \$10.00 per day thereafter.

Public dances -- Place of public dance

Every person conducting a public dance shall pay a business license tax of \$50.00. Every person operating a business in which public dancing is performed, conducted, allowed, carried on, or proposed to be performed, conducted, allowed, or carried on not less than three times or on three days within a period of six months shall pay a business license tax as follows:

1. If the dancing is accompanied by mechanized music, an annual tax of \$200.00 dollars;
2. If the dancing is accompanied by live or unmechanized music, an annual tax of \$450.00.

Shuffleboards

Every person engaged in the business of operating or maintaining and offering for use by patrons any shuffleboards or other game or amusement device other than a mechanical amusement device otherwise licensed, shall pay in advance an annual license tax of \$15.00 for each such game.

Temporary vendors

Every person conducting the business of temporary vendor shall pay an annual business license tax of \$40.00 for the first day and \$10.00 per day for each subsequent day.

Condominium projects

A business license tax is imposed solely for revenue purposes upon the development and construction of all condominium projects, in the sum of one thousand dollars per planned salable condominium unit. No tax shall be imposed upon the development and construction of a condominium unit for which a completed sale or transfer of interest to the purchaser or occupant has occurred.

Single-family residential structures

A single-family residential business license tax is imposed solely for revenue purposes upon the development and construction of all single-family residential structures in the sum of \$1,000.00 per planned salable unit.

**CITY OF SOUTH SAN FRANCISCO
BUSINESS LICENSE TAX RATES AND FEES**

<u>CLASSIFICATION</u>		<u>2023 Tax Rates/Fees</u>
Auctioneer	...	\$146.00 per "Auction Day"
Business and Personal Services	}	\$110.00 + \$22.25 per employee/owner \$146,390.00 max
Manufacturer		
Warehousing		
Wholesale/Retail Sales		
Distributor & Other Services		
Repair & Other Services		
Freight Forwarding Services		
Trucking		
Moving Van/Trucks		
Coin Operated Machines (See Ordinance for details)	...	1% of Gross Receipts
Commercial Parking Facility (See Ordinance for details)	...	8% of Gross Receipts
Construction Contractor		
*General 'A' or 'B'	...	\$219.50
*Subcontractor or Specialty 'C'	...	\$182.75
Junk Collector/Recycler (See Ordinance for details)	...	Higher of \$293.25 or 4% gross receipts * Special condition applies
Medium	...	\$732.50
Pawnbroker	...	\$293.25
Peddler or Solicitor (See Ordinance for details)	...	\$110.00 + \$22.25 per employee/owner + \$366.00 per vehicle used * Special condition applies
Other Peddlers		
*Single Perishable Product	...	\$205.25
*Catering Truck	...	\$410.50 per vehicle
*All Others	...	\$410.50 plus \$14.75 per day in excess of 2 persons
Professional/Semi-Professional	...	\$219.50 \$219.50 for each add'l associate, partner or member of the professional corporation <u>Do not include:</u> Clerical, nurses, aides, etc.

Accountant, acupuncturist, advertising, analyst, appraiser, architect, artist, assayer, attorney;
Bacteriologist, bail bond broker, broker, business opportunity broker, business and safety consultant; Cemetery broker, chemist,
chiropractor, collection or mercantile agency, commercial artist, commission merchant; Computer programmer,
Dentist, designer or decorator, design professional, including computer or graphic design,
drugless practitioner (does not apply to persons who treat the sick through prayer or spiritual means);
Electrologist, engineer, entomologist; Finance company; Geologist; Herb doctor (prescriber);
Illustrator or show card writer, insurance or claims adjuster, insurance broker, investment and investment trust;
Laboratory, landscape architect, lapidary; Map maker or cartographer, mineralogist, moneylender or money broker, mortician
Naprath and naturopath; Oculist, oil and gas broker, optometrist, osteopath; Physician, psychiatrist, psychologist;
Planner or architect; Real estate broker; Stock and bond broker, surveyor, inspector, or map professional.
Tax counselor, taxidermist; Veterinarian.

Public Utilities	...	\$7,319.75 ("public utility rate")
Recreation and Entertainment		
*Bowling Alley	...	\$73.25 per alley
*Circus or similar exhibition	...	\$732.50 for 1st day + \$146.00 add'l day
*Carnival or similar event	...	\$732.50 for 1st day + \$146.00 add'l day
*Motion Pictures	...	
*Other (See Ordinance for details)	...	\$146.00
Rental of Residential Property		
*Hotels, Motels or Apartment house (See Ordinance for details)	...	\$110.00 + \$7.75 per unit (occupied or vacant)
Temporary Vendors (See Ordinance for details)	...	\$73.25 per day
Trailer and Mobile Home Parks	...	\$110.00 + \$7.75 per space
Transportation of Persons	...	\$366.00 per vehicle + \$22.25 per employee

State Mandated Fee** \$4.00

Database Fee *** \$29.00

*Charged annually to all businesses located in SSF.

Alarm Registration Fee *** \$25.00

*Charged annually to all businesses commercially located in SSF.

Taxes for first time applicants are pro-rated by the quarter of the year.

All business licenses are valid for the current calendar year and expire December 31st of each calendar year.

* On September 19, 2012 Governor Brown signed into law SB-1186 which adds a state fee of \$1 on any applicant for a local business license or similar instrument or permit, or renewal thereof. On and after January 1, 2018, through December 31, 2023, the one-dollar (\$1) additional fee is increased to four-dollars (\$4). The purpose is to increase disability access and compliance with construction-related accessibility requirements and to develop educational resources for businesses in order to facilitate compliance with federal and state disability laws, as specified.

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

o The Division of the State Architect at www.dgs.ca.gov/dsa/Home.aspx .

ORDINANCE NO. 1419

AN ORDINANCE OF THE CITY OF DALY CITY AMENDING SECTIONS 5.16.040 AND 5.16.050 OF CHAPTER 5.16 OF ARTICLE 1 OF TITLE 5 OF THE CITY OF DALY CITY MUNICIPAL CODE PROVIDING FOR AN INCREASE IN BUSINESS LICENSE TAXES

SECTION ONE. AMENDING SECTIONS 5.16.040 AND 5.16.050 OF CHAPTER 5.16 OF ARTICLE 1 OF TITLE 5 OF THE CITY OF DALY CITY MUNICIPAL CODE.

Sections 5.16.040 and 5.16.050 of Chapter 5.16 of Article 1 of Title 5 of the City of Daly City Municipal Code are hereby amended in their entirety to read as follows:

5.16.040 - License tax schedule.

The general business license tax schedule under this chapter is as follows:

- A. For businesses with annual gross receipts up to one hundred thousand dollars, the tax shall be one hundred ten dollars, nonrefundable.
- B. For businesses with annual gross receipts greater than one hundred thousand dollars, the tax shall be the total of one hundred ten dollars, nonrefundable, plus eleven-onehundredths of one percent of gross receipts greater than one hundred thousand dollars.
- C. For purposes of calculating the tax, the total annual tax due may be rounded to the nearest whole dollar.

5.16.050 - Taxes for certain businesses.

Every person transacting and carrying on the following businesses herein enumerated shall pay a license tax as follows:

- A. Any person engaged in the business of operating or maintaining any building or buildings constructed on one parcel or upon separate parcels of land available for rental or lease and intended to be used for dwelling, lodging or sleeping purposes other than for transient lodging, shall pay a license tax equal to fifty-five-one hundredths of one percent of gross receipts, but not less than one hundred ten dollars. Any unit or spaces occupied by the actual owner of such building or buildings for living purposes shall be exempt.
- B. Any person engaged in operating a place of business not generating gross receipts shall pay a business license tax equal to the greater of twenty-five dollars per employee or two cents per square foot of usable square footage of the building or space being occupied, but not less than one hundred ten dollars



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Farhad Mortazavi APA, City Planner
 Lorraine Weiss, APA, Principal Planner
 VIA: Brian Dossey, City Manager
 DATE: July 26, 2023
 SUBJECT: Zoning Code Update Study Session

RECOMMENDATION

This item is a study session where staff seeks from the City Council comments, questions, and feedback on the Zoning Code Update and Zoning Map.

EXECUTIVE SUMMARY

The purpose of this study session is to introduce an overview of the draft Zoning Code Update (ZCU) for the Town of Colma, and obtain input from the City Council and the public. Staff will provide a presentation of the overview for the Council and the public during the meeting.

FISCAL IMPACT

The Zoning Code Update is a 2022-2023 Capital Improvement Project, and will be continued, briefly, into 2023-2024, and is anticipated to be adopted by late Fall 2023.

ENVIRONMENTAL

The project is exempt from CEQA under the common sense exemption at 15061(b)(3) as it can be seen with certainty that the Zoning Code Update will not have a significant effect on the environment.

BACKGROUND AND PROCESS

Government Code Section 65860 requires a city's Zoning Ordinance to be consistent with the General Plan. The various land uses authorized by Colma Municipal Code Chapter 5 – Planning, Zoning, Use & Development of Land & Improvements - must be compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The Town of Colma's General Plan Update was adopted on March 23, 2022. The Housing Element Update is still being reviewed by the State of California Housing and Community Development Department.

The Town has until January 31, 2024 to adopt a Zoning Code Update as required by the Town's Housing Element.

Changes to the Zoning Code with this Update

This Zoning Code Update incorporates changes based on the adopted General Plan Update and Housing Element Update for consistency with these plan documents, provides a more logical order, and makes it a more user-friendly document than the current one. Many sections of the ZCU have been changed in terms of their placement and new ones added. For ease of understanding how the Zoning Code has been modified, Staff has prepared a Zoning Code Update Outline for reference as provided in Attachment 1. This outline provides the proposed section number, title of the section, and indicates whether the section is an existing section with its respective section number or if it is a new section and/or map.

Two sections of the existing Town of Colma Municipal Code have been inserted into the Zoning Code including: 1) XXXVII. Solar: Small Residential Rooftop (was subchapter 5.05), and 2) XXXI. Public Trees (was subchapter 5.20).

New Zoning Code Subchapters

New sections have been added to the Zoning Code for consistency with the newly adopted General Plan and the Housing Element; and for an improved user-friendly document. The new sections of the Zoning Code consist of the following:

- Definitions
- Zone Boundaries
 - This section includes a new Zoning Map and Permitted Land Use Table.
- Commercial Overlay Zoning District (COD)
- Design Review Combining Zone (DR)
 - A map, Objective Design Standards (ODDS), and Manufactured Single Residential Objective Design Standards, and Accessory Dwelling Units (ADUs) Objective Design Standards have been inserted into this section.
- Housing Element Overlay Zone District (HEO)
- Housing Density Bonus
- Off-Street Parking Regulations
 - A Parking Standards Table has been inserted into this section.
- Accessory Buildings
- Other Uses
- Historic Design Review
- Inclusionary and Affordable Housing

The purpose for each of the new subchapters is discussed in the next section below of this staff report.

DISCUSSION

Definitions

A Definitions section has been inserted into the Zoning Code Update for easy reference of important terms.

Zone Boundaries

Both the updated Zoning Map, new Residential Zone Development Standards table, and new Land Use Table showing Permitted and Conditional Uses have been inserted into this section of the Zoning Code Update. All of these will provide easy reference.

COD - Commercial Overlay Zoning District

The COD designation has been added to the Zoning Code Update consistent with Colma's General Plan 2040 (adopted in March 23, 2022), that encompasses two sites: 1) on the east side of Hillside Boulevard with Sand Hill Road to the north and Lawndale Boulevard intersection to the south, totaling 32.8-acre contiguous area; and 2) the three-acre triangular-shaped Italian Cemetery property located east of El Camino Real and west of BART right-a-way (Figure LU.3 of Land Use Element of the Town's General Plan 2040). The COD, in addition to the district's initial land use designation (G zoning district), provides the general uses that are allowed in the commercial zones including commercial establishments, and the Commercial ("C") Zone development standards would apply pursuant to Colma Municipal Code Section 5.03.133. The purpose of the COD establishment is to extend the commercial zone in the Town to the two enlisted sites for greater economic development opportunities.

DR - Design Review Combining Zone

A map has been inserted into this zoning district section to illustrate where the Design Review Combining Zone is within the Town of Colma.

Objective Design Standards (ODDS): Senate Bill (SB) 35, Government Code section 65913.4, establishes a developer-initiated process to streamline the approval process for housing developments (i.e., those proposing two or more multifamily units) meeting specific criteria, including affordable housing requirements and labor requirements. Such housing projects will be eligible for ministerial approval, which means the project is exempt from environmental review under the California Environmental Quality Act (CEQA) and will be only subject to "objective" planning standards. In accordance with the State law, ODDS have been inserted into the Zoning Code Update. In addition to ODDS, Manufactured Single Residential Objective Design Standards have been established for 'R' residential zone and 'R-S' Sterling Park Neighborhood single-family residential projects, and Accessory Dwelling Units (ADU) Objective Design Standards for lots in a residential or mixed-use zone have been developed and inserted to this chapter of the Zoning Code Update.

Housing Element Overlay (HEO) Zone District

The Town of Colma's creation of a Housing Element Overlay Zoning District (HEO) is in response to the State of California's required Regional Housing Needs Allocation mandating additional 202

units of mixed-income levels housing during the 2023 – 2031 period by removing constraints to developing housing on the five opportunity sites in town. The HEO was included in the adopted Housing Element Update in January 2023. The HEO designation will allow for greater housing densities and support mixed-use developments on the opportunity sites. A few of the most impactful standards include removing minimum parking requirements within a half mile of public transit and density bonus amendments that will allow for projects consistent with the densities described in the Town's Land Use Element of the General Plan 2040. Additionally, as of July 1, 2023, the HEO will provide a ministerial pathway for California Environmental Quality Act (CEQA) exemption approval related to multi-family projects that pay prevailing wages and meet specified affordable housing targets.

Housing Density Bonus

The State of California's Density Bonus Law was enacted in 1979 to encourage the development of affordable housing. The law incentivizes developers to provide below market rate housing by allowing projects that provide affordable units to exceed normal density limits. Over time, the law has further promoted affordable housing by offering developers benefits such as cost reductions, waivers of development standards, and reductions in parking requirements. The most recent changes in the State's Density Bonus Law became effective on January 1, 2023.

This chapter has been updated and inserted into the Zoning Code Update and shall apply to all zoning districts that permit housing at a prescribed density by the General Plan land use designation and/or zoning district, in accordance with State Density Bonus Law (Government Code Section 65915 et seq.). This chapter works in conjunction with the Town's Inclusionary and Affordable Housing Ordinance - Town of Colma Municipal Code Chapter 5.03.199.

Off-Street Parking Regulations

For all zoning districts, the requirements for off-street parking and loading spaces for vehicles is provided in this subchapter. In addition, a Parking Standards Table has been included in this subchapter which lists the minimum parking requirements for each land use or activity.

Accessory Buildings

This subchapter defines detached accessory structures on private property and establishes development standards for nonexempt structures.

Other Uses

This is a general subchapter where a number of other uses and regulations has been included in this section which consist of the following: 1) Minor, short-term and temporary uses; 2) Home office use; 3) Home occupation use; 4) No net reduction in housing units; 5) Regulation of use of personal, medical, and commercial marijuana; 6) Restrictions and landscaping along El Camino Real; 7) Restrictions Applicable to Recreational Vehicles and Commercial Coaches; 8) Restrictions Applicable to Dumps; and 9) Restrictions Applicable to Retail Merchandise Unit Vendors.

Historic Design Review

A Historic Design Review subchapter has been included into the Zoning Code Update. This new chapter includes procedures for projects that require a land use or building permit which effect the exterior of a historic structure or property.

Inclusionary and Affordable Housing

An Inclusionary and Affordable Housing subchapter has been updated with the Zoning Code Update. Inclusionary zoning is a tool used to integrate affordable units within market rate developments. This revised subchapter implements State policy, Government Code Section 65580, that declares that local governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing and to make adequate provision for the housing needs of all economic segments of the community. The chapter also implements the housing element of the General Plan, which calls for the adoption of an inclusionary housing program in order to expand and protect opportunities for households of all income levels to find housing in the Town of Colma and afford a greater choice of rental and homeownership opportunities. In addition, this chapter advances the Town's legitimate interest in providing additional housing affordable to all income levels and dispersed throughout the Town, and achieving an economically balanced community by requiring construction of moderate income housing.

The Zoning Code Update document will be provided to the City Council at this item's first public hearing in the future. Please refer to Attachment 2 for the proposed Zoning Map.

Next Steps

The schedule for the Zoning Code Update is contingent upon adoption of the Housing Element Update which is still under review by the State of California Housing and Community Development Department. It is anticipated that the Housing Element Update will be reviewed and adopted by the State of California Housing and Community Development Department in October. Subsequently, it will be forwarded to the City Council for review and adoption. Thereafter, the Zoning Code Update will be reviewed by the City Council at a public hearing in October or November, with a second reading and adoption in November. Under this timeline, the Zoning Code Update would become effective 30 days later, in December 2023.

CONCLUSION

Staff recommends that the City Council receive comments from the public and provide direction and comments to staff based on the review of this report, staff presentation at the City Council meeting, and comments from the public.

ATTACHMENTS

- A. Zoning Update Outline
- B. Zoning Map



Zoning Code Update Outline (revised 7.20.2023)

Proposed		Existing Code or New
5.03.010	Title	5.03.010
5.03.020	Purpose	5.03.020
5.03.030	Definitions	<i>New section</i>
5.03.040	General Prohibition	5.03.030
5.03.050	Zones & Boundaries Thereof	5.03.040
5.03.060	Zone Boundaries	5.03.050
		Add Zoning Map
		Table 1: Residential Zone Development Standards
		Table 2: Non-Residential Zone Development Standards
		Table 3: Permitted Land Use Table
	I. "G" – Golf and Cemetery Zone	5.03.060
5.03.070	Regulations Established	
5.03.071	Permitted Uses	5.03.060(b)
5.03.072	"G" – Golf and Cemetery Zone Development Standards	5.03.060
	II. "R" – Residential Zone	5.03.070
5.03.080	Regulations Established	
5.03.081	Permitted Uses	
5.03.082	"R" – Residential Zone Development Standards	5.03.260
	III. "R-S" – Sterling Park Neighborhood Zone	
5.03.090	Regulations Established	
5.03.091	Permitted Uses	
5.03.092	"R-S" – Sterling Park Neighborhood Zone Development Standards	5.03.260
	IV. Accessory Dwelling Units (ADUs)	Was subchapter 5.19
5.03.100	Purpose	
5.03.101	Definitions	5.19.030
5.03.102	Effect of Conforming Accessory Dwelling Units	5.19.030
5.03.103	Approvals	5.19.040
5.03.104	General ADU and JADU Requirements	5.19.050
5.03.105	Specific ADU Requirements	5.19.060
5.03.106	Deed Restriction	5.19.070
5.03.107	Fees	5.19.080
5.03.108	Nonconforming ADUs and Discretionary Approvals	5.19.090

	V. Large Family Day Care Homes	5.03.085
5.03.110	Purpose	
5.03.111	Standards for Permitting Large Family Day Care Homes	
	VI. Regulation of Multi-Family Uses in Single Family Residential Zones	5.03.280
5.03.120	Purpose	
	VII. "C" – Commercial Zone	5.03.090
5.03.130	Regulations Established	
5.03.131	Purpose	
5.03.132	Permitted Uses	
5.03.133	"C" – Commercial Zone Development Standards	5.03.090
	VIII. "COD" – Commercial Overlay Zoning District	New subchapter
5.03.140	Regulations	
5.03.141	Purpose	
	IX. "DR" – Design Review Combining Zone	5.03.300
5.03.150	Regulations Established	New map inserted
5.03.151	Purpose	
5.03.152	"DR" – Design Review Combining District- Development Standards and Procedures	5.03.300
5.03.153	Restrictions and Procedures Applicable to the "DR" Design Review Zone	5.03.300
5.03.154	Objective Design Standards (ODDS) for PD & C Zone	New section
5.03.155	Manufactured Single Residential Objective Design Standards	New section
5.03.156	Accessory Dwelling Units (ADUs) Objective Design Standards	New section
	X. "P" – Public Zone	5.03.310
5.03.160	Regulations Established	
5.03.161	Purpose	
5.03.162	Permitted Uses	
5.03.163	"P" – Public Zone Development Standards	5.03.310
5.03.170	XI. "E" – Executive, Administrative Zone	5.03.330
	Regulations Established	
5.03.171	Permitted Uses	
5.03.172	"E" – Executive, Administrative Zone Development Standards	5.03.330

	XII. "PD" – Planned Development District Zone	5.03.130
5.03.180	Regulations Established	
5.03.181	Purpose	
5.03.182	Permitted Uses	5.03.130
5.03.183	Establishment of PD – Planned Development Districts	5.03.140
		New map inserted
5.03.184	Conceptual Development Plan Required	5.03.150
5.03.185	Conditional Uses	5.03.160
5.03.186	Detailed Development Plan	5.03.170
5.03.187	"PD" Design Standards	5.03.180
5.03.188	"PD" Open Space and Density	5.03.190
5.03.189	"PD" Amendment of Development Plan	5.03.200
5.03.190	"PD" Development Schedule	5.03.210
5.03.191	"PD" Revocation of Use Permit	5.03.220
	XIII. "HEO" Housing Element Overlay Zone District	New subchapter
5.03.195	Purpose	New map inserted
	XIV. Housing Density Bonus	
5.03.197	Purpose	
5.03.198	Density Bonus & Affordable Housing Incentive	
	XV. Inclusionary and Affordable Housing	New subchapter
5.03.199	In-Lieu Fees and Impact Fees	
5.03.200	Housing Fund	
5.03.201	Purposes and Uses of Housing Fund	
5.03.202	Affordability Requirement for Residential Development	
5.03.203	Exemptions	
5.03.204	Basic Requirements for Inclusionary Units	
5.03.205	Alternative Equivalent Actions	
5.03.206	Compliance Procedures	
5.03.207	Eligibility for Inclusionary Units	
5.03.208	Owner Occupied Units	
5.03.209	Rental Units	
5.03.210	Delegation of Authority	
5.03.211	Adjustments, Waivers	
5.03.212	Enforcement Provisions	
	XVI. F" – Flood Zone	5.03.320
5.03.215	Regulations Established	
5.03.216	Purpose	
5.03.217	Restriction Applicable to "F" Zone	5.03.320

	XVII. "T" – Transit Zone	5.03.340
5.03.218	Regulations Established	
5.03.219	"T" – Transit Zone Development Standards	5.03.340
5.03.220	XVIII. Development Standards Applicable to All Zones	5.03.350
	XIX. Off-Street Parking Regulations	New subchapter
5.03.230	Purpose	
5.03.231	Applicability	
5.03.232	Parking Standards	
5.30.233	Calculation of Parking	
5.03.234	Location of Required Parking Standard	New Parking Table inserted
	IXX. Conditional Uses	5.03.400
5.03.240	Purpose	
5.03.241	Application for Use Permit	5.03.400
5.03.242	Standards for Granting Use Permit	5.03.410
5.03.243	Effective Date of Decision to Grant or Deny Use Permit; Reconsideration	5.03.420
5.03.244	Lapse of Use Permit; Extension	5.03.422
5.03.245	Duration of Use Permit	5.03.424
5.03.246	Revocation of Use Permit	5.03.430
	XX. Temporary Use Permits	5.03.610
5.03.250	Purpose	
5.03.251	Permit Required; Effective Date	5.03.620
5.03.252	Application Process; No Public Hearing	5.03.630
5.03.253	Tier 1 Temporary Uses	5.03.640
5.03.254	Tier 2 Temporary Uses	5.03.650
5.03.255	Required Findings	5.03.660
5.03.256	Conditions of Approval	5.03.670
5.03.257	Term; Extension	5.03.680
5.03.258	Revocation	5.03.690
5.03.259	Appeal	5.03.700
5.03.260	Posting	5.03.710
	XXI. Variance	5.03.450
5.03.270	Purpose	
5.03.271	Application for Variance	5.03.450
5.03.272	Standards for Granting a Variance	5.03.460
5.03.273	Effective Date of Variance	5.03.470
	XXII. Amendment	5.03.480
5.03.280	Purpose	

5.03.281	Application for Amendment	5.03.480
5.03.282	Standards for Adopting Amendments to Zoning Ordinance	5.03.490
5.03.283	Compliance	5.03.500
5.03.284	Interpretation, Purpose, Conflict	5.03.510
	XXIII. Administrative Permits	5.03.520
5.03.290	Purpose	
	XXIV. Accessory Buildings	New subchapter
5.03.300	Purpose	
	XXV. Non-Conforming Building and Uses	5.03.440
5.03.310	Purpose	
	XXVI. Other Uses	New subchapter
5.03.350	Minor, Short-term, and Temporary Uses	5.03.230
5.03.351	Home Office Use – Purpose and Recitals	5.03.232
5.03.352	Home Office Use – Scope and Prohibition	
5.03.353	Home Office Use – Zoning Clearance; Prohibited Activities	
5.03.354	Home Office Use – Zoning Clearance Process	
5.03.355	Home Occupation Use – Conditional Use Permit Required	
5.03.356	Home Occupation Use or Cottage Food Operation – Conditional Use Permit Required	
5.03.357	No Net Reduction in Housing Units	5.03.345
5.03.358	Regulation of Use of Personal, Medical, and Commercial Marijuana	5.03.355
5.03.359	Restrictions and Landscaping Along El Camino Real	5.03.360
5.03.360	Restrictions Applicable to Recreational Vehicles and Commercial Coaches	5.03.370
5.03.361	Restrictions Applicable to Dumps	5.03.380
5.03.362	Restrictions Applicable to RMU Vendors	5.03.390
	XXVII. Solar: Small Residential Rooftop Solar	Was subchapter 5.05
5.03.420	Applicability and Purpose	
5.03.421	Definitions	
5.03.422	Basic Requirements	
5.03.423	Applicant Obligations	
5.03.424	Electronic Processing	
5.03.425	Application Review	
5.03.426	Administrative Use Permit	
5.03.427	Inspections	
5.03.428	Exempt	New section

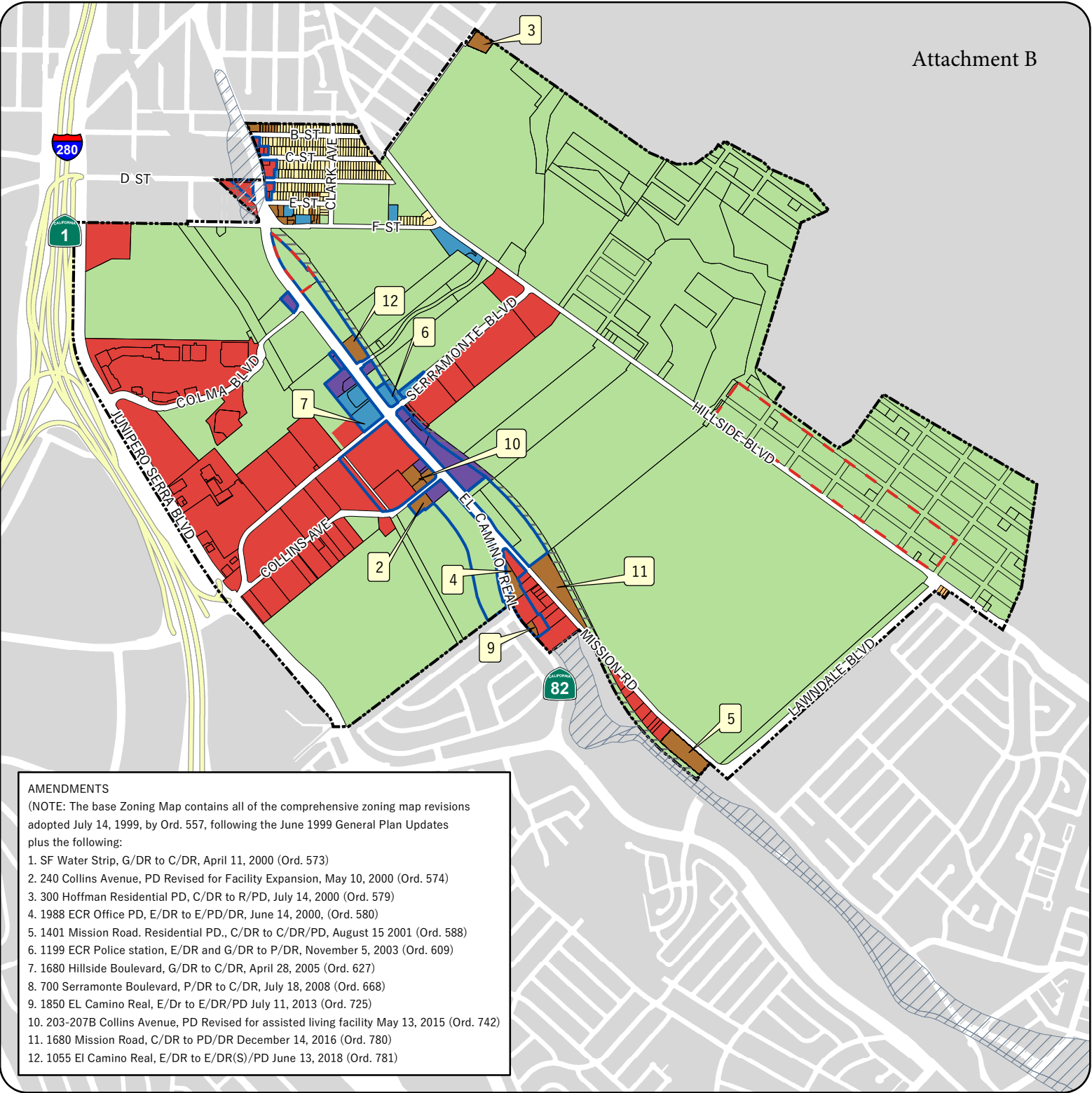
	XXVIII. Historic Design Review	New subchapter
5.03.430	Purpose	
5.03.431	Applicability of Historic Design Review	
5.03.432	Definitions	
5.03.433	Historic Design Review Procedures	
5.03.434	Findings and Decision	
5.03.435	Conformance to Plans	

	XXIX. Tree Cutting and Removal	Modifications
5.03.500	Purpose and Findings	
5.03.501	Definitions	
5.03.502	Removal or Alteration of Trees Without a Permit Prohibited	
5.03.503	Decision Making Body	
5.03.504	Permit Procedures	
5.03.505	Exceptions	
5.03.506	Appeal	
5.03.507	Penalties	

	XXXI. Public Trees	Was subchapter 5.20
5.03.600	Purpose	
5.03.601	Definitions	
5.03.602	Administration	
5.03.603	Interference with City Employees, Contractors or Representatives	
5.03.604	Public Tree Care	
5.03.605	Destruction of Public Trees Unlawful	
5.03.606	Exceptions	
5.03.607	Town Tree Master Plan	
5.03.608	Master Tree List	
5.03.609	Prohibited Trees	

Town of Colma

Zoning Map



Town Limits

Zoning

- 'C' - Commercial
- 'E' - Executive Administrative
- 'G' - Golf and Cemetery Zone
- 'P' - Public
- 'PD' - Planned Development
- 'R' - Residential
- 'R-S' - Neighborhood Residential

Overlay Zone

- Transit
- DR(s) - Spanish/Mediterranean
- Commercial Overlay
- FEMA Flood Hazard Zone

- AMENDMENTS**
 (NOTE: The base Zoning Map contains all of the comprehensive zoning map revisions adopted July 14, 1999, by Ord. 557, following the June 1999 General Plan Updates plus the following:
1. SF Water Strip, G/DR to C/DR, April 11, 2000 (Ord. 573)
 2. 240 Collins Avenue, PD Revised for Facility Expansion, May 10, 2000 (Ord. 574)
 3. 300 Hoffman Residential PD, C/DR to R/PD, July 14, 2000 (Ord. 579)
 4. 1988 ECR Office PD, E/DR to E/PD/DR, June 14, 2000, (Ord. 580)
 5. 1401 Mission Road, Residential PD., C/DR to C/DR/PD, August 15 2001 (Ord. 588)
 6. 1199 ECR Police station, E/DR and G/DR to P/DR, November 5, 2003 (Ord. 609)
 7. 1680 Hillside Boulevard, G/DR to C/DR, April 28, 2005 (Ord. 627)
 8. 700 Serramonte Boulevard, P/DR to C/DR, July 18, 2008 (Ord. 668)
 9. 1850 EL Camino Real, E/Dr to E/DR/PD July 11, 2013 (Ord. 725)
 10. 203-207B Collins Avenue, PD Revised for assisted living facility May 13, 2015 (Ord. 742)
 11. 1680 Mission Road, C/DR to PD/DR December 14, 2016 (Ord. 780)
 12. 1055 El Camino Real, E/DR to E/DR(S)/PD June 13, 2018 (Ord. 781)

Data provided by: Town of Colma, San Mateo County, and Caltrans.

