CHAPTER ONE: ORGANIZATION, FUNCTIONS AND GENERAL PROVISIONS

Subchapter 1.12 – Identity Theft Prevention Program

1.12.010 Purpose.

(a) The Fair and Accurate Credit Transaction Act of 2003 ("FACTA"), section 114, as implemented by the Red Flag Rules, 16 C.F.R. § 681.2, issued by the Federal Trade Commission along with other federal agencies requires creditors of Customer Accounts to implement an Identity Theft Prevention Program. Pursuant to the regulations, Town of Colma is a creditor because it provides services to customers prior to receipt of payment through Customer Accounts, including utility service accounts, which are maintained primarily for personal, family or household purposes and involve multiple payments or transactions, and for which there is a reasonably foreseeable risk of Identity Theft. Therefore, Town of Colma is required to implement an Identity Theft Prevention Program.

(b) The purpose of this Identify Theft Prevention Program ("Program") is to detect, prevent and mitigate Identity Theft in connection with all Customer Accounts, taking into consideration the level of risk for Identity Theft given the Town's scope of services provided and the types of accounts. This Program is created to identify patterns, practices and specific activities that indicate the possible existence of Identity Theft, hereinafter referred to as "Red Flags." The Program sets forth the procedures for detecting Red Flags and responding to Red Flags when discovered.

[*History*: Res. 2009-08, 3/11/09]

1.12.020 Definitions.

"Red Flag" shall mean a pattern, practice or specific activity that indicates the possible existence of Identity Theft as defined in the Red Flag Rules, and as specifically enumerated in section 1.12.050 below. (16 Code of Federal Regulations [C.F.R.] § 681.2.)

"Identity Theft" shall mean a fraud committed or attempted using the Personal Identifying Information of another person without his/her authority. (16 C.F.R. 603.2 (a).)

"Covered Account" means an account, including a utility service account, which is maintained primarily for personal, family or household purposes and involves multiple payments or transactions, and for which there is a reasonably foreseeable risk of Identity Theft.

"Customer Account" shall mean an account determined by the City Manager as constituting a "Covered Account" under the Red Flag Rules.

"Personal Identifying Information" shall mean information that may be used to identify a specific person, including, but not limited to, a social security number, date of birth, government issued driver's license or identification number, government passport number, unique biometric data such as fingerprints or physical appearance, any unique electronic identification number, telephone number or address.

[*History*: Res. 2009-08, 3/11/09]

1.12.030 Designation Of Authority.

(a) The City Council of Town of Colma designates the authority to develop, oversee, implement and administer the Program to the City Manager.

(b) The City Manager shall designate, in writing, each type of account that constitutes a Covered Account under the Red Flag Rules and is, therefore, subject to this Program.

(c) The City Manager shall review and approve all material changes to the Program as necessary to address changing Identity Theft risks. The City Manager is also responsible for reviewing reports prepared by Town of Colma's staff regarding Town of Colma's compliance with FACTA and the Red Flag Rules requiring the implementation of an Identity Theft Prevention Program.

[*History*: Res. 2009-08, 3/11/09]

1.12.040 Compliance Reports.

(a) The City Manager will designate Town of Colma staff involved with the implementation of the Program to prepare reports regarding Town's compliance with FACTA and the Red Flag Rules requiring the implementation of an Identity Theft Prevention Program. The reports should address material matters related to the Program, such as the following:

(1) The effectiveness of the Town's policies and procedures to address the risk of Identity Theft in connection with opening Customer Accounts, as well as with existing accounts. This includes identifying any issues related to identifying, detecting and responding to Red Flags;

(2) Third party service provider arrangements;

(3) Significant incidents of Identity Theft or Red Flag detection, and Town's responses to those incidents; and

(4) Recommendations for material changes to the program to ensure that Customer Accounts are adequately protected from the risk of Identity Theft.

(b) The reports should be prepared at least annually for review by the City Manager or the City Council.

[*History*: Res. 2009-08, 3/11/09]

1.12.050 Red Flags Identified By Town Of Colma.

(a) In identifying the Red Flags applicable to Town of Colma's Customer Accounts, Town of Colma considered the following risk factors:

(1) The types of accounts the Town maintains;

(2) The methods Town provides to open Customer Accounts;

(3) The methods Town provides to access to Customers' Accounts; and

(4) Town's previous experiences with Identity Theft in connection with the Customer Accounts.

(b) The Red Flags identified in this Program have been incorporated from sources, which include supervisory guidance, past incidents of Identity Theft, and changes in methods of Identity Theft risk.

(c) Town's Identified Red Flags are as Follows:

Alerts, Notifications or Other Warnings Received From Internal Sources or Service Providers Providing Fraud Protection Services:

- Fraud or active duty alerts from consumer reports;
- Notice of a credit freeze from a consumer reporting agency in response to request for a consumer report;
- Notice of address discrepancy provided by a consumer reporting agency;
- A consumer report indicates a pattern of activity that is inconsistent with the history or usual pattern of activity of a customer or applicant;
- Recent significant increase in the volume of inquiries of the customer's credit;
- Unusual number of recently established credit relationships;
- A material change in the use of credit, especially in regards to credit relationships recently established; and
- A customer had an account with Town of Colma or any other creditor that was closed for cause or identified for abuse of account privileges.

Suspicious Personal Identifying Information:

- Personal information provided is inconsistent with information provided by an external source, for example where the address provided does not match the address contained in a consumer report;
- Personal identifying information is inconsistent with other Personal Identifying Information provided by the customer, such as a date of birth and the social security number range that do not correlate;
- Personal identifying information provided is associated with known fraudulent activity, as indicated by internal or third-party sources, such as the address or phone number on an application was previously provided on another fraudulent application;
- Personal identifying information is of a type commonly associated with fraudulent activity, as indicated by internal or third-party sources, such as a fictitious address, or an invalid phone number;
- The social security number provided is the same as the social security number of another applicant attempting to open an account or an existing customer;
- The address or telephone number provided is the same as other individuals attempting to open an account or existing customers;
- The individual opening the account cannot provide all of the required Personal Identifying Information for an application;
- Personal identifying information is inconsistent with the information provided by the customer on file with Town of Colma; and
- Where challenge questions are used by Town of Colma to verify the identity of an individual, the individual claiming to be the customer cannot answer challenge questions correctly.

Unusual Use of or Other Suspicious Activity Related to a Customer Account:

- Shortly after receiving a notice of change of address for the account, Town of Colma receives a request to add another name to the account;
- A new account is used in a manner commonly associated with known patterns of fraud, such as a first payment is made, and then no subsequent payments are made;
- An account is used in a manner inconsistent with the established pattern of activity for the account, such as a nonpayment where there was never been a late or missed payment;
- An inactive account becomes active;
- Mail sent to the customer is returned repeatedly;
- Town is notified that a customer is not receiving his/her paper account statements; and
- Town is notified of unauthorized transactions on a customer's account.

Notice of Possible Identity Theft:

- Town is notified by a customer of possible Identity Theft in connection with his/her account;
- Town is notified by a victim of Identity Theft of possible Identity Theft in connection with a Customer Account;
- Town is notified by law enforcement of possible Identity Theft in connection with a Customer Account; and
- Town is notified by others of possible Identity Theft in connection with a Customer Account.

[*History*: Res. 2009-08, 3/11/09]

1.12.060 Procedures For Detecting Red Flags.

(a) The following procedures are being implemented by the Town to detect the Red Flags identified with opening of accounts and existing accounts identified above:

(1) Obtain Personal Identifying Information of an individual to verify his/her identity prior to opening an account;

(2) Authenticate the identity of customers when they are requesting information about their accounts;

(3) Authenticate the identity of customers when they are requesting to make any changes to their accounts;

(4) Verify the validity of all billing address change requests;

(5) Conduct a credit check when opening a new account;

(6) Monitor transactions; and

(7) Verify all requests to change banking information used for payment purposes.

(b) Members of the Town's staff will be assigned and trained to detect Red Flags.

(c) In addition, the Town may employ the services of a third party service provider and/or utilize computer software programs to assist in detecting Red Flags.

[*History*: Res. 2009-08, 3/11/09]

1.12.070 Address Discrepancies In Consumer Credit Reports.

(a) *Verification Requirement.* Title 15 of the Code of Federal Regulations, section 1681c, requires consumer reporting agencies to notify a requestor in writing, such as Town of Colma, where the address provided by the Town of Colma for a consumer substantially differs from the address the consumer reporting agency has on file for that consumer.

(b) *Identity of Consumer.* Upon receipt of a notice of an address discrepancy for a consumer, the Red Flag Rules, 16 C.F.R. § 681.1, require Town of Colma to verify the identity of the consumer for whom the consumer report was obtained in order to form a reasonable belief that the Town knows the identity of the consumer through one or more of the following methods:

(1) Verify the information in the consumer report with the consumer;

(2) Verify the consumer's address through the records of applications, address change notifications, and other account records for the consumer maintained by Town or retained CIP documentation;

(3) Verify the consumer's address through information from third-parties; or

(4) Use any other reasonable means.

(c) *Newly Established Accounts.* For newly established accounts for which a notice of address discrepancy was received, Town must

provide to the consumer reporting agency that furnished the notice of address discrepancy the address that Town of Colma has reasonably confirmed to be accurate if:

(1) Town of Colma can form a reasonable belief that the consumer report relates to the consumer for whom the report was requested;

(2) Town of Colma establishes a continuing relationship with the consumer; and

(3) Town of Colma, in the ordinary course of business, regularly provides information to the consumer reporting agency from which the notice of address discrepancy was obtained.

(d) *How to Verify an Address.* The consumer's address can be confirmed through the following methods:

(1) Verify the information in the consumer report with the consumer;

(2) Verify the consumer's address through the records of applications, address change notifications, and other account records for the consumer maintained by Town;

(3) Verify the consumer's address through information from third-parties; or

(4) Use any other reasonable means.

(e) *Notice of Reporting Agency.* Town of Colma must provide the consumer reporting agency the address that Town of Colma has reasonably confirmed to be accurate as part of the information Town of Colma regularly furnishes for the reporting period in which Town of Colma establishes a relationship with the consumer.

(f) *Red Flags.* A notice of address discrepancy constitutes a Red Flag, and Town will take the necessary action to respond appropriately.

[*History*: Res. 2009-08, 3/11/09]

1.12.080 Procedures For Responding To Red Flags

(a) In order to prevent and mitigate Identity Theft, and after taking into consideration the risks of Identity Theft applicable to the Customer Accounts, Town of Colma implements the following procedures to respond to all Red Flags that are discovered. One or more of these procedures will be used each time a Red Flag is detected:

(1) Monitor accounts for evidence of Identity Theft;

(2) Contact the Customer;

(3) Change or add a password, security code or other device that provides access to the account;

(4) Reopen an account with a new account number;

(5) Close an existing account;

(6) Not open a new account;

(7) Not attempting to collect on an account;

(8) Notify law enforcement;

(9) Determine that no response is warranted given the particular circumstances;

(10) Ask the customer to appear in person with government issued identification;

(11) Do not provide account information to anyone other than the account holder, or other individual authorized by the account holder;

(12) Update all account information;

(13) Initiate an investigation;

(14) Deactivate payment method, such as a credit card registered for online payment; or

(15) Connect or disconnect service.

(b) In addition to any of the actions above, the City Manager will be notified of any Red Flags discovered.

[*History*: Res. 2009-08, 3/11/09]

1.12.090 Training Of Staff.

(a) Town of Colma staff that will be directly involved with opening customers' account or servicing Customer Accounts in a manner that would place them in a position to detect Red Flags, or allow them access to customers' private information shall be trained to detect Red Flags and appropriately respond when Red Flags are discovered. Town's staff participation is crucial to the effective implementation of this Program.

(b) The City Manager will oversee all staff training to ensure that training is adequate to ensure effective implementation of the Program.

[*History*: Res. 2009-08, 3/11/09]

1.12.100 Periodic Identification Of Customer Accounts.

(1) The City Manager will periodically review the types of accounts it maintains for customers to determine which are Covered Accounts under the Red Flag Rules, and therefore are subject to this Program.

[*History*: Res. 2009-08, 3/11/09]

1.12.110 Periodic Update Of The Program.

(a) This Program shall be updated periodically to ensure that the identified Red Flags, the procedures to detect Red Flags, and the responses to the Red Flags when discovered adequately protect customers from Identity Theft. The updating of the Program should take into consideration any changes in the customers' level of risk of Identity Theft by looking at the following factors:

(1) Town's recent experiences with Identity Theft in connection with the Customer Accounts;

(2) Changes in methods of Identity Theft;

(3) Changes in methods of detecting, preventing and mitigating Identity Theft;

(4) Changes in the types of Customer Accounts offered; and

(5) Changes in arrangements with any third-party service providers involved in the implementation of the Program.

(b) Town of Colma staff or the City Manager may recommend modifications to the Program. However, any modification to the Program may not be implemented unless first approved by the City Council.

[*History*: Res. 2009-08, 3/11/09]