# CHAPTER THREE – PERSONNEL POLICIES

## SUBCHAPTER 3.01 – GENERAL

### 3.01.010 Goals

These policies are adopted by the City Council of the Town of Colma to further the following goals:

(1) To establish a uniform system of personnel administration;

(2) To provide that all employment actions are based upon employees' qualifications and performance and are in compliance with federal and state laws;

(3) To assist managers in the development of sound management practices and procedures and to make effective consistent use of human resources throughout the Town;

(4) To promote communication between management, supervisors and employees; and

(5) To establish, protect and clarify the rights and responsibilities of employees.

### 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 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 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.

## 3.01.050 Delegation of Authority

The City Manager may delegate his or her authority, except where delegation is limited or prohibited.

## 3.01.060 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 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) 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 information contained in the personnel file will be limited to Town employees and city officers who require the information to perform their duties, e.g., City Manager, Assistant City Manager, City Attorney, Human Resources Manager, 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, Human Resources Manager 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]

## 3.01.070 Employee Identification Cards

(a) The Town shall issue employee identification cards to all employees except where determined otherwise by the City Manager, e.g., for temporary employees.

(b) An employee shall carry his or her identification card at all times when acting in an official capacity and shall, upon request, present the identification card to a member of the public or another Town employee.

(c) Unauthorized or inappropriate use of the employee identification card is prohibited and will result in disciplinary action.

(d) Each employee is required to immediately report a lost, damaged or destroyed employee identification card to his or her Department Director. Each employee is required to immediately report accurate and timely updates of information contained on the employee identification card.

(e) All identification cards remain the property of the Town and shall be returned to the Department Director upon termination of employment or by request of the City Manager.

(f) All requests for re-issuance of employee identification cards shall be made by the employee to the Department Director. All old identification cards shall be returned to the Department Director before issuance of a new card. Old identification cards shall be destroyed or rendered unusable.

(g) The Police Department may issue a Department-wide employee identification card subject to the rules above.

## 3.01.080 Employee's Responsibilities

The failure of any Department Director, supervisor or other official to comply with any duty or to provide notice of an obligation prescribed by this Chapter shall not excuse an employee from performing any duty required by this Chapter.

## 3.01.090 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]

### 3.01.100 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.

*Immediate Relative* means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, Registered Domestic Partner, or the spouse of any such persons and any person related by blood or marriage who resides in the subject person's home.

*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.

*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, marital status, sex, age, or sexual orientation, except where the characteristic is a *bona fide* occupational qualification.

[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 anniversary of the most recent date the employee was hired, promoted, demoted or transferred.

*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).