CHAPTER THREE. PERSONNEL POLICIES

Subchapter 3.09: Employer-Employee Relations

Division 1 - General

3.09.010 Statement of Purpose.

(a) This subchapter implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the Town and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law and Town ordinances, resolutions and rules which establish and regulate the personnel system, or which provide for other methods of administering employer-employee relations. This resolution is intended, instead, to strengthen the existing system of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the Town.

(b) It is the purpose of this chapter to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. It is the purpose of this resolution to maintain open channels of communication that permit the exchange of information and ideas in a cooperative and informal manner. This resolution is also intended to bring together the points of view of management and the employees. However, nothing herein shall be construed to restrict any legal or inherent exclusive Town rights with respect to matters of general legislative or managerial policy, which include among others: the exclusive right to determine the mission of its constituent departments; set standards of service; establish and modify contents of job descriptions; determine the procedures and standards of selection for employment including the content of job announcements and the determination whether minimum qualifications are met; direct its employees; take disciplinary action; inquire and investigate regarding complaints or concerns about employee performance deficiencies or misconduct of any sort, including the right to require employees to appear, respond truthfully and cooperate in good faith regarding Town investigations; relieve its employees from duty because of lack of work or for other lawful reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

[Formerly 1.02.010]

[*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]

3.09.020 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]

3.09.030 Right to Join Employee Organizations, Designation of Units.

(a) Membership or non-membership in an employee organization is not a condition of employment. Except as otherwise provided or authorized by law, employees of the Town shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation in accordance with this resolution. Employees of the Town also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the Town. No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against by the Town or by any employee organization because of his/her exercise of the rights set forth in this paragraph.

(b) The City Council hereby designates the Colma Police Officer and Colma Police Sergeant classifications and positions as full-time peace officers. Police Officers and Sergeants may join, participate in and be represented in units composed solely of such peace officers. These units shall not be subordinate to any other employee organization which includes non-peace officers.

(c) Professional employees shall not be denied the right to be represented separately from non-professional employees by a professional employee organization consisting of professional employees. For purposes of this section, "professional employees" means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction.

(d) The Employee Relations Officers shall, after notice to and consultation with affected employee organizations, and with the approval of the City Council, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this section.

[Formerly 1.02.090]

[*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. 2008-24, 10/8/08]

3.09.040 Policy and Standards for Determination of Appropriate Units.

(a) The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on:

(1) The efficient operations of the Town and its compatibility with the primary responsibility of the Town and its employees to effectively and economically serve the public; and

(2) Providing employees with effective representation based on recognized community of interest considerations.

(b) These policy objectives require grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

(1) Similarity of the general kinds of work performed, types of qualifications required; and the general working conditions; and

(2) History of representation in the Town and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized; and

(3) Consistency with the organizational patterns of the Town; and

(4) Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units; and

(5) Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

(c) Notwithstanding the foregoing provisions of this section, managerial and confidential responsibilities, as defined in Section 3.09.020 of this chapter, are determining factors in establishing appropriate units hereunder, and therefore managerial and confidential employees may only be included in units that do not include non-managerial and non-confidential employees.

(d) Managerial and confidential employees may not represent any employee organization which represents other employees.

(e) The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, and with the approval of the City Council, allocate new classifications or positions, delete eliminated classifications or positions, and retain, re-allocate or delete modified classifications or positions from units in accordance with the provisions of this section.

[Formerly 1.02.080]

[*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]

Division 2 - Representation Proceedings

3.09.050 Filing of Recognition Petition by Employee Organization.

(a) An employee organization that seeks to be formally acknowledged as the Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

(1) Name and address of the employee organization; and

(2) Names and titles of its officers; and

(3) Names of employee organization representatives who are authorized to speak on behalf of the organization; and

(4) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the Town; and

(5) A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization and, if so, the name and address of each such other organization; and

(6) Certified copies of the employee organization's constitution and bylaws; and

(7) A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose; and

(8) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age, or physical disability or other protected classes under state and federal law; and

(9) The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein; and

(10) A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the Town. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party; and

(11) A request that the Employee Relations Officer formally acknowledge the petitioner as Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

(b) The petition, including the proof of employee support, and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

[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]

3.09.060 Town Determination.

(a) Upon receipt of the petition, the Employee Relations Officer shall determine whether:

(1) There has been compliance with the requirements of the Recognition Petition; and

(2) The proposed representation unit is an appropriate unit in accordance with Sections 3.09.030 and 3.09.040.

(b) If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization and all other Recognized Employee Organizations, shall give written notice of such request for recognition to the employees in the unit, and shall take no action on said request for thirty (30) days thereafter.

(c) If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section 3.09.110.

[Formerly 1.02.040]

[*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]

3.09.070 Open Period for Filing Challenging Petition.

(a) Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the Recognized Employee Organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classification for positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) per cent and otherwise in the same form and manner as set forth in Section 3.09.050. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Sections 3.09.030 and 3.09.040. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to confirm to such determination or to appeal such determination pursuant to Section 3.09.110.

(b) The City shall grant formal recognition as a Recognized Employee Organization based on a signed petition, authorization cards, or union membership cards showing that a majority of the employees in an appropriate unit desire the representation, unless another employee organization has previously been lawfully recognized as the Recognized Employee Organization of all or part of the same unit. Recognized Employee Organization status shall be determined by a neutral third party selected by the City and the employee organization who shall review the signed petition, authorization cards, or union membership cards to verify the Recognized Employee Organization status of the employee organization. In the event the City and the employee organization cannot agree on a neutral third party, the Division of Conciliation of the Department of Industrial Relations shall be the neutral third party and shall verify the exclusive or majority status of the employee organization. In the event that the neutral third party determines, based on a signed petition, authorization cards, or union membership cards, that a second labor organization has the support of at least 30 percent of the employees in the unit in which recognition is sought, the neutral third party shall order an election, in accordance with Section 3.09.080, to establish which labor organization, if any, has majority status.

[Formerly 1.02.050]

[*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]

3.09.080 Election Procedure.

(a) Except as provided otherwise in Section 3.09.070(b), if indicated by a recognition petition (Section 3.09.050); a challenging petition (Section 3.09.070); a decertification of recognition petition (Section 3.09.090), the Employee Relations Officer shall arrange for a secret ballot election to be conducted by the Employee Relations Officer in accordance with its rules and procedures, subject to the provisions of this resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Division 2 hereof shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the Town. Employees entitled to vote in such election shall be those persons employed in positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the Town in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Recognized Employee Organization for the designated appropriate unit following an election or run-off election, if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

(b) There shall be no more than one valid election under this resolution pursuant to any petition in a 12-month period affecting the same unit.

[Formerly 1.02.060]

[*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]

3.09.090 Procedure for Decertification of Recognized Employee Organization.

(a) A decertification petition alleging that the incumbent Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer. A decertification petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

(1) The name, address and telephone number of the petitioner and a designated representatives authorized to receive notices or requests for further information; and

(2) The name of the established appropriate unit and of the incumbent Recognized Employee Organization sought to be decertified as the representative of that unit; and

(3) An allegation that the incumbent Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto; and

(4) Proof of employee support that at least thirty (30) per cent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.

(b) An employee organization may, in satisfaction of the decertification petition requirements hereunder, file a petition under this section in the form of a recognition petition that evidences proof of employee support of at least thirty (30) per cent and otherwise conforms to the requirements of Sections 3.09.030 and 3.09.040.

(c) The Employee Relations Officer shall initially determine whether the petition has been filed in compliance with the applicable provisions of this Division 2 hereof.

(1) If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 3.09.110.

(2) If the determination of the Employee Relations Officer is in the affirmative, or if his negative determination is reversed on appeal, he/she shall give written notice of such decertification or recognition petition to the incumbent Recognized Employee Organization and to unit employees.

(d) The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a recognition petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 3.09.080.

(e) The Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Recognized Employee Organization, give notice to that organization, all other Recognized Employee Organizations and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may, within fifteen (15) days of such notice, file a recognition petition in accordance with Section 3.09.050, which the Employee Relations Officer shall act on in accordance with Section 3.09.060.

(f) If, pursuant to Section 3.09.080, a different employee organization is formally acknowledged as the Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

[Formerly 1.02.070]

[*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]

3.09.100 Procedure for Modification of Established Appropriate Units.

(a) Requests by employee organizations for modifications of established appropriate units are considered by the Employee Relations Officer. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in Section 3.09.050, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Sections 3.09.030 and 3.09.040 that an established unit be modified.

(b) The Employee Relations Officer shall process such petitions in the same manner as a Recognition Petition under section 3.09.050 through 3.09.080.

(c) The Employee Relations Officer may, on his or her own motion, propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Sections 3.09.030 and 3.09.040 and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 3.09.110. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Reorganized Employee Organization for such new

appropriate unit or units pursuant to Section 3.09.050 through 3.09.080.

[Formerly 1.02.100]

[*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]

3.09.110 Appeals.

(a) An employee organization aggrieved by a determination of the Employee Relations Officer that a recognition petition (Sections 3.09.050 or 3.09.100); challenging petition (Section 3.09.070); or decertification of recognition petition (Section 3.09.090), or employees aggrieved by a determination of the Employee Relations Officer that a decertification petition has not been filed in compliance with the applicable provisions of this subchapter, may, within fifteen (15) days of notice of such determination, appeal the determination to the City Council for final decision.

(b) Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure, and/or any decision of the City Council determining the substance of the dispute shall be final and binding.

[Formerly 1.02.110]

[*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]

Division 3 - Administration

3.09.120 Submission of Current Information by Recognized Employee Organizations.

All changes in the information filed with the Town by a Recognized Employee Organization under items (a) (1) through (8) of its recognition petition under Section 3.09.050 of this chapter, shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

[Formerly 1.02.120]

[*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]

3.09.130 Payroll Deductions on Behalf of Employee Organizations.

Upon formal acknowledgement by the Town of a Recognized Employee Organization under this Resolution, only such Recognized Employee Organization may be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon the written authorization of employees in the unit represented by the Recognized Employee Organization on forms provided therefore by the Town. The providing of such service to the Recognized Employee Organization by the Town shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures.

[*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]

3.09.140 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]

3.09.150 Administrative Rules and Procedures.

The City Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this resolution after consultation with affected employee organizations.

[Formerly 1.02.040]

[*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]

Division 4 - Negotiation And Impasse Procedures

3.09.160 Meet and Confer.

When the meet and confer process is concluded and a tentative agreement is reached, the parties shall jointly prepare a written Memorandum of Understanding and present it to City Council. If the Council adopts the written Memorandum of Understanding, it shall become binding on the parties.

[Formerly 1.02.050]

[*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]

3.09.170 Reasonable Time Off to Meet and Confer.

Employees representing a Recognized Employee Organization shall have a reasonable amount of time off without loss of compensation to attend meet and confer sessions. In the absence of expressed authorization in advance by the management representative, not more than two Town employees representing a Recognized Employee Organization shall be entitled to attend meet and confer sessions without loss of compensation. Town employees who represent a Recognized Employee Organization at such meetings shall give reasonable advance notice thereof to their immediate supervisor, but in no event shall such notice be given less than one full day or shift before the meeting, unless a meet and confer session is scheduled by the Town with less than 24-hour notice.

[Formerly 1.02.060]

[*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]

3.09.180 Initiation of Impasse Procedures.

If the meet and confer process has reached impasse as defined in this resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. Initiation of these procedures should be based upon either party's good faith belief that an impasse has been reached. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purposes of such meeting shall be:

(1) To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and

(2) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

[Formerly 1.02.070]

[*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]

3.09.190 Impasse Procedures.

Impasse procedures are as follows:

(1) If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.

(2) If the parties fail to agree to submit the dispute to mediation or the selection of a mediator and did not, or having so agreed, the impasse has not been resolved, the City Council may take such action regarding the impasse as it, in its discretion, deems appropriate is in the public interest. Any legislative action by the City Council on the impasse shall be final and binding.

[Formerly 1.02.080]

[*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, 10/08/08]

3.09.200 Costs of Impasse Procedures.

The costs for the services of a mediator and other mutually incurred costs of mediation shall be borne equally by the Town and the Recognized Employee Organization.

[Formerly 1.02.190]

[*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]

Division 5 - Miscellaneous Provisions

3.09.210 Construction.

(a) Nothing in this chapter shall be construed to deny to any person, employee, organization, the Town, or any authorized officer, body or other representative of the Town, the rights, powers and authority granted by federal or state law.

(b) This chapter shall be interpreted so as to carry out its purpose as set forth in Article I.

(c) Nothing in this chapter shall be construed as making the provisions of California Labor Code Section 923 applicable to Town employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike,

sick-out, or other total or partial stoppage or slowdown of work where such conduct poses an imminent threat to public health or safety. In consideration of and as a condition of initial and continued employment by the Town, employees recognize that any such actions by them are in violation of their conditions of employment and law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination and may be deemed to have abandoned their employment and may be replaced; and employee organizations may thereby forfeit all rights accorded them under this resolution and other Town law or contract.

[Formerly 1.02.200]

[*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]