



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: April 2, 2019

Agenda Item 9C
Approvals: _____
City Manager n/a
Dept. Head ES
Attorney _____
Finance Joa

Department: City Attorney
Prepared By: Scott C. Smith, City Attorney

Subject: AMENDMENT TO POLICY ON CITY-ISSUED SWIM, PARKING OR GOLF PASS FOR DESIGNATED RETIREES AND COUNCILMEMBERS

Fiscal Impact: The fiscal impact of this amendment is difficult to calculate. It will be measured by the average value (based on pass-type and frequency of use) by those who currently hold this benefit, multiplied by number of additional individuals that will be eligible for the benefit pursuant to the proposed Policy.

Background: City Policy 1203-1 was first adopted by the City Council on June 1, 1988 and then re-adopted with amendments on February 1, 2015. The policy offers council members and 25-year employees their choice of one of three passes upon retirement:

- A parking pass that allows the holder to park without cost at any City-metered location;
- A swim pass that allows the holder access without cost to any City-operated swim facility; or
- A golf pass that allows the holder privileges without cost at the City golf course.

The City Council asked that this Policy be reviewed in connection with the City's 2019 Code and Policy updates.

Discussion: Existing Policy 1203-1 does not include a specific statement of purpose explaining the City Council's reasons for initially adopting the policy. However, it is plausible to assume that offering 25-year employees the passes upon retirement in good standing was a means to promote longevity in public service, community engagement and sustained service at the City. As a starting point, courts will generally defer to the City Council's understanding and determination of the public purpose. The updated policy submitted for consideration tonight includes these explicit clarifications of its policy:

- The passes serve to recognize public service or longevity in public service;
- The passes allow retirees more convenience to continue engaging in community events; and
- The passes serve to incentivize sustained service as a City employee and attract qualified candidates for employment.

For general law cities, council compensation during service is set by statute. For a city of San Clemente's current population (approximately 65,000), State law allows Council to increase subject to periodic indexing. (Gov't Code Sec. 36516.) San

Clemente Council compensation was set at \$400 per month in 1998, which was the first increase since 1974. Using the permitted increases and the City's current population, indexing of 100% (5% x 20 years) would have been permitted as of 2018 for a total of \$800 per month. (It is possible that San Clemente's compensation could be indexed from a base amount of \$500 for a total of \$1,000 due to its increase in population since 1998.) (A survey of similar cities' compensation is attached.)

Other amounts provided by the City for councilmembers are excluded from the compensation cap if (1) the amounts are for "retirement, health and welfare, and federal social security benefits" and (2) "the same benefits are available and paid by the city for its employees." (Gov. Code, § 36516, subd (d).) Deferred compensation retirement benefits must not be provided on equal terms to all employees, but must be paid to a "class" of employees that is broader than just the City Council. Policy 1203-1 was likely intended as a retirement benefit in lieu of deferred compensation for Councilmembers, but needs to offer the same benefit (i.e., availability after any length of service) to a broader class of employees. The attached amended policy does that by including senior employees (i.e., Directors and above) in that class.

This amendment conforms the policy to State law by augmenting its public purpose findings and clarifying that its benefits are offered as deferred compensation, broadening the class of persons entitled to the benefit, and avoiding potential violations of California labor laws and risks associated with revocation of benefits that are "vested" under California law.

Recommended

Action: STAFF RECOMMENDS THAT the City Council Adopt the Amended Policy ____ - _

Attachments: 1. Amended Policy.
2. Redlined Policy.
3. Council compensation survey.

Notification: Not applicable.



POLICY AND PROCEDURE

Subject:	City-Issued Swim, Parking or Golf Pass for Designated Retirees and Councilmembers	Index:	City Council
Effective Date:	April 2, 2019	Prepared By:	Finance and Administrative Services Department
Supersedes:	Policy 1203-1 (adopted 1988, amended 2015)	Approved By:	

1.0 PURPOSE:

To establish the procedure and guidelines that govern the issuance of a City-issued swim, parking, or golf pass for certain retiring City of San Clemente (City) employees and Councilmembers who leave City service.

To recognize public service and longevity in public service, to allow retirees more convenience to continue engaging in community events, to incentivize sustained service, and to attract qualified candidates for employment.

To conform the City's existing policy to State law regarding the provision of deferred compensation retirement benefits.

2.0 ORGANIZATIONS AFFECTED:

All senior (director level and above) benefited employees and City Councilmembers and all benefited employees who leave City Service with at least twenty-five (25) years of service. This policy applies to all current and future employees and Councilmembers.

3.0 REFERENCES:

Meyers-Milias-Brown Act
Government Code Section 36516

4.0 POLICY: As noted above, the following current San Clemente employees are eligible to receive one of the following City passes, subject to the defined conditions:

- All senior (director and above benefited employees) and City Councilmembers who leave City service in good standing.
- All other City benefited employees (i.e., full-time and benefited part-time employees) who, at the time of retirement, retire from the City as current employees with at least twenty-five (25) years of benefited San Clemente service.

The pass remains the property of the City, is non-transferrable, and must be immediately surrendered upon request of the City Manager or his/her designee.

4.1 PARKING PASS: A City parking permit that allows the holder parking privileges at any City metered parking location that is legally accessible to the pass holder. Annually, the one eligible for this permit must fill out and submit the necessary paperwork to be issued the permit for one designated vehicle, in accordance with the City's parking permit program.

4.2 SWIM PASS: A City swim pass that allows the pass holder swimming privileges during normal operating hours that a City-run facility is open to members of the public in accordance with the conditions, rules and regulations established by the City.

4.3 GOLF PASS: A City golf pass that allows the holder golfing privileges (i.e., one green only) during normal operating hours that the City golf course is open to members of the public in accordance with the conditions, rules and regulations established by the City and/or course management.

5.0 PROGRAM ADMINISTRATION: Recipients of the passes are required to fill out and sign an acknowledgment form indicating their understanding of and agreement with the terms and conditions associated with a particular pass.

Administration of the program is under the direction of the City Manager or his/her designee, and authorization is given to the City Manager or designee to make all necessary changes or revisions to the program that are in keeping with the intent thereof.



POLICY AND PROCEDURE

Subject:	City-Issued Swim, Parking or Golf Pass for Designated Retirees and Councilmembers	Index:	City Council
Effective Date:	February <u>April 2, 2019</u>	Number:	1203-1
Supersedes:	June <u>Policy 1203-1, (adopted 1988, amended 2015)</u>	Prepared By:	Finance and Administrative Services Department
		Approved By:	

1.0 PURPOSE:

To establish the procedure and guidelines that govern the issuance of a City-issued swim, parking, or golf pass for certain retiring City of San Clemente (City) employees and Councilmembers who leave City service.

To recognize public service and longevity in public service, to allow retirees more convenience to continue engaging in community events, to incentivize sustained service, and to attract qualified candidates for employment.

To conform the City's existing policy to State law regarding the provision of deferred compensation retirement benefits.

2.0 ORGANIZATIONS AFFECTED:

All senior (director level and above) benefited employees and City Councilmembers and all benefited employees who leave City Service with at least twenty-five (25) years of service. This policy applies to all current and future employees and Councilmembers.

3.0 REFERENCES:

Meyers-Milias-Brown Act
Government Code Section 36516

4.0 **POLICY:** As noted above, the following current San Clemente employees are eligible to receive one of the following City passes, subject to the defined conditions:

- All senior (director and above benefited employees) and City Councilmembers who leave City service in good standing.
- All other City benefited employees (i.e., full-time and benefited part-time employees) ~~of the City of San Clemente (City)~~ who, at the time of retirement, retire from the City as current ~~City~~ employees with at least twenty-five ~~(25)~~25 years of benefited ~~City of San Clemente service and Council Members who leave City service.~~ This policy applies to all current and future ~~card holders.~~

~~3.0~~ **POLICY:** ~~As noted above, current City of San Clemente employees who retire from the City with at least twenty-five (25) years of benefited City of San Clemente service, and Council Members who leave City service in good standing, are eligible to receive one of the following City passes, subject to the defined conditions.~~

The pass remains the property of the City, is non-transferrable, and must be immediately surrendered upon request of the City Manager or his/her designee.

~~3.14.1~~ **PARKING PASS:** A City parking permit that allows the holder parking privileges at any City metered parking location that is legally accessible to the pass holder. Annually, the one eligible for this permit must fill out and submit the necessary paperwork to be issued the permit for one designated vehicle, in accordance with the City's parking permit program.

~~3.24.2~~ **SWIM PASS:** A City swim pass that allows the pass holder swimming privileges during normal operating hours that a City-run facility is open to members of the public in accordance with the conditions, rules and regulations established by the City.

~~3.34.3~~ **GOLF PASS:** A City golf pass that allows the holder golfing privileges (i.e., one green only) during normal operating hours that the City golf course is open to members of the public in accordance with the conditions, rules and regulations established by the City and/or course management.

5.0 PROGRAM ADMINISTRATION

Recipients of the passes are required to fill out and sign an acknowledgment form indicating their understanding of and agreement with the terms and conditions associated with a particular pass.

Administration of the program is under the direction of the City Manager or his/her designee, and authorization is given to the City Manager or designee to make all necessary changes or revisions to the program that are in keeping with the intent thereof.

**CITY OF SAN CLEMENTE
CITY COUNCIL COMPENSATION SURVEY**

OC CITIES BY NEAREST PROXIMITY TO SAN CLEMENTE

CITY	POPULATION	MONTHLY STIPEND/ANNUAL COMP	ELIGIBLE BENEFITS
San Clemente	65,543	\$400/\$4,800	\$6-\$179
Aliso Viejo	48,999	\$520/\$6,240	\$961
Dana Point	34,172	\$933.86/\$11,920	\$647
Laguna Niguel	64,533	\$433/\$5,200	\$0
Mission Viejo	95,599	\$1,000/\$12,000	\$6,600-\$16,373
San Juan Capistrano	34,449	\$300/\$3,600	\$20,000-\$26,000

OC CITIES BY COMPARABLE POPULATION TO SAN CLEMENTE

CITY	POPULATION	MONTHLY STIPEND/ANNUAL COMP	ELIGIBLE BENEFITS
San Clemente	65,543	\$400/\$4,800	\$6-\$179
Aliso Viejo	48,999	\$520/\$6,240	\$961
La Habra	61,731	\$525/\$6,300	\$0-\$722
Laguna Niguel	64,533	\$433/\$5,200	\$0
Placentia	51,778	\$150/\$1,800	\$0-\$12,597
Yorba Linda	65,820	\$650/\$7,800	\$0-\$950